

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: **October 7, 2004**

TIME: **7:30 P.M.**

PLACE: **Urbana City Building**
 400 South Vine Street
 Urbana, IL 61801

MEMBERS PRESENT: Laurie Goscha, Lew Hopkins, Randy Kangas, Michael Pollock,
 Bernadine Stake, Marilyn Upah-Bant, Don White

MEMBERS EXCUSED: Christopher Alix

STAFF PRESENT: Elizabeth Tyler, Director of Community Development Services;
 Rob Kowalski, Planning Manager; Paul Lindahl, Planner; Teri
 Andel, Planning Secretary; Eddie Adair, Chief of Police; Bill
 Gray, Director of Public Works

OTHERS PRESENT: John & Silda Andrick, Dan E. & Marianne Armstrong, Abram
 Bicksler, Lester Black, Jimmie Bolton, Rob & Dorothy Brooks,
 Robert & Holly Clemens, Dale & Becky Crane, Carlene
 Dawson, Gary & Val Durack, Deanna Falls, Stan & Kristy
 Freeman, Doris Gebauer, Shukti Ghulyani, Rebecca Glatzner,
 Becca Guest, Robin Hall, Diana Hamilton, Robert & Dana
 Hannah, Legunie Harmon, Onlsa & Loretha Harmon, Brad
 Hedrick, Vickie Huls, Joanne Hutchcraft, JoAnn Jackson, Gene
 Johnson, Seungmo Kang, Steve Kellogg, Jae Hong Kim, R.
 James and Carol Kirckpatrick, Gerald Knight, Ji-Yun Lee, Todd
 Leeth, Dong Jun Lim, Carl & Carol Malmgren, Ted Massey,
 David & Jo Melton, Mike Melvin, Nancy Murray, Jack
 Newsome, Lori Patterson, Ed & Shirley Jean Perkins, Lacy
 Pickering, Harry & Marilyn Querry, Patsy Reifsteck, Ivan
 Richardson, Warren & Shirley Rittenhouse, Jacque Roland,
 Randy & Diana Ruthstrom, Kyle Sprague, Heather Stevenson,
 Jennifer Swindlehurst, Susan Taylor, Venkatesh & Lalitha
 Yekkirala

1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM

The meeting was called to order at 7:30 p.m., the roll call was taken, and a quorum was declared.

2. CHANGES TO THE AGENDA

There were none.

3. APPROVAL OF MINUTES

Ms. Stake moved to approve the minutes from the September 9, 2004 meeting of the Plan Commission as presented. Mr. White seconded the motion. The minutes were approved by unanimous voice vote.

4. COMMUNICATIONS

- ▶ Photos of the Aldi store in Matteson, Illinois
- ▶ Letter from Jimmie & Ella Bolton
- ▶ Email from Brad & Sharon Hedrick
- ▶ Map of Anti-Aldi Addresses
- ▶ Map of Pro-Aldi Addresses
- ▶ Petitions in Opposition of the Special Use Permit
- ▶ Aldi Zoning Hearing Information
- ▶ Letter from Venkatesh & Lalitha Yekkirala
- ▶ Letter from Marianne Armstrong
- ▶ Phones Calls to the Plan Commissioners
 - *Laurie Goscha* – 2 Against and 1 in Favor
 - *Don White* – 2 Against and 1 in Favor
 - *Lew Hopkins* – None
 - *Randy Kangas* – 3 Against and 1 in Favor
 - *Bernadine Stake* – 5 Against and 1 in Favor
 - *Michael Pollock* – 2 Against and 2 in Favor

5. CONTINUED PUBLIC HEARINGS

There were none.

6. OLD BUSINESS

There was none.

7. NEW PUBLIC HEARINGS

Plan Case # 1909-SU-04: Request for a Special Use Permit to establish a grocery store in the B-1, Neighborhood Business Zoning District on a 3.65-acre parcel at the northwest corner of U.S. Route 150 and IL Route 130.

Rob Kowalski, Planning Manager, presented this case to the Plan Commission. He introduced the case by explaining the petitioner's need for a Special Use Permit. He described the area noting the previous County zoning prior to annexing into the City, and the current City zoning. He described the surrounding areas as well by noting their zoning and land uses. He pointed out where the current access drives were located to the proposed lot off of IL Route 130 and US Route 150.

Mr. Kowalski reviewed the site plan for the proposed Aldi grocery store pointing out the intended location of the parking lot, access drive off of University Avenue, access drive to Rutherford Drive and the proposed lighting for the site. He showed where the City staff had recommended the sidewalk be constructed on the site as well. He talked about the elevation of the proposed building. He mentioned that the petitioner had requested a major variance for the size of the Aldi sign, which would be reviewed by the Zoning Board of Appeals on October 20, 2004.

He discussed the access drive to Rutherford Drive more in depth. He explained that the City staff had requested the access drive for the residents of Beringer Commons Subdivision to be able to shop at the proposed Aldi store more conveniently. The access drive to Rutherford Drive was designed in a way so that delivery trucks would not be able to utilize the drive to exit or enter the proposed site. An acceptable alternative to the access drive to Rutherford Drive would be the construction of a sidewalk in its place. He went on to discuss the hours of operation and the number of expected deliveries per week to the site.

Mr. Kowalski reviewed the criteria for a Special Use Permit according to Section VII-6 of the Urbana Zoning Ordinance. He read the options of the Plan Commission and presented staff's recommendation, which was as follows:

Based on the evidence presented in the staff report, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommended that the Plan Commission recommend approval of the proposed special use as presented to the Urbana City Council, for the reasons articulated in the staff report with the following conditions:

- 1. That the layout and architectural design of the grocery store shall closely resemble the attached Site Development Plan and elevation renderings. Any significant deviation from these plans will require an amendment to the Special Use Permit, including further review by the Plan Commission and approval by City Council.*
- 2. That construction plans for the development adequately demonstrate compliance with all previous approvals for drainage as part of the Beringer Commons Subdivision development and that the construction and drainage plans receive approval from the City Engineer.*
- 3. Prior to the issuance of a Certificate of Occupancy for the use, a final subdivision plat shall be recorded dividing the existing Lot 456 of Beringer Commons Subdivision No. 4 as indicated on the Site Development Plan.*
- 4. The developer agrees to install a five-foot wide sidewalk as depicted on the site plan constructed to City of Urbana standards as identified in the Urbana*

Subdivision and Land Development Code. The developer further agrees to identify this sidewalk show along U.S. Route 150 and IL Route 130 as a public access easement upon final recording of the subdivision plat.

5. *The hours of operation for the grocery store shall be limited to those identified on the original application for Special Use Permit approval which are Monday-Thursday and Saturday from 9 AM to 7 PM and on Friday 9 AM to 8 PM.*
6. *The grocery store shall utilize a secure collection and return system for shopping carts for the purposes of avoiding the problem of shopping carts being removed from the site by customers.*
7. *There shall be no truck delivery access the site from Rutherford Drive.*
8. *There shall be no delivery traffic between the hours of midnight and 6 AM.*

Ms. Stake inquired how the City would monitor the hours of operation and no deliveries being accessed from Rutherford Drive. Mr. Kowalski responded by saying that some of the recommendations, such as adherence to the site plan, would be monitored as City staff reviewed the construction plans. The operational measures would be reviewed on a complaint basis, which is typically the way that most of the zoning enforcement was done.

Ms. Stake wondered why there was no indication on how the petitioner planned to deal with drainage water issues. Mr. Kowalski replied that the drainage plans had been reviewed for all of the Beringer Commons Subdivision, and this site was factored into the overall drainage facilities that were already in place. The owner, Ivan Richardson, had anticipated this type of development for the proposed lot. He further explained that currently, off of Rutherford Lake, there were two large drainage pipes that run down along the ditch on US Route 150. Drainage from the proposed site would drain into those pipes and into that ditch. The City Engineer, the project engineer from Daily and Associates, and the Illinois Department of Transportation (IDOT) had confirmed these plans.

Ms. Stake commented that there were already problems in the area with drainage. Mr. Kowalski agreed that there were some problems with drainage on the south side of US Route 150, so IDOT went in and widened the ditch.

Mr. Kangas asked if Aldi's wanted to be open on Sundays or to expand or change the size of their building, then would they need to amend the Special Use Permit? Mr. Kowalski answered yes. Aldi's would have to go through the entire process again to change their hours of operation or to expand or alter the site plan.

Mr. Kangas questioned if hypothetically Aldi would go bankrupt, then would the Special Use Permit end or did it tie into the land? Mr. Kowalski remarked that the Special Use Permit was tied to the property, not to the company. So, if another grocery store came in and proposed to operate exactly the same way, then they would be able to without review of the Special Use Permit. However, if a store came in and proposed to operate differently, then they would need to request another special use permit.

Mr. Kangas inquired about how large of a building footprint could be developed on the site without any special variances being needed. Mr. Kowalski responded by saying that it would

depend on the use of the development and the parking requirements. It would be possible for a 50,000 square foot building to be developed within the limitations.

Todd Leeth, council for Aldi Foods, Inc., approached the Plan Commission. Joining him in representing Aldi Foods, Inc. were Brian Holcomb, Director of Real Estate for Aldi Food, Inc. and Wayne Koch, from Wightman and Associates, who were the design professionals for the proposed development.

He noted that Aldi Foods, Inc. was a nationally recognized grocery store with 700 stores in 26 states. He pointed out that the only reason he understood that they needed to request a Special Use Permit was because the proposed building would exceed 3,500 square feet. There were not too many grocery stores less than that in size. From his understanding, the City's purpose for establishing a 3,500 square foot requirement was so that proposals for developing grocery stores and video stores would need to come before the Plan Commission, so they could review the site plans rather than reviewing the grocery store use, which was permitted by right in the B-1 Zoning District.

He stated that the overall parcel was 5.8 acres in size, which Aldi planned to develop the southern 3.6 areas. He pointed out that the City's intention for the B-1 Zoning District was *to provide commercial areas of limited size, for basic trade and personal services for the convenience of adjacent residential areas, for needs reoccurring regularly or frequently*. He stated that was exactly what the purchase of food products was. Therefore, the proposed grocery store would be a good fit.

Again, the reason why Aldi needed to come before the Plan Commission and the City Council was to show what the site plan looked like and how the impact would bare upon that. The store size would be 15,360 square feet. He pointed out that the Floor Area Ratio (FAR) of the proposed development was at 9%, and the Zoning Ordinance allowed 30%. Therefore, the proposed building would be 1/3 of what was allowed to be constructed on the site.

Mr. Leeth went on to say that the existing hedgerow along Rutherford Drive would continue to be maintained, and they were proposing a privacy fence on the western boundary of the parcel. The access drive to Rutherford Drive was incorporated into the site plan at the request of City staff. The petitioner was willing to adjust the site plan as need be on this specific issue.

Regarding staff's conditions placed on delivery traffic, he noted that they anticipated ten deliveries to the proposed Aldi store per week. Nine of the ten deliveries would be by drivers controlled by Aldi. Unlike many grocery stores that have the Coca-Cola delivery, the Twinkie delivery, and all of the other vendors, Aldi trucks all of their food products in one truck coming from an Aldi warehouse with the exception of one vendor, which would be the milk supplier. Therefore, they could control the time and method of deliveries.

Earlier he indicated that the proposed FAR was very low. Overall, the 3.6 acres that Aldi intended to develop could seriously be developed under the Urbana's building code in a more intense fashion.

Aldi representatives had reviewed the eight recommended conditions that staff had made. There was a condition recommended regarding the hours of operation. Mr. Leeth pointed out that the hours in the recommended condition was taken directly from the application that was filed by Aldi. Aldi had included the hours of operation in the application to give the City an idea of what Aldi's standard hours of operation were. Aldi would not like to be restricted in those specified hours. However, they were willing to be restricted to certain hours of operation. They would like the restricted hours of operation to be from 9 a.m. to 8 p.m. on Monday through Saturday and 9 a.m. to 6 p.m. on Sunday. This would give them the flexibility to adjust hours as the needs of their clientele dictate. With this one exception, the other seven restrictions that staff had proposed, Aldi was willing to abide by.

Mr. Leeth restated that the Special Use request was not triggered by the use they were proposing, but by the site development issues. They were willing to work with the Plan Commission and the City Council in massaging these issues. Aldi was a limited selection grocery store, which was why they were able to have a grocery store in a very small building. They would have about 800 items for sale in the store. A full-scale grocery store would probably have around 27,000 or 30,000 items for sale. This would be a far different type of intensity of use. It would be impossible for them to have a full-service grocery store in a 15,000 square foot building.

The proposed building would be brick on all four sides. Aldi added some additional architectural detail on the front canopy that was non-standard at the request of the City staff for architectural diversity on the front of the building to give the proposed building more of a flair and feel of something other than a typical square box.

He believed that the purpose of the code had been met in the professional design of the Site Plan that Wightman & Associates was presenting and that Aldi had approved and worked with staff to reach. It ensured that the requirements and interests of the public and the community on this commercial site, which had been zoned commercial for many years, were well protected. It provided for the screening of the adjacent residential areas and also provided to them, the necessary public service and convenience. Aldi was willing to abide by the conditions recommended by staff with the exception of the condition regarding the hours of operation and willing to work with the City, so that they could have a professional and useful development on the proposed site.

Mr. White stated that it seemed like the connection to Rutherford Drive was a serious concern for the people who live in Beringer Commons. He understood that in the original design there was an access drive off of IL Route 130. Would it pose a problem to Aldi to build the access drive to IL Route 130 in place of the access drive to Rutherford Drive? This might give Aldi better traffic flow on the lot. Mr. Leeth replied by saying that if the City would ask them to remove the Rutherford Drive access, then they would not expect to build the access drive out to IL Route 130. They would simply use the one single entrance onto University Avenue. They did not believe that there was a need to have the second access to service the proposed development.

Mr. White inquired what would happen to the rest of the undeveloped portion of the site if they did not build an access drive to IL Route 130. Mr. Leeth remarked that they would subdivide the lot as stated in the staff's recommended conditions. The northern site would be marketed for

sale as Aldi developed the south site. Aldi was very concerned about competing uses and neighboring uses. Any future developer of the northern parcel would have to go through a site plan review through the City as well as meet Aldi's design criteria, including providing their primary access off of High Cross Road. Aldi would also insist upon cross easement agreements with a future developer of the northern parcel, which would allow each other's customers to have access through each other's curb cuts.

Mr. White asked what Aldi would consider being neighboring uses? Mr. Leeth answered by saying that there were a number of uses that had partnered with Aldi Foods in other communities. Some of them were Walgreen Drugstores, a restaurant, and a rental development with doctors and insurance agents. The property was for sale, and the Zoning Ordinance would dictate what could go in there. The style and design would be dictated by the Zoning Ordinance and staff review.

Regarding the compressors on top of the proposed building and the noise they would produce, Mr. White questioned if the compressors would be insulated in a way that they could be soundproof? What was the noise output of the compressors? Mr. Leeth stated that he did not know the detail of the noise generation and sound proofing, except to say that it would be a 15,000 square foot building. It was not though they would be trying to heat and air-conditioned a Walmart with a freestanding large facility.

Mr. White asked if there would be refrigeration inside the store? Mr. Leeth said yes. There would be coolers. Mr. White expressed some concern about the noise that could be generated from the compressors on top of the building, but obviously the noise could not be as bad as the noise from Interstate 74.

Ms. Stake inquired if Aldi's bought products from other companies or did they produce what they sold? Mr. Leeth commented that Aldi was a very unique grocer in the market place. They negotiate throughout the industry with many name brand producers of food. Aldi did not produce food, but they purchase in mass quantities their own name label on many different types of food products. The quality was exactly as the name brands that could be found in any other nationally recognized full-service grocer. Because of the negotiating possibilities that Aldi had, the savings were 30% to 40% over what people could find at full-service grocery stores. This was why Aldi could control all the foods that come into their stores, because for the most part, with the exception of milk, the food products would come through their warehouse in Dwight, Illinois.

Ms. Stake remarked that the Zoning Ordinance did allow a small grocery store in the B-1, Neighborhood Business Zoning District. One of the reasons why the City required a Special Use Permit for a grocery store or video store over 3,500 square feet was because residents do not want big stores in the B-1 areas. They only wanted to allow small shops such as shops in Knollwood or Old Farm Shops. Therefore, this was the reason why Aldi was getting so much opposition. People believed that they would only have small shops in the proposed area. She added that the proposed development would not be a small shop. Mr. Leeth respectfully disagreed with her assessment of the size of the proposed development. He pointed out that there was not any building size restriction for any other use in the Zoning Ordinance other than a grocery store, video store, or drug store. Any other type of permitted use in the B-1 Zoning

District was not restricted to 3,500 square feet. It was only the fact that Aldi was proposing a grocery store that the size limitation came into play. He also respectfully suggested that 15,000 square feet for a grocery store was very small. He believed that only Aldi and a few other types of select grocery stores would be able to operate in such a small building. As he indicated earlier, the FAR was 9% with only the 3.6 acres that Aldi was interested in developing. The Zoning Ordinance allowed the B-1 classification to have 30% of FAR. So, over the overall development site, Aldi was very limited in the manner in which they proposed to develop the 3.6-acre site.

Mr. Hopkins asked when Aldi's had partnered with other companies, such as Walgreen Drugstores, what arrangements had been made legally? Did Aldi sell Walgreen Drugstore the parcel? Mr. Leeth said yes.

Mr. Hopkins mentioned that Mr. Leeth had stated that this was partly about site planning. He noted that the City usually ends up with two things, which were 1) a building and a site developed and 2) a use in place. For most uses, the building or site development pattern was longer lasting and more permanent than the use. Therefore, it was arguably enough as much a concern of the use itself. How often had Aldi closed a store? Mr. Leeth said that he had represented Aldi Foods since 1990 and had been involved in the development of a number of stores over this period of time. He recalled two or three stores that were closed and sold the land to others. In those instances, they sold one to a city for redevelopment purposes and another they pretty much gifted the land and building to a church for their purposes. The reason those stores were closed was because Aldi found another site within that same community, to redevelop and establish a new store. It was the success of the store that dictated moving it to a different location or a different site. Or perhaps there was a shift of one part of a town to another part of town, and Aldi would move with that shift to better service and for the convenience of their customers as well. He added that it was a pretty limited number of times that Aldi had closed a store. Mr. Hopkins commented that the first part of Mr. Leeth's response was encouraging, but the second part was precisely the problem. There was plenty of record in the City of Urbana of very frequent turnover of stores with purpose built buildings that were not always readily easy to reuse.

Ms. Upah-Bant asked if Aldi planned to close the Champaign store when they build the proposed store? Mr. Leeth replied no.

Mr. Pollock noted that the sign shown in the packet appeared to be a ground-based sign rather than something up on a pole. He asked if that was the only sign off of the building that Aldi planned to have? Mr. Leeth stated that was correct. It was a monument-style sign.

Mr. White inquired how successful was the shopping cart/quarter concept. If he really wanted a shopping cart, then he did not feel that a quarter would be a problem to lose. Mr. Leeth stated that the concept was very effective. A very inventive youth from the neighborhood would find all of the carts and return them for the quarters.

Mr. Kangas asked if the petitioner had applied for a rezoning of the land to B-2, Neighborhood Business, Arterial Zoning District, then would they still need to ask for a Special Use Permit or a variance request? Mr. Kowalski replied by saying that the change would have been to a B-3,

General Business Zoning District rather than B-2. The B-2 Zoning District was a real limited zoning district along Springfield Avenue. If the petitioner had proposed to rezone to B-3 and it was approved, then they would be allowed to build the proposed development by right.

Ivan Richardson, of 414 Beringer Circle, owns the proposed site. He began by saying that for the last 2 to 3 weeks, he had heard nothing but negative comments about the proposed development. He had lived in Urbana for 45 years and had done a lot of development in Urbana. He was proud of Urbana for the things that the City had helped him do with Beringer Commons Subdivision.

People make judgments before they know the facts about what is going on. The money he would receive from selling the proposed site to Aldi Foods would help the Beringer Commons Subdivision, yet most of the people in the audience were at the meeting to speak against the proposed development.

He attended the meetings between the Beringer Commons Homeowner's Association and Aldi Foods. He heard many people voice their concerns about drainage problems. He pointed out that when he developed the Beringer Commons Subdivision, he hired engineers and they put in four lakes, which held back 2 to 3 times more water than they needed to do. Yet, he continuously was hearing about how the Beringer Commons area was flooding out downstream. The drainage problems existed before he built the subdivision. He noted that Aldi Foods would not even touch the land until they checked out all of the subdivision plans, including the drainage plans and talked to the engineers hired to design Beringer Commons Subdivision.

Mr. Richardson remarked that many people do not understand that developers do not earn money off of the first lots they sell. They reinvest the money back into the subdivision to build more homes to sell until the subdivision is completely constructed. The proposed development was like a miracle for the Beringer Commons Subdivision. Aldi Foods would be a perfect use for the proposed site.

Marianne Armstrong, of 411 Beringer Circle, read a letter that she handed out. The letter summarized the meetings between the residents and the Beringer Commons Homeowner's Association and Aldi Foods. The two main issues that many Beringer Common residents shared were as follows: 1) The Access Drive to Rutherford Drive. The residents believed that the access road could have an unfavorable effect on the neighborhood streets and would not serve a purpose. 2) Aldi's was viewed as a low-end store. Many of the residents did not want a low-end store near their up-scale residential neighborhood. She felt that these residents were being prejudice and bigots.

At the next meeting, people complained that Aldi Foods might take business away from the Sav-A-Lot, which would be located on South Broadway. She asked what happened to free enterprise and competition? Is it alive and well everywhere else, but not in Urbana?

Ms. Armstrong talked about the petition in opposition that was signed by many residents in the Beringer Common neighborhood. She stated that many of the signatures might have been based on misinformation given to them by those who distributed the petitions.

She stood by and watched a small vocal group of people drive a Meijer development out of the community. She watched people tie the hands of a Walmart development, which could bring much needed revenue to our community. She had watched the schools and other City services suffer from the lack of economic growth. She could no longer stand by and watch another business, who wants to locate in our community and was willing to develop the proposed site to a much higher standard than what was required, be pushed aside by a narrow minded group of people. Their underlying objections to the Special Use Permit were not valid. Aldi was simply a limited supply grocery store that wanted to do business, serve the community, make a profit and add to our local economy. If given the opportunity, Aldi could be an asset to our community, not a detriment.

Warren Rittenhouse, of 2918 Rutherford Drive, realized at the time of purchasing their home that the proposed corner lot was zoned commercial. He complimented Mr. Richardson on building a really nice subdivision in Beringer Commons. He believed that by selling to Aldi Foods, Mr. Richardson was settling for less than what he would have really liked to have had develop the commercial area, such as a Biaggi's. However, if Aldi Foods did not develop the area, then something even less desirable, such as an auto parts store or a tattoo parlor, could buy the land and build. He believed that since they could not have a Park Avenue store, then they should settle for something that would be clean and taken care of, and he felt that Aldi's would be as such. He also believed that if trash blowing around on the lot became a problem, then someone would enforce the rules. He mentioned that he lived close to the proposed access drive onto Rutherford Drive, and if it were approved with the access drive, then he would definitely be one of the residents calling the City every time a delivery truck would access that drive.

He requested that the Plan Commission recommend the removal of the access drive to Rutherford Drive and noted that he would like to see the entryway come in from High Cross Road. He did not feel that a commercial venture should not open out onto a residential subdivision. He expressed concern about the signage. He did not want his guests to ask for directions to his home by using the Aldi sign as a landmark. He suggested keeping the sign in low respect. He noted that he was there to voice his concerns, not to speak in favor of or against Aldi's proposal.

Holly Clemens, of 2911 Artesia Crossing, thought that everyone in the audience felt that Beringer Commons was the best subdivision in the City of Urbana, and they fully support everything that Mr. Richardson had done in developing the subdivision. However, a great number of them have concerns with regards to the noise issues, the garbage issues, increased traffic in the neighborhood, and ultimately the decrease in their property values. She anticipated that there would be neighborhood business on the proposed site someday. It did not matter what use was being proposed, they were concerned with the effect that the proposed use would have on the neighborhood. It was incumbent upon the Plan Commission to consider the effect that the proposed use would have on the Beringer Commons neighborhood. She believed that it would have an adverse effect on them.

John Andrick, of 2906 Artesia Crossing, recently moved into the Beringer Commons Subdivision. He mentioned that his wife and him would probably shop at Aldi's; however, they would not walk there to shop. They moved out of the neighborhood where they lived in Champaign to get away from the noise. They thought that Beringer Commons was a peaceful,

tranquil neighborhood. The proposed development would be an intrusion into the neighborhood. Therefore, he urged that the request for the Special Use Permit be rejected.

Venkatesh Yekkerala, of 2924 Rutherford Drive, lived in front of the proposed site. He would have full exposure to the site. The first major concern that he had was in regards to the connection to Rutherford Drive. Also, he did not think that Aldi's profile would fit in with the profile of the people who live in Beringer Commons. There may be some people in the subdivision that would shop at Aldi Foods, but it was not considered a neighborhood business that most of the residents would want to walk to.

His second concern was the noise that would come from the air conditioning and refrigeration units on top of the proposed building and from the delivery trucks that could be running overnight. He did not want his children to be kept awake at night by these noises. He also expressed concern over the lighting that would be used.

At the risk of sounding snobbish, which he did not feel that he was, he stated that due to the limited selection of items, Aldi Foods would probably not be his first choice to shop. The type of population that Aldi would attract was potential felons and drug addicts. He did not want this type of people to be traveling in front of his home. There was a reason why his family paid \$312,000 for their ranch-style home and property, and it was so his family could live in a peaceful neighborhood.

Mike Melvin, of 2810 Slayback, began by saying that he did a good percentage of his shopping at Aldi Foods. It was not that he was opposed to Aldi Foods. He did not like the proposed location. He believed it would negatively impact the traffic, especially on University Avenue. He was also opposed to an entrance/exit onto Rutherford Drive. Mr. Melvin commented that had he known a Walmart and Aldi were proposed for the nearby area, then he would not have purchased his home.

Carl Malmgren, of 2906 Rutherford Drive, felt that he was a patriot in this country. In a democracy, he has the responsibility to interact with how his environment was taken care of. He felt that he was fulfilling his responsibility to the town, to his family and to the nation by attending this meeting. He believed that trying to squash people's opinions about what was going on in their neighborhood was an inappropriate way of handling the situation.

He respectfully disagreed with Mr. Leeth in that it was an issue of simply building size. He believed that it was an issue of the neighborhood. He truly believed that the neighborhood should have an impact on the neighborhood.

Mr. Malmgren stated that the City specifically had a zoning designation for neighborhood business, which is the B-1 Zoning District. Aldi Foods does not fit that specific zoning. He requested that Aldi would go to a site that they do indeed have a zoning designation for the proposed use, which would be the B-3 Zoning District. When he purchased his home, he was informed that the proposed site was zoned for neighborhood business. The issue in this case was whether the proposed use was a neighborhood business. No, it was not a neighborhood business.

This was a Special Use Permit request, and there were three facilities that the Plan Commission needed to deal with. They are 1) whether it would be conducive to public convenience, 2) whether it would have an unreasonable injurious or detrimental effect on the district (neighborhood), and 3) a requirement to preserve the essential character of the district (neighborhood). To varying degrees, the proposed request violated all three of these requirements for a Special Use Permit. He did not believe that it would be conducive to the public convenience of the neighborhood. It would be injurious and detrimental to the neighborhood if there were delivery trucks and air conditioning units and compressors running overnight. He believed that the building would not essentially appear in character with the residential neighborhood. He found out that the design and size of the building were done without knowledge of what the housing in Beringer Commons looked like.

Mr. Malmgren noted that there were over 165 signatures of people residing in Beringer Commons on the petition in opposition of the proposed Special Use Permit request. In comparison, he pointed out that on the petition in favor of the Special Use request, most of the signatures were from people who lived outside the neighborhood. If a study were done of this, the City would find that an Aldi would be most likely to fit into the area that wanted the Aldi Foods grocery store, which would be in the Sunnycrest area, which was zoned B-3. Indeed, the community, the district, and the neighborhood were overwhelming against Aldi Foods.

He reviewed the options of the Plan Commission. He believed that the Plan Commission should deny the request, because it was not a neighborhood business. The whole reason for zoning was to have specific businesses in specific spots. Why did the City spend all the money, time and effort to put in the zoning designations? Why do we need variances? There would be a never-ending list of creeping aspects that the petitioner would keep asking for from asking for a Special Use Permit to asking the City to allow deliveries to occur during permitted hours. He felt that the City spent the time and effort to zone the land in the City of Urbana. The proposed lot was zoned B-1, Neighborhood Business. Aldi Foods was not a neighborhood business.

If the City needed to have constraints, he noted that Rutherford Drive would be a disaster if it were connected to the proposed site. It was already a narrow street. The barrier plantings were a nice start, but there needed to be quite a bit more greenery to soften the box-store that they had planned. They also planned to have a recessed loading dock, which would be fine if everything was level with the road. The residents in Beringer Commons would still be able to see half of the delivery trucks sticking up out of the ground. He suggested that the petitioner build a wall at least the height of the building to funnel the noise from the delivery trucks upward rather than into the backyards of Beringer Commons. He also suggested that the air conditioning units and compressors be contained in barrier boxes to help funnel the noise upwards as well. In the original plans, the orientation of the proposed building was at a 45-degree angle to U.S. Route 150 and IL Route 130. He felt that would be an appropriate, aesthetically pleasing orientation.

Heather Stevenson, of 413 Beringer Circle, felt that there were some things that the Plan Commission needed to consider. Those things were that Aldi was proposing to purchase the entire commercial area, which was 5.8 acres, and build on only 3.6 acres of it. Therefore, the remaining undeveloped acres would be sold off. When looking at the other Aldi locations, she noticed that they have larger businesses by them such as Sonic, fast food restaurants, gas stations, Auto Zones, etc.

Another thing to be considered was that there were unestablished areas located there, which could pose a problem when it came to the drainage issue. She did not feel that it would be aesthetically pleasing to have a 15,000 square foot building versus a small B-1 business. Therefore, in the long run, the City would be shooting themselves in the foots they can get the money now versus waiting to have the land developed and have business owners buy the properties that were out there. She did not believe people would purchase homes in the area knowing that an Aldi was there.

Harry Query, of 2913 Rutherford Drive, mentioned that prior to the meeting between the Beringer Commons Homeowner's Association and representatives from Aldi Foods, he had emailed a list of concerns such as ingress and egress to the proposed site, a privacy wall, truck traffic in a residential neighborhood, elimination of the 24 hour operation, provisions for litter, noise levels for the heating, air conditioning and refrigeration units, provisions for drainage and plans for the remainder of the lot. He mentioned that during the meeting neither Aldi Foods nor the developer, Mr. Richardson, would consider these concerns or make any effort to consider their request. Therefore, he wished to go on record as opposed to granting Aldi's petition for a Special Use Permit.

Since the meeting between the Homeowner's Association and Aldi Foods, they have learned the following: 1) Aldi planned to build a 15, 360 square foot building. This would not be a small neighborhood grocery store; 2) Aldi planned to purchase the entire 5.8 acres and sell off the north portion of the lot to other unidentified purchasers; and 3) When purchasing their home, they were aware of the commercial zoning. They had asked Mr. Richardson what plans he had in mind for the area, and he said that he would like to attract a restaurant like the Beef House in Covington or a strip mall like Old Farm Shops. He assured them that it would not be any business that would distract from the appearance of the subdivision or reduce the value of the homes in the neighborhood.

Mr. Query went on to say that the proposed site was zoned as B-1, and the zoning did not intend for a supermarket to be built in a B-1 area. If the Plan Commission approved this petition, then they would open up the floodgates to any and all petitioners. It was his belief and concern that the market value of their homes would be greatly reduced. The market value of all lots and homes in the Beringer Commons Subdivision would be reduced. Then, the real estate tax base would be reduced, and the real estate taxes paid to the City of Urbana would decline. The reaction would result in harm to the schools, other services and to the economy of the City of Urbana in general. Government, its agencies, and commissions should protect its citizens. They have all made major investments in their homes, and they would not like to be forced out. He knew of one family that had moved out the Beringer Commons Subdivision due the outcome of the Walmart proposal. He knows of recent land purchasers who were considering going elsewhere to build. The proposed Special Use Permit request was not in the best interest of Beringer Commons, the City of Urbana or the general public at large. He respectfully asked that the Plan Commission abide by the decision of the Zoning Commission when they study the definition of the B-1, Neighborhood Business Zoning District and issue their revised changes to Section IV-2 of the Zoning Ordinance.

Ed Perkins, of 2917 Rutherford Drive, referred to the packet that he had distributed prior to the meeting. He reviewed the packet of information, which talked about the B-1, Neighborhood Business Zoning District, Special Use Permit requests, and the Beringer Commons Subdivision.

Aldi Foods need to locate in non-residential area, where traffic, noise and inconvenience would not be a factor or a quality of life of those living in the community. Some facts that bother him were as follows: 1) Aldi Foods proposed a non-conforming use of the property; 2) Aldi had already requested a public hearing for a major variance to allow them to put in a large sign that did not conform to the current zoning; 3) The vast majority of the residents in Beringer Commons Subdivision have signed a petition stating that they were opposed to Aldi Foods developing the proposed site; 4) Aldi Foods stated that their truck drivers deliver at various times of the day and would have a key to access the store. So, how would the City control what time deliveries were being made? 5) Aldi had stated that they intend to surface drain using the existing drainage tile running along the west end of the proposed site. During heavy rains, the intersection at US Route 150 and IL Route 130 flooded due to the incapacity of the current system being able to handle the runoff; 6) The access drive onto Rutherford Drive would create more traffic through the subdivision; 7) The proposed Aldi Foods intended to maintain an outside dumpster for the disposal of the trash from the store, which was located at the back of the store nearest the subdivision; 8) The loading dock on the back of the store would be directly in view of the residents of the subdivision; 9) If Aldi Foods decided in the future to vacate the store, then the neighborhood would be left with a non-conforming building with limited use. Zoning laws were established to protect the best interests and desires of those living in the zoning district to be covered; and 10) Mr. Richardson would still be free to sell his property to any developer who was willing to conform to the use of the development.

Mr. Perkins noted the pictures of the Aldi store in Champaign that he included in the packet. He did not want this in his subdivision.

Chair Pollock called for a break at 9:25 p.m. He reconvened the meeting at 9:32 p.m.

Jack Newsome, of 302 North Beringer Circle, stated that he had been concerned for the last 9 years about what type of commercial would be developing the proposed site. So he pulled out a brochure from when he purchased his home back then and found it said that neighborhood retail. He was assured that small businesses would be developed on the proposed site, so on that basis he decided to purchase his home.

As an individual homeowner, he felt a sense of powerlessness. However, he believed that the Plan Commission would listen to the neighborhood's concerns. His family was never able to purchase their own home up until 9 years ago, so it was a big concern of theirs what the neighborhood would be like. They were not disappointed, not until they saw the proposed development by Aldi Foods.

He appreciated the questions regarding how many stores had Aldi closed, because it concerned him that if Aldi went out of business, then the neighborhood would be stuck with a building that was undesirable to renters or buyers. This would be detrimental to the neighborhood.

Robin Hall, of 405 North Abbey Road, assured Mr. Richardson that this was not an attack on him personally. He was very proud of the job that Mr. Richardson had done developing the subdivision. It was a quality subdivision. His family moved out of their old neighborhood to live in Beringer Commons partly because there was a grocery store close by. They had grocery carts and garbage blowing in the neighborhood. There were loud trucks making deliveries early in the morning. It became a quality of life issue. His family was told that this would be a nice residential area, and the proposed commercial area would be developed as neighborhood businesses. Aldi Foods was not a neighborhood business. Therefore, he urged the Plan Commission to deny the Special Use Permit request.

Jim Kirkpatrick, of 3003 Artesia Crossing, agreed with the issues that the previous speakers had mentioned. Without repeating what the other speakers had already mentioned, he wanted to talk about the trash situation and barrier plantings associated with the proposed development. They were concerned about this, so they visited the Aldi store in Champaign and found that Aldi Foods do not take care of their property very well. There were plastic shopping bags and paper blowing all over. The proposed small barrier trees would be inadequate to prevent trash from blowing into the Beringer Commons neighborhood. In addition, these types of plantings would be inadequate for noise protection to the neighborhood as well. Clearly, the access drive onto Rutherford Drive would be unacceptable in all respects.

His family moved to Urbana from Champaign. They were told that there would be neighborhood businesses developed on the proposed lot. Clearly, Aldi Foods or any other grocery store would be incompatible. If the Plan Commission allowed the proposed development to happen, then it would resonate through the City and make it very difficult for the rest of the Beringer Commons Subdivision to be built.

Lori Patterson, of 306 Abbey Road, commended Mr. Kowalski for being remarkably communicative with the neighbors. At the meeting between the Beringer Commons Homeowner's Association and Aldi Foods, there were some issues that she had raised regarding the proposal.

The first issue was what would happen with the proposed development if Walmart decided not to build? Most people assume that Aldi Foods was attracted to the proposed site because of the potential of Walmart developing in the nearby area. Representatives from Aldi Foods had indicated that their plans were set and that they would develop anyway.

The second issue she had raised was without the traffic from Walmart (if it should not be developed), would it not be unreasonable to build an Aldi store on the proposed site and rely on the neighborhood to support the business? Where would the traffic come from? Mr. Leeth had commented that Aldi Foods was developing on the proposed site because it was the intersection of two state highways. They would service the surrounding communities that come through on those highways. It made perfect sense, but then she wondered if their intention had anything to do with what the B-1 Zoning District was all about. She did not believe that their focus would be on the community in servicing the adjacent residential area.

The third issue she mentioned was that in the meeting, Aldi Foods had stated that they had a new product line, which was packaged wine and beer. She understood that in order to sell these

products in the B-1 Zoning District, a Special Use Permit would need to be obtained. Did the Special Use Permit that Aldi Foods requested to allow a grocery store that was more than 3,500 square feet also cover selling alcohol?

Mr. Kowalski responded to the question about the sale of beer and wine. He said that the sale of beer and wine would not classify the proposed development as a liquor store or convenient store. It would be an accessory to the grocery store. His understanding was that the 1991 annexation agreement for the proposed site did commit the City of Urbana to consider a liquor license to be granted for a commercial development on this site, which would allow for beer and wine to be sold.

Brad Hedrick, of 3008 Beringer Circle, respected Mr. Richardson for what he had done in helping to develop the City of Urbana. Mr. Richardson had done a marvelous job in developing Beringer Commons.

When they moved into Beringer Commons, his family had heard that shops like the ones in Old Farm Shops would be built in the proposed area. This type of shops would have a great complimentary aura to it. It would blend very well with the rest of the area. Certainly, hinging on Walmart, the development that occurred on the proposed site would be opportunities for people who do not have the venture capital of an Aldi to sit and wait for the growth. But once it started to occur, the types of businesses that they would like to see would become interested locating in the area. He hoped that the Plan Commission would take into consideration the overwhelming desire of the Beringer Commons Subdivision to hold out for this to happen.

There would be two large grocery stores in the neighborhood with Aldi Foods and Super Walmart. There would be no diversity.

Mr. Hedrick commented that he saw this as sort of a breach of confidence. Had he known that a 15,000 square foot grocery store would be developed on the proposed site, then he would not have built in Beringer Commons but rather moved to Champaign instead. He understood that Mr. Richardson had a huge investment that he wanted to capitalize on. He supported that, but he made proportionately a larger investment in his lot that he needed to protect. Therefore, he needed a business to develop the proposed site that would not only serve his family's needs but ultimately to increase the value of his property.

Mr. Leeth re-approached to address topics that were raised by people who spoke in opposition.

First and foremost, he truly believed that the purpose of this meeting was not of a "use" issue, but rather a "developmental" issue. Prior to the adoption of the recent amendment of the B-1 Zoning District to the Zoning Ordinance, Aldi would not have needed to request a Special Use Permit. They would have been in complete conformance of the Zoning Ordinance and would be simply seeking site review through the City and asking for a building permit. In March of this year, the City amended the B-1 Zoning District in Section X of the Zoning Ordinance. Changes were made for two types of uses that were previously allowed by right. Those two uses were a video store and a supermarket or grocery store. These two uses were anticipated but require a Special Use Permit if they are larger than 3,500 square feet in size. The size requirement was a development issue. This was the process that brought them before the Plan Commission. It was

not whether or not they should develop a grocery store, but whether or not the grocery store was larger than the very limited in small 3,500 square feet. As he suggested earlier, with the FAR at 9% when they could go to 30% FAR, he felt that was a limited development of a rather large 3.6 acre parcel. Frankly, the Open Space Ratio would be more than you could find in residential areas.

Noise was a concern that had been raised. During public testimony, he asked Mr. Koch about the noise issue. Mr. Koch had been working for Aldi Foods for as long as he had and had developed many stores. Mr. Koch had never had any complaints returned to him of noise from the compressor units from the store sites including those that were located in residential areas.

With regard to truck traffic and noise, Mr. Leeth pointed out that they were restricted in the condition recommended by staff on the hours during which deliveries could be made. Aldi Foods were willing to abide by those restricted hours of delivery. He mentioned that delivery trucks would be there for a limited period of time, because the drivers' purpose was to make their rounds and were timed on their deliveries. Therefore, there was not a lot of idle time or loitering.

Mr. Leeth noted that since the building was limited to 15,000 square feet, the compressors would be appropriately sized. Any other type of development would have the same types of compressors and the same type of heating and air conditioning units.

In addressing the hours of operation, Mr. Leeth remarked that the standard hours of operation were pulled from the application and placed in staff's recommendation. There was no discussion between staff and the representatives from Aldi Foods regarding this issue. When they received the staff report and reviewed staff's recommended conditions, Mr. Leeth and Mr. Holcomb decided that the condition placed on the hours of operation were more restrictive than they desired. As he requested earlier, Aldi Foods would like to change the hours of operation to permit them to be open from 9 a.m. to 8 p.m. on Monday through Saturday and 9 a.m. to 6 p.m. on Sunday. Not every store is open on Sunday in the Aldi corporate structure. In fact, most stores are not open on Sundays.

Mr. Leeth went on to say that the proposed site had been zoned as commercial for several years. It was at the intersection of two state highways. In his opinion, the corner was appropriately zoned business. Behind the proposed site was zoned multi-family residential, and beyond the multi-family zoning was zoned single-family. This was the quaint-essential transitional zoning and was appropriate. The Zoning Ordinance provided for safe guards to provide for screening between the commercial and the multi-family area. The development plan had provided for that screening, as well as does the staff recommendation.

Lighting was an issue. Aldi Foods proposed, as part of the plans, a series of freestanding parking lights. They come on with a photo eye and turn off by a timer that would be set by staff about an hour after the store closes. The timer stays on for an additional half hour to provide safety for the employees as they leave the store. Parking lot lights would not be on 24 hours a day, 7 days a week.

Aldi was concerned with spillage or light pollution. So, they conducted a photometric survey of the proposed lighting to ensure that there would be no light spilling over into the residential neighborhood.

Regarding landscaping, Mr. Leeth noted that Aldi Foods had nearly doubled the number of trees required in the Zoning Ordinance to be planted on the site. As he indicated earlier, the amount of open space would be significantly far greater than was being required. The site was not being developed to its full potential. If other uses would develop this site, there would be far more site development over the entire 5.8 acres than the site that Aldi was proposing to develop.

Mr. Leeth felt the comment made about Aldi Foods not cooperating with the community was a mischaracterization of the process that had been involved. When the property was first sought by Aldi Foods, Mr. Koch went to staff and inquired about the zoning and discussed with staff the development requirements. He secured a copy of the Zoning Ordinance and the requirements. From there, Mr. Koch went through the design process and was in communication with staff on an on-going basis. Mr. Kowalski had encouraged Aldi Food's representatives to meet with the Beringer Commons Homeowner's Association, which they did. He commended the Homeowner's Association and the public testifying at this meeting for the professionalism and the manner in which they had expressed their concerns.

Zoning is, in many respects, the fear of the unknown. The residents in Beringer Commons have a fear of what it could be. It was human nature to fear the worst. He felt that the submitted plan met the Zoning Ordinance and its development requirements. The only thing that required the Plan Commission and the City Council's approval was the Special Use Permit, which was necessitated only because the size of the proposed square footage exceeds 3,500 square feet.

Mr. Pollock inquired if Mr. Leeth thought that the proposed Aldi store would go beyond the recommend hours of operation? Was it that they did not want to be tied to them? Mr. Leeth stated that was correct. Aldi Foods did not know what was going to happen with regard to whether or not the store would be open on Sundays. Typically, the stores close at 7 p.m.

Mr. Pollock asked Mr. Leeth to estimate how many of the 700 Aldi stores have standard hours. Mr. Leeth did not know, because he only represented two divisions of the company. In his knowledge, he would say that there were as many as 1/3 of the stores that have untraditional hours of operation in one way or another.

Ms. Upah-Bant questioned if Aldi Foods would still build the proposed development if they found out that Walmart was not going to develop? Mr. Leeth responded by saying that it was a hard question to answer. Clearly, the decision of whether or not Walmart would develop would impact this decision. The decision would be made from higher up in the corporation.

The proposed store would be located at an intersection of two state highways. They did not plan on getting a large amount of traffic from the Walmart development. The traffic that they anticipated to get would come from the community, from Beringer Commons, and from the traffic flowing on the two state highways.

Mr. Yekkirala re-approached the Plan Commission to say that he lived right between the condos and the conifers. He was completely exposed to the traffic coming in. He commented that the conifers were not thick and provided very little screening.

Mr. Perkins re-approached the Plan Commission to point out several differences between the photos of the new store in Matteson, Illinois and the proposed development. First of all, the loading dock on the proposed development would be on the back of the building facing the Beringer Commons Subdivision rather than on the side of the building. Secondly, the front of the houses on Rutherford Drive would be facing the back of the proposed Aldi store. Thirdly, the traffic in Matteson did not go into the subdivision like it was being proposed with the access drive onto Rutherford Drive.

Mr. Yekkirala mentioned that he met with Mr. Kowalski when the proposal first came out. Mr. Kowalski had given him Mr. Holcomb's name to contact at Aldi Foods. He called Mr. Holcomb and left a message, but never received a phone call in return.

Mr. Kangas inquired if a Best Buy could come in under electronic sales and services and build a 45,000 square foot facility on the proposed lot by right without any review by the Plan Commission and/or City Council? Mr. Kowalski replied that was correct. Mr. Kangas commented that the difficulties in drawing the lines was that they could end up with much more intense uses than the proposed Aldi grocery store. Mr. Kowalski mentioned that when the City revised the B-1 Zoning District, they had struggled with this issue. The Zoning Ordinance was based on use and not necessarily on size. Ultimately, the City decided on four uses that could potentially have a lot of traffic or operational issues that should require a Special Use Permit. Those four uses were a grocery store, convenient store, drug store, or video store. Mr. Kangas added that the changes were made to the B-1 Zoning District for grocery stores for a specific reason, which was not necessarily only for their size. He disagreed that the Special Use Permit request was only for development rather than for its use.

Mr. Kangas felt the proposed Aldi store violated the spirit of what the City tried to do with the B-1 Zoning District. It was the location and the transportation in the area that attracted Aldi Foods to the proposed site, not the Beringer Commons neighborhood. The proposed property was supposed to be for neighborhood business.

Mr. Kowalski commented that as far as uses such as an Old Farm strip mall or a Knollwood strip, the Zoning Ordinance would have difficulty permitting a similar development in the B-1 Zoning District. It would probably have to be rezoned to B-3, General Business Zoning District as a Planned Unit Development Commercial Center, which would require a Special Use Permit as well. There were many comments that the area was not zoned properly for a grocery store. However, a grocery store was permitted in the B-1 Zoning District with a Special Use Permit.

Regarding the hours of operation, Mr. Leeth was correct on how the recommendation came about in the conditions on the approval of the Special Use Permit. There was not any discussion with representatives from Aldi Foods. He remarked that staff would not have a problem with changing the condition to allow the petitioner to be open to no later than 8 p.m. He felt that would be reasonable for any business, whether it was general commercial or business commercial use.

Mr. Kowalski stated that he had encouraged the petitioner to meet with the Beringer Commons Homeowner Association early on in the process. He suggested having it an open meeting with anyone from the neighborhood who was interested; however, the residents decided to have only the Homeowner's Association Board meet with Aldi Foods. At the meeting, representatives from Aldi Foods recommended that they look at the store in Matteson, Illinois because there were a lot of comparisons being made at the meeting with the Aldi store in Champaign, which apparently was very different from what was being proposed. Although there were some similarities and some differences, overall the landscaping plan and the attention to site details were pretty similar to the proposed development.

Ms. Stake asked why the Plan Commission and the City Council did not restrict the size of all new buildings for all the uses in the B-1 Zoning District when they did the amendment? Mr. Kowalski replied that the primary concern at the time was having new B-1 development in the older neighborhoods, where the lots were normally 60 feet wide by 120 feet deep. It was determined that 3,500 square feet would be a safe square footage to allow a B-1 use by right anywhere. On the proposed corner lot, 3,500 square feet would seem a little restrictive because it is such a large parcel. Ms. Stake commented that they should of thought ahead to think that for residential areas, you would want all of the neighborhood businesses to be small. She questioned why they would not be allowed by right to have small stores such as in Knollwood, etc.? Mr. Kowalski answered by saying that each store would not be evaluated individually. It would be evaluated on the development as a whole, because the building itself would be around 50,000 to 75,000 square feet. Ms. Stake asked if there would be a restriction of the size of each store in a Planned Unit Development? Mr. Kowalski said no. Ms. Stake felt that there should be a restriction on the size allowed for each store.

Ms. Goscha clarified by saying that a commercial Planned Unit Development was only allowed in a B-3, General Business Zoning District. Mr. Kowalski noted that there were two types of commercial Planned Unit Development. There was a convenience commercial Planned Unit Development, which was a little smaller, and then there was a general commercial Planned Unit Development, which was bigger. Something along the line of the Schnucks strip mall would be considered a general commercial Planned Unit Development. A convenience commercial Planned Unit Development would be a 12,000 to 50,000 square foot building, but it was only allowed on a lot of more than 1 acre and less than 4 acres. Because the proposed site was almost 6-acres in total, a Planned Unit Development would be considered general commercial. It would allow a building from 50,000 square feet or more. The general commercial Planned Unit Development was not allowed in a B-1 Zoning District at all. A convenient commercial Planned Unit Development was permitted in the B-3 Zoning District with a Special Use Permit.

Mr. Pollock inquired if the proposed site was subdivided, and the northern undeveloped site was below 4 acres, then an Old Farms type operation could be permitted with a Special Use Permit without a rezoning? Mr. Kowalski said that was correct.

Mr. Hopkins asked for clarification in that it was possible to have a convenient commercial Planned Unit Development in a B-1 Zoning District? Mr. Kowalski said yes, if the lot was between 1 and 4 acres.

Mr. White commented that he was disposed to having the access drive onto Rutherford Drive and to walling off the subdivision. Would this present a traffic hazard by having only one entrance from University Avenue? Bill Gray, City Engineer, replied no. In fact, the original site plan did not show the access onto Rutherford Drive. In time, if the north half was developed, then they would want a connection to High Cross Road. The City had anticipated some kind of commercial development a few years ago when the Illinois Department of Transportation (IDOT) improved the roads, so they were careful with the intersection design to allow for an entrance/exit onto the proposed site.

Ms. Goscha stated that she saw two questions before the Plan Commission. The first one was what is a neighborhood business? The second question was what is a B-3 business? She did not feel that 15,000 square foot grocery store was not a neighborhood business, which was why they put the 3,500 square foot restriction on this type of use. Another thing was the parking lot. The petitioner was proposing to provide double the amount of spaces than were required. She felt that this type of use would fall under the B-3 Zoning District because of its size and because of its reliance upon the fact that it was on a state highway and US highway intersection. Therefore, the question before the Plan Commission was whether it would be appropriate essentially to allow a zoning change without calling it a zoning change, but calling it a Special Use Permit?

She was a little conflicted with this question. They have a US highway and a state highway, which provides a great location for a business. However, the northeast and northwest corners of the intersection are shown to be low-density residential on the Future Land Use Map. So, there was an amalgamation of things with Industrial (IN), General Business (B-3) and to the north low-density residential. She believed the proposed site was zoned B-1 to provide a buffer from B-3 to multi-family residential. Therefore, she came to the conclusion that they would be allowing a B-3 use on a B-1 lot without making a rezoning change. She did not feel that this would be appropriate for the Plan Commission to do. She would be in favor of a convenient commercial Planned Unit Development, which was essentially shown on the preliminary plat for the area.

Ms. Stake commented that the City had been working to set up a district for the B-1, Neighborhood Business. She believed that was what they needed to develop the proposed site as. The City wanted to protect the residents, protect their homes, want the people to feel safe and like to live in Urbana. She hoped the Plan Commission would deny the request.

Mr. White reiterated that he hoped that no matter what went forth, that the Plan Commission would agree that there would not be an access or sidewalk onto Rutherford Drive and to require a wall around the proposed lot to trap windblown plastic bags in the area.

Ms. Stake moved that the Plan Commission recommend denial of the Special Use Permit to the Urbana City Council. Ms. Goscha seconded the motion.

Mr. Hopkins believed that there were several things that the Plan Commission needed to think about in terms of what the effect of what they do would be. There was a potentially immediately easy decision of saying no. However, keeping in mind that the proposed lot was located on a US highway, a state highway, and near an interstate. Most of the residents in Beringer Commons would be closer to Interstate 74 than they would be to the proposed development.

He did not feel that the proposed location was a B-1 location in the sense that the B-1 zoning was designed to deal with. It was a much bigger site. B-1 zoning anywhere else in the City was not located in the intersection of a state highway and a US highway. Part of the difficulty was that there was a mismatch of how the property was zoned.

As Mr. Kangas pointed out, a Best Buy could build on the proposed site without review by the Plan Commission or the City Council. No one would even know about it until it appeared on the ground.

He found it intriguing that many people used the example of the Beef House as an acceptable use for the proposed lot. Everyone knows where the Beef House was located. It was not a neighborhood business. This tells him that part of the real issue people had with the proposed development was what the specific use was that was being proposed. The development of the proposed site would not be shops like at Knollwood. The shops at Knollwood and the shops at Old Farm were not in the intersections of a US highway and a state highway and just off the interstate.

If the Plan Commission denied this case, then they would need to come back and consider rezoning the property. They need to come back and consider how they could instigate a Planned Unit Development. He did not feel that development would financially be feasible or would currently legally be feasible that would fit the expectations that people were talking about for Mr. Richardson to make the Beringer Commons Subdivision viable financially. What he would like to see happen would be a redesigned convenient, general development on a B-3 site involving both sites. If it were done well with the right kind of separation from Rutherford Drive, it could even include a grocery store. The problem was that the Plan Commission was not in a position to do that.

Mr. Kangas followed up with saying that if the proposed case was denied, all the things that the Plan Commission had talked about could still happen, and the Beringer Commons Subdivision could end up with a much more intense use by right. A giant Best Buy could be built with lots of lighting and big air conditioning units on the roof without going through the Special Use process. It may or may not ever happen. Unless the residents of the Beringer Common area try to help develop a plan for the entire site, then other things could happen. Mr. Hopkins added that the most financially viable were businesses like Best Buy or Aldi, etc., because this was not a neighborhood business site. They need to figure out how to use the site in a way that it could be used.

Ms. Upah-Bant thought since the B-1 Zoning District did allow a supermarket or grocery store, all-be-it a smaller one, the Plan Commission would be on shaky ground to deny it. It would be unconscionable to deny because they do not like the kind of grocery store or supermarket that was being proposed. She found that appalling.

Mr. Pollock commented that his immediate response after reading the staff report for this case was that a 15,000 square foot business was not a neighborhood business. On the other hand, everyone needed to be aware of what the possibilities were in the future. At the intersection of two major highways, with the possibility of a major B-3 development kitty-cornered to the

proposed site, as the area developed, this would be a key piece of property. There would be a very large business coming in that was not one of the one or two businesses that were restricted by the 3,500 square foot rule. The subdivision may wind up with something that was much more intense than an Aldi without any ability of the Plan Commission or the City Council to talk about screening, to talk about any of the restrictions that Aldi Foods had agreed to. This concerned him. The idea of going through and doing a B-3 rezoning of the lot was something that they should think about. That would certainly alarm more people. Therefore, he had very mixed feelings about the proposed Special Use Permit.

He tried to come up with ideas of how to allow the proposed development to happen and to provide so many conditions that residents of the subdivision would feel not terrible about it including: restriction on hours, running a fence and green screen all the way around both sides of the property all the way up to IL Route 130, and make sure the dumpsters are enclosed on four sides and covered.

Mr. Kangas asked Mr. Pollock if he considered the proposed development a neighborhood business? Mr. Pollock replied that 15,000 square foot was not what he envisioned as a B-1, Neighborhood Business, but this was not the normal B-1 lot. When they think about B-1, they thought about the corner of Philo Road and Washington Street or the corner of Washington and Race Streets. They thought about what happens to the established, older neighborhoods with something that would come in that would be out-of-scale. This was a really different situation. He pointed out that the only reason that the proposed lot was zoned B-1 was not because the City made it B-1, but because it annexed into the City from the County and that was the zoning. It stayed zoned as B-1 because it had never been an issue.

Ms. Upah-Bant stated that the use “supermarket” should be removed from the B-1 Zoning District, because the proposed development was about as small of a supermarket as there would ever be. Replace the use of “supermarket” with the use of “convenient store”. Mr. Pollock agreed.

Ms. Stake did not feel that the Plan Commission could sit there and hear all the objections that the residents of Beringer Commons had about the proposed development and still approve it. These people would be living right next to the proposed development. They have invested in their homes, and the City should protect these people. The Plan Commission and the City Council should make sure that there were no other huge stores allowed to go in the proposed site by changing the Zoning Ordinance and the regulations. The Plan Commission and the City Council needed to deny the proposed Special Use Request and right away change the B-1 to not allow a big box to come in the proposed area.

Roll call on the motion to deny was as follows:

Ms. Goscha	-	Yes	Mr. Hopkins	-	No
Mr. Kangas	-	Yes	Mr. Pollock	-	No
Ms. Stake	-	Yes	Ms. Upah-Bant	-	No
Mr. White	-	No			

The motion to deny failed by a vote of 3-4.

Mr. Pollock commented that none of the Plan Commissioners were trying to nail the people in Beringer Commons. The Plan Commission members were trying to look out for the best interest of the Beringer Commons neighborhood, for the City, and for Aldi Foods. If the Plan Commission would have denied the proposal, then what would be the next step: rezone the proposed site to B-3, General Business, leave the proposed site as B-1 or create another zoning classification for the site. If they would rezone it the site to B-3, then it might make it a worse situation than what was being proposed. If the site remain zoned as B-1, then should the Plan Commission go back and completely rewrite the text for the B-1 zoning classification. The City had just completed that task. The proposed site was at the intersection of two major highways and zoned commercial.

Mr. White moved to that the Plan Commission forward the case to the Urbana City Council with a recommendation for approval along with the 8 conditions recommended by City staff and in addition to the following conditions:

1. *Condition #9: There shall be no street connection or sidewalk connection to Rutherford Drive.*
2. *Condition #10: There shall be screening around the site that would contain wind-blown trash consisting of a fence with greenery on the neighborhood side around the entire site facing the neighborhood.*
3. *Modify Condition #5: The hours of operation for the grocery store shall be limited to ~~those identified on the original application for Special Use Permit approval which are Monday Thursday and Saturday~~ not before 9 7 AM nor after 7 8 PM ~~and on Friday from 9 AM to 8 PM~~ seven days a week.*

Ms. Upah-Bant seconded the motion.

Ms. Goscha suggested in order for the proposed development to conform to the applicable regulations and standards and to preserve the essential character of the district that the petitioner continues the existing screening that was in place at Beringer Commons Subdivision. Landscaping should be included to soften the wall and help with the noise. The suggestion met the approval of the motion maker and seconder. So, Condition #10 would now be as follows:

Condition #10: There shall be a screening around the site that would contain wind-blown trash consisting of a continuance of the existing wall that was in place at Beringer Commons Subdivision around the entire site facing the neighborhood. Landscaping should be included to soften the wall and help with the noise.

There was discussion on whether or not the wall should be built around the entire site or only around the area that Aldi planned to develop. Ms. Goscha felt that the screening should only be around the area that Aldi intended to develop, because they were not sure what business might buy the undeveloped portion of the proposed site. It might be something that the residents of Beringer Commons would be interested in using. Mr. White believed that the fence needed to go around on the north and northwest sides of the entire site to keep trash from blowing around the wall into the neighborhood. Mr. Hopkins agreed that the screening would have to include the unplanned parcel, otherwise it would not screen properly.

Mr. Kangas pointed out that they would then have a B-1, Neighborhood Business Zoning District completely disconnected from the neighborhood. Mr. Pollock thought that maybe this would be the lesser of two evils that could happen to the neighborhood.

Mr. Pollock went on to suggest that the Plan Commission require that all the trash receptacles and the dumpsters be completely screened on all sides as Condition #11. Mr. Kowalski stated that the dumpster would be somewhat screened due to the fact that it would be located down in the depressed area of the loading dock. It would be out-of-sight for the most part. Mr. Hopkins suggested that a condition be added to require the dumpster to be covered. The motion maker and the seconder agreed to add this suggestion as Condition #11.

Ms. Stake wondered how some of the Plan Commission members could decide that the proposed site would not be developed as permitted in the B-1 Zoning District. Ms. Upah-Bant responded by saying that there was not anyone interested in buying it and developing it as a B-1 Zoning District. Ms. Stake stated that maybe the price was too high. Mr. Pollock stated that in a sense he agreed with Ms. Stake, except that on the flip side, there was a possibility that something could come in there that would be a total disaster for the neighborhood. Ms. Stake remarked that the Plan Commission needed to do something to protect against that as well. Mr. White believed that the problem was that the Plan Commission could not do anything to protect the proposed site or the neighborhood.

Mr. Kowalski restated the motion to read as follows: *The Plan Commission forward the proposed Special Use Permit request to the Urbana City Council with a recommendation for approval along with the following conditions:*

1. *The 8 conditions recommended by City staff;*
2. *No street or sidewalk to Rutherford Drive.*
3. *Screening around the site to stop the trash. The screening shall consist of the continuation of the Beringer Commons wall around the entire perimeter of the site, except along US Route 150 and IL Route 130, with landscaping on the outside of the wall along the sidewalk.*
4. *The hours of operation condition was changed to say not before 7 AM or after 8 PM, seven days a week.*
5. *Lids on the dumpsters and some type of enclosure of the dumpsters on all sides.*

Mr. Kangas was not sure if they had satisfied the residents or the developer of the area. He suggested tossing the motion back to the developer and to the residents of the Beringer Commons Subdivision for feedback. Elizabeth Tyler, Director of Community Development Services Department, stated that if the Plan Commission wanted to continue the case, then the motion and the second would need to be withdrawn. If the Plan Commission did not want to have a repeat of the public hearing, then they would need to make a motion and have a vote to do that. Then, they could make a motion and vote to continue the case.

Mr. Kangas stated that the major thing that the Plan Commission was trying to do was to get all of the issues out on the floor for the City Council. The Plan Commission had done that. He was not sure that in coming back in two weeks, there would be any additional issues to add for the

City Council. It would be nice to get some feedback from the developer and from the community since they made some significant changes to the site plan. Mr. Pollock agreed.

Mr. Leeth re-approached the Plan Commission to say that the petitioner, Aldi Foods, was willing to meet the added conditions that the Plan Commission was recommending to the City Council. Mr. White stated that he was not going to withdraw his motion. Roll call was as follows:

Mr. Hopkins	-	Yes	Mr. Kangas	-	Yes
Mr. Pollock	-	Yes	Ms. Stake	-	No
Ms. Upah-Bant	-	Yes	Mr. White	-	Yes
Ms. Goscha	-	No			

The motion was passed by a 5-2 vote.

Chair Pollock mentioned that the case would go before the City Council on October 18, 2004.

8. NEW BUSINESS

There was none.

9. AUDIENCE PARTICIPATION

Mr. Perkins asked why the residents of Beringer Commons were not allowed to give any input on any of the additional conditions made by the Plan Commission? The Plan Commission did not want to hear any suggestions that the residents might have had. Mr. Pollock replied that the Plan Commission legislated on the floor, which was not a good thing to do. He felt that the conditions placed on the Special Use Permit request were things that had been expressed to the Plan Commission from the neighborhood and the subdivision. The last thing he wanted was for people to believe that they did not have a proper ability to address the Plan Commission, but the fact was that the public meeting was open for almost four hours.

Mr. Perkins remarked that when the Plan Commission started negotiating, then the public was left out. The Plan Commission allowed Mr. Leeth to comment on the conditions, but the public was not allowed to. Ms. Tyler pointed out that the Special Use Permit was not adopted yet. She suggested that the public come to the City Council meeting on October 18, 2004 and present their ideas at that meeting before and if the conditions would be adopted.

Mr. Malmgren agreed with Mr. Perkins. He found it atrocious and arbitrary that Mr. Leeth was allowed to speak and the residents were not allowed to. Mr. Pollock apologized for the residents feeling this way. He took the responsibility upon himself, because he was the Chair of the Plan Commission. He encouraged the public to go to the City Council meeting and let them know about their complaints on both how the meeting was run, but also on the Plan Commission's final decision.

Mike Mulligan stated that it was almost as if the people spoke, and no one heard them. The City Council was the same way. Since the people in opposition were taxpayers, then the City should

listen to them at least a little bit. He had lost what little faith he had in the people who run the City of Urbana. He would just as soon sell his house and move out of Beringer Commons.

Mr. Yekkirala mentioned that the noise was another issue for him. He would like the Plan Commission to make a motion to make sure Aldi Foods only made deliveries during the daytime or during their operating hours. Mr. Pollock suggested that Mr. Yekkirala felt there needed to be some type of noise screening on the roof of the proposed development, then he could mention it to the City Council. He suggested that the residents of Beringer Commons go before the City Council as a group with a list of things that they felt would pose problems to the neighborhood by the petitioner and ask the City Council to take some action to try to address the problems.

Holly Clemens suggested that there had been some serious due process issues with this meeting. She suggested to her cohorts that if they had some concerns with the way the proceedings were conducted then perhaps they should get a litigation committee together to get an attorney to discuss some of their issues.

10. STAFF REPORT

Mr. Kowalski gave a staff report on the following:

- **The next scheduled meeting** of the Plan Commission was set for October 21, 2004. There was one case, which was for a Special Use Permit for the Twin City Bible Church.

Ms. Tyler mentioned the following:

- **A public hearing for the Hazard Mitigation Plan** would also be heard at the next Plan Commission meeting on October 21, 2004.
- **At the City Council meeting on October 11, 2004**, there will be a motion from City Council directing a text amendment on accessory parking lots in single-family residential neighborhoods.

11. STUDY SESSION

Long Range Transportation Plan Review

Mr. Pollock suggested that the Plan Commission postpone the study session to the next meeting. Ms. Tyler pointed out that the City was in a public review period. If any Plan Commission members would like to review the plan and telephone her, she could walk members through it. There was no executive summary. In the memo, she highlighted the tables and the sections she thought the Plan Commission members might be interested in. Staff was interested in any comments the Plan Commission may have. She noted that neither the Plan Commission nor the City Council would be acting on the Long Range Transportation Plan. It would likely come back in November 2004 in the final version.

Ms. Tyler stated that she and Mr. Gray had spent a couple of years working on, and there were many good things in the plan for the City of Urbana. There were some progressive policies and a good prioritization of projects for the City.

Mr. Pollock asked how long the public review period was for? Ms. Tyler answered by saying it was open until November 19, 2004.

Ms. Upah-Bant inquired what kind of feedback was City staff looking for? Ms. Tyler stated that it was just informational. Champaign-Urbana Urbanized Area Transportation Study (CUUATS) would be the body that would actually adopt the plan. She mentioned that there would be a presentation by the CUUATS staff to the Urbana City Council on October 11, 2004. Anyone interested in hearing that presentation could watch the meeting.

On another note, Ms. Tyler remarked that the Plan Commission followed the most recent procedures for the case that was heard at this meeting. The Plan Commission had a clarifying question to the applicant close to the end of their discussion. This did not violate Clarion vs. Lyle. The Plan Commission did their job well tonight. She felt that the City was on solid ground.

Mr. Pollock noted that he was really proud of the Plan Commission and in the way it operates. He hoped that the public had faith in what they do, because that was why they were there.

12. ADJOURNMENT OF MEETING

Chair Pollock adjourned the meeting at 11:23 p.m.

Respectfully submitted,

Rob Kowalski, Secretary
Urbana Plan Commission