



ZIONSVILLE PLAN COMMISSION MEETING RESULTS

Monday October 17, 2016

The Regular meeting of the Zionsville Plan Commission was scheduled for Monday October 17, 2016, at 7:00 p.m. in the Beverly Harves Meeting Room at Zionsville Town Hall, 1100 West Oak Street.

The following items were scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance
- III. Approval of the July 18, 2016 Meeting Memorandum and September 19, 2016 Meeting Minutes
- IV. Continuance Requests

Docket Number	Name	Address of Project	Item to be Considered
2016-37-PP	Cobble Creek	9085 E. Oak Street	Approved to Continue from the August 15, 2016, September 19, 2016, and October 17, 2016, to the November 21, 2016 Plan Commission Meeting 6 in Favor 0 Opposed Petition for Primary Plat to subdivide 99.671 acres into 105 lots in the (R1) and (R2) Rural Residential Zoning Districts
2016-38-DP	Cobble Creek	9085 E. Oak Street	Approved to Continue from the August 15, 2016, September 19, 2016, and October 17, 2016, to the November 21, 2016 Plan Commission Meeting 6 in Favor 0 Opposed Petition for Development Plan Approvals to provide for a 105 lot subdivision in an (R1) and (R2) Rural Residential Zoning Districts
2016-47-PP	200 West	125, 165, 235 W. Sycamore Street	Approved to Continue from the October 17, 2016 meeting to the November 21, 2016 Plan Commission Meeting 6 in Favor 0 Opposed Petition for Primary Plat approval to establish (2) two lots in the (B2) and (B3) Urban Business Zoning Districts
2016-48-DP	200 West	125, 165, 235 W. Sycamore Street	Approved to Continue from the October 17, 2016 meeting to the November 21, 2016 Plan Commission Meeting 6 in Favor 0 Opposed Petition for Development Plan Approval to provide for (2) two, commercial structures with office uses on the frontage of the site in the (B2) and (B3) Urban Business Zoning Districts

2016-54-DPA	Zionsville Christian Church	120 N. 9 th Street	Approved to Continue from the October 17, 2016 meeting to the November 21, 2016 Plan Commission Meeting 6 in Favor 0 Opposed Petition for Development Plan Amendment to allow for construction of a 25 ft. x 25ft. building canopy to an existing church building with sidewalk and pavement modifications in (SU-2) Urban Special Use Zoning District
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V. Continued Business

Docket Number	Name	Address of Project	Item to be Considered
2016-45-CA	Harris FLP	10901, 10985 E. 300 South, and 3201 S. U.S. 421	Commitment Amendment to provide for a Fuel Station (with Commitment), given a Favorable Recommendation to the Town Council 5 in Favor 1 Opposed Petition for Commitment Amendment to provide for modification of Commitments associated with Boone County Ordinance No. 2008-13, and recorded instrument No. 2008-00010861 in the (GB) Rural Business Zoning District

VI. New Business

Docket Number	Name	Address of Project	Item to be Considered
2016-51-DPA	Fazolis	6378 Crane Drive	Approved 6 in Favor 0 Opposed Petition for Development Plan Approval in order to permit installation of a refrigeration unit to the southeast side of the building located at 6378 Crane Drive, which is within the (GB) Rural General Business Zoning District

VII: Other Matters to be Considered

Docket Number	Name	Address of Project	Item to be Considered
2016-05-PP 2016-06-DP	DeRossi	8810-8811 Whitestown Road	Status Update: Commitments
	Getgo	7011 Whitestown Parkway	Minor Change to Site Plan

Respectfully Submitted:
Wayne DeLong, AICP
Director of Planning and Economic Development
Town of Zionsville

October 19, 2016



Petition Number: 2016-51-DPA

Subject Site Address: 6378 Crane Drive

Petitioner: Roger Distler/See USA, LLC/SJC Inc./J&K FFI 3, LLC

Representative: Roger Distler

Request: Petition for Development Plan Approval in order to permit installation of a refrigeration unit to the southeast side of the building located at 6378 Crane Drive, which is within the (GB) Rural General Business Zoning District

Current Zoning: (GB) Rural General Business

Current Land Use: Commercial (integrated center)

Approximate Acreage: 3.35 acres

Zoning History: Received prior approval from the Boone County Area Plan Commission

Exhibits:
Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map with Site Plan
Exhibit 3 – Equipment Floor Plan-Sheet F1
Exhibit 4 – Floor Plan-Sheet A-101
Exhibit 5 – Conceptual Elevations
Exhibit 6– Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition will receive a public hearing at the October 17, 2016 Plan Commission meeting.

PROPERTY HISTORY

The subject property, located in the rural district of Zionsville, came into the jurisdiction of the Town of Zionsville as a part of the 2010 consolidation.

PROJECT OVERVIEW

Project Location

The subject property is located south of Whitestown Parkway, west of Crane Drive, North of 650 South and east of Interstate 65.

Project Description

The space the applicant will occupy is connected to retail spaces of a Convenience Store with a Gas Station, and Coffee Shop, and a former Car Wash. The request to remodel the interior of the former Car Wash has been permitted. The applicant requests to further improve the site with a 7'9"x 24' (186 Sq. Ft) refrigeration unit at the southeast side of the building, and would be accessed from inside the tenant space. The area proposed to be occupied by the proposed refrigeration unit does not reduce the number of parking spaces or cause any non-conformities.

DEVELOPMENT PLAN REVIEW

Zoning Ordinance

The development plan has been reviewed using the standards of the Zionsville Zoning Ordinance (Ordinance) and found to be in compliance. Staff has reviewed the project and has found no outstanding concerns with a change in the impervious cover or drainage patterns. The Town Engineer, in the normal course of review, raised a concern regarding the flow of traffic on the west side of the building during peak times (concurrent with a fuel delivery). The applicant has been made aware of the Town Engineers comment regarding flow of traffic, but the comment does not rise to the level of requiring action from the applicant (in terms of a formal response to the file).

Architecture & Building Materials

The proposed addition (refrigeration unit) will be screened by a split faced block wall (painted to match the building). The roof top units will remain exposed as to allow for air exchange and circulation.

Utility Access

Adequate access to utilities is available to facilitate the project.

Streets & Vehicular Circulation

The development currently derives access from Whitestown Boulevard via Crane Drive.

Parking

The proposed site development complies with ordinance standards as the site would be improved with parking to serve the proposed use (43 spaces required / 67 spaces provided).

Vehicle Dependent Uses

As contemplated, the site will be converting the existing drive thru car wash to a restaurant with a drive thru pick up window. The configuration and location of the drive-thru will generally be the same for the restaurant as for the car wash (with the exception of the end unit, and, the installation of a menu board / ordering station). As the location of the drive-thru was in existence on the site prior to the contemplated conversion to a restaurant use, staff did not require the filing to encompass details related to the drive thru service unit (though the information is included for reference in the Petitioner's submittal).

Drainage

Adequate access to drainage infrastructure is available to facilitate the project.

Signage

The Petition's facade elevations indicate the planned installation of a 38.33 square foot wall sign (facing east) and a 35.78 square foot wall sign (facing south). No issues have been identified as a part of the filing related to signage. Based on signage limitations found in the Ordinance, only one wall sign is permitted by right (for the tenant space, based on the tenant spaces frontage).

FINDINGS

The Plan Commission shall hear, and approve or deny, Development Plans based on Findings of the Building Commissioner or Plan Commission. Per Section 4.3.C of the Ordinance the Plan Commission finds:

1. The Development Plan is compatible with surrounding land uses because:
2. The Development Plan **does** demonstrate availability and coordination of water, sanitary sewers, storm water drainage, and other utilities because:
3. The Development Plan **does** demonstrate the management of traffic in a manner that creates conditions favorable to health, safety, convenience and the harmonious development of the community because:
4. The Development Plan **does** utilize building materials and building style compatible with the Zionsville theme because:
5. The Development Plan **does** provide for the calculation of storm water runoff because:
6. The Development Plan **does** provide for current and future right-of-way dedications because:

7. The Development Plan **does** provide for building setback lines, coverage, and separation; vehicle and pedestrian circulation; parking; landscaping; recreation area or green space; outdoor lighting because:

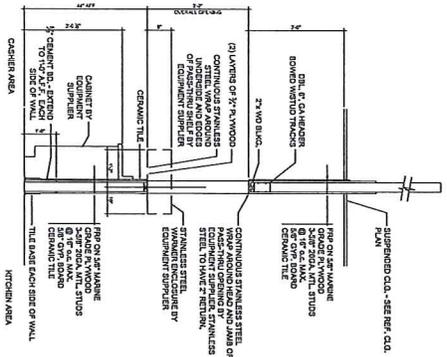
The petitioner has prepared findings which are a part of the packet for Plan Commission review.

STAFF RECOMMENDATIONS

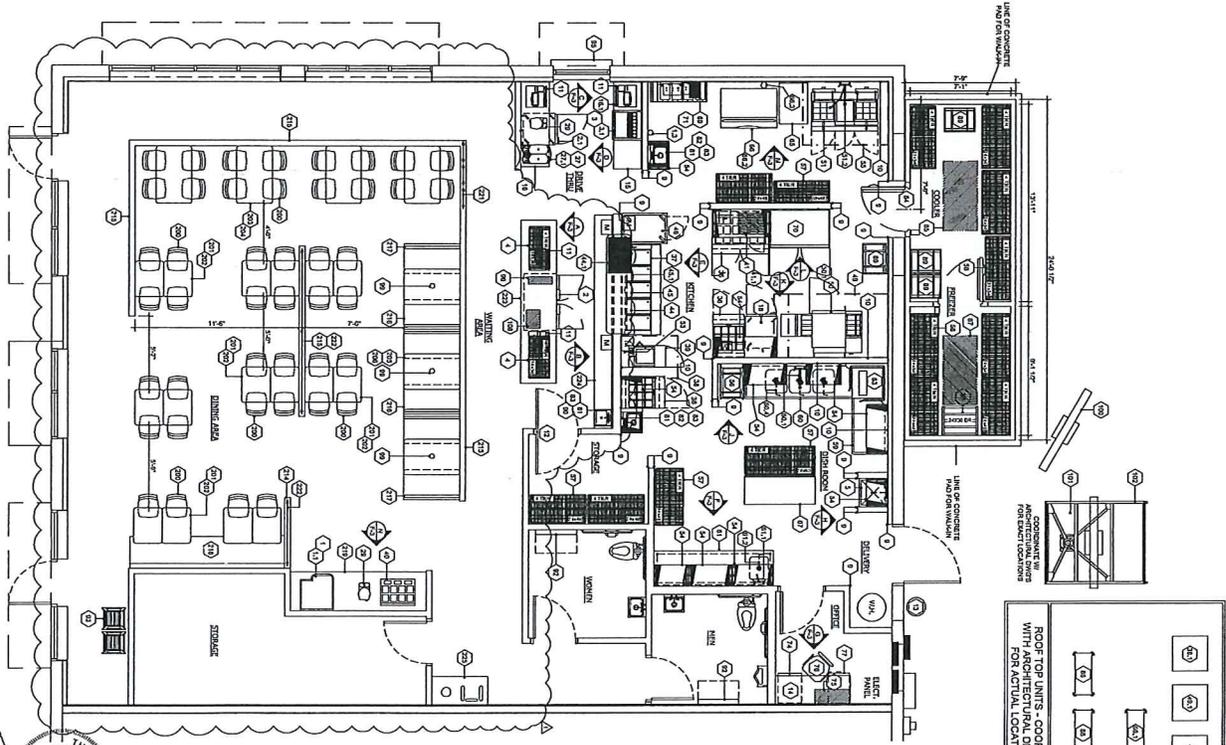
Staff recommends approval of the petition as filed.

RECOMMENDED MOTIONS

I move that Docket # 2016-51-DPA Development Plan Approval to provide for installation of a refrigeration unit to the southeast side of the building located at 6378 Crane Drive, which is within the (GB) Rural General Business Zoning District be (Approved based the findings in the staff report, staff recommendation, and submitted findings of fact / Denied/ Continued) as presented.



SECTION AT PASS-THRU WINDOW
 NOTE: 3 REPRESENTS HORIZONTAL LOCATION, VERTICAL LOCATION AND ELEVATION WITH VERTICAL COMPONENT



EQUIPMENT FLOOR PLAN
 SCALE: 1/8" = 1'-0"



SHEET NO. F1
 JOB NO. 15-110

BEST
 RESTAURANT EQUIPMENT & DESIGN INC.
 4020 BUSINESS PARK DRIVE
 COLUMBUS, OHIO 43204
 614-488-2378 614-488-4732 FAX
 drafting@bestrestaurant.com

DRAWN BY S. COLVARD
 DATE 29 JUNE '16



Exhibit 3

REVISIONS		
BY	DESCRIPTION	DATE
JMG	ENDING ROOM UPDATE	06-28-16

TOWN OF ZIONSVILLE PLAN COMMISSION
BOONE COUNTY, INDIANA

PETITION FOR PLAN COMMISSION APPROVAL
OF A DEVELOPMENT PLAN / MODIFICATION OF DEVELOPMENT PLAN

FINDINGS

1. The Development Plan/Modification of Development Plan (is/is not) compatible with surrounding land uses because: *It does not impede traffic flow, setbacks or AOA.*
2. The Development Plan/Modification of Development Plan (does/does not) demonstrate availability and coordination of water, sanitary sewers, storm water drainage, and other utilities because: *Utilities are already connected & run to the building*
3. The Development Plan/Modification of Development Plan (does/does not) demonstrate the management of traffic in a manner that creates conditions favorable to health, safety, convenience and the harmonious development of the community because: *It doesn't affect any outlying traffic return.*
4. The Development Plan/ Modification of Development Plan (does/does not) utilize building materials and building style compatible with the Zionsville theme because: *Concrete matches the building (Enclosure)*
5. The Development Plan/Modification of Development Plan (does/does not) provide for the calculation of storm water runoff because: *It doesn't affect existing site plan & sits on existing impervious locations.*
6. The Development Plan/Modification of Development Plan (does/does not) provide for current and future right-of-way dedications because: *N/A does not impact*
7. The Development Plan/Modification of Development Plan (does/does not) provide for building setback lines, coverage, and separation; vehicle and pedestrian circulation; parking; landscaping; recreation area or green space; outdoor lighting because: *Sits on existing site plan - doesn't impact*

DECISION

It is therefore the decision of this body that this Development Plan/Modification of Development Plan is **APPROVED / DENIED.**

Adopted this _____ day of _____, 20__.

Zionsville Plan Commission

October 17, 2016

In attendance: David Franz, Larry Jones, Sharon Walker, Jay Parks, Josh Fedor, Kevin Schiferl.
Not present: Franklin McClelland

Staff attending: Wayne DeLong, Carol Sparks Drake, attorney.
A quorum is present.

Franz Call to order the Plan Commission meeting of October 17, 2016. We'll start with the Pledge of Allegiance.

All Pledge of Allegiance.

Franz Our normal secretary is absent, Wayne DeLong. In his place is Janice Stevanovic, so if you would take attendance, please.

Stevanovic Yes, sir. Mr. Franz?

Franz Present.

Stevanovic Mr. Schiferl?

Schiferl Present.

Stevanovic Mr. Jones?

Jones Present.

Stevanovic Ms. Walker?

Walker Present.

Stevanovic Mr. Parks?

Parks Present.

Stevanovic Mr. McClelland?

Stevanovic Mr. Fedor?

Fedor Present.

Franz Thank you. In your packet you have two sets of minutes. One is a memorandum of minutes from the July 18, 2016, meeting. Is there any comments, changes related to these? Being none, is there a motion to accept these minutes?

Parks So moved.

Franz Is there a second?

Zionsville Plan Commission
October 17, 2016

- Walker Second.
- Franz All in favor by aye.
- All Aye.
- Franz Opposed? Passes. Also you have September minutes from the September 19 meeting. Is there any comments, discussion, changes related to these? Being none, is there a motion to approve?
- Parks So moved.
- Franz Is there a second?
- Fedor Second.
- Franz All in favor by aye.
- All Aye.
- Franz Opposed? They're approved. We have some continuance requests tonight. The first one on the docket is Cobble Creek, Docket #2016-37-PP and 2016-38-DP. Is there a representative here, please?
- Ochs President and members of the Commission good evening. For the record, Tim Ochs here representing the petitioner, Pulte Homes of Indiana. We are requesting a continuance. There are some significant design issues that have been identified that are associated with the dam and drainage, and we're working through those, so I respectfully request a continuance of one month.
- Franz Thank you. Is there any questions, comments?
- Parks Just a question. Will 30 days finalize the, or do you need 60?
- Ochs I think 30 will do it. The engineer has indicated that should be enough time. The design of the dam has been finalized. Actually, it's a significant change. What it really meant was they had to take the drainage plan that they'd already done and throw it away and redo the drainage plan, and they can get that drainage plan done in the next 30 days, so that should be fine.
- Parks Okay.
- Franz Any further questions? Is there a motion?
- Parks I would move that 2016-37-PP and 2016-38-DP be continued to our meeting in November, the . . .
- Drake 21st.
- Parks 21st, thank you.

Zionsville Plan Commission
October 17, 2016

Franz Is there a second?

Fedor Second.

Franz All in favor by aye.

All Aye.

Franz Opposed? Motion carries. The second set of continuances requested are for 2016-47-PP and 2016-48-DP, 200 West. Mr. Ochs, again?

Ochs Thank you. Again, here on behalf of the petitioner. This project is being redesigned, and we may now be removing a portion of the real estate that was previously subject of the petition. As a result, we need a 30-day continuance. We did notify, beginning of last week, The Village Residents' Association as well.

Franz Okay. Is there any questions, comment? We also had a request for a continuance from a member of the public by Heather Lusk requesting additional time also. You recommend that we take these together?

Drake Yes.

Franz Okay. Is there a motion to continue?

Schiferl By joint request of the petitioner and remonstrators I move to continue until the November meeting petitions 2016-14 or, I'm sorry 47-PP and 2016-48-DP.

Drake And again that meeting would be November 21.

Schiferl Oh okay. To the November 21 meeting, okay.

Fedor Second.

Drake Actually, it's Monday.

Franz Okay, let's backup I guess.

Schiferl Well, I said, to November 21.

Franz All right.

Schiferl Tuesday, no I did not say Tuesday.

Franz And we had a second, so all in favor signify by aye.

All Aye. Opposed by nay. Motion carries.

Ochs Thank you.

Zionsville Plan Commission
October 17, 2016

- Franz Next on the continuance requests is 2016-54-DPA, Zionsville Christian Church, 120 North Ninth Street. Is there a representative here, please?
- Webster My name is Marcia Webster and I am secretary of the Executive Board at Zionsville Christian Church and I'm also a member of the design team for the renovation that's being done there. Because of some cost overrun problems we have run into, it's quite possible that the entrance will remain where it is now and that there won't be much change in the hardscape configuration, but we're meeting with the architect and with the general contractor next week, I believe.
- Franz Okay, does anyone have any questions or comments?
- Parks We need your address, please.
- Webster Sir?
- Franz Address, please.
- Webster My address? 575 West Poplar Street.
- Parks Okay, thank you.
- Franz Anything else? Is there a motion to continue?
- Jones I move that we continue Docket #2016-54-DPA to the November 21, 2016, Plan Commission meeting.
- Franz Is there a second?
- Fedor Second.
- Franz All in favor signify by aye.
- All Aye.
- Franz Opposed by nay. Motion carries, continuance granted. Next on the docket is continued business. Docket #2016-45-CA Harris FLP, petition for commitment amendments to provide for modification of commitments associated with Boone County Ordinance #2008-13 and recorded Instrument No. 2008-00010861, in the GB Rural Business Zoning District. Is there a representative, please?
- Price Yes, Mr. President, members of the Commission my name is Matt Price. I'm here tonight on behalf of the petitioner with an address of 10 West Market Street in Indianapolis, Indiana 46204. I have a couple of representatives from the property owners, is Paul Kite with Harris Kite and then we also have a representative from Kroger who is Mike Scheckel. And this request is, as you expressed, is to modify a single commitment which is one of several commitments that were made back in 2008 when the property was rezoned. The property is essentially the 57+ acres of the southeast corner of County Road 300 and Michigan Road. The north 80 percent, a little over 44 acres, is zoned

General Business. The south remaining 20 percent of that acreage is zoned Professional Business.

There were a listing of commitments made back in 2008 when that rezoning took place through Boone County and one of those commitments, and I'll say this, has been read to prohibit fuel sales. Our research shows that when the matter was considered by the Boone County Commissioners, it appears that they believed that the rezoning would permit fuel sales. I can certainly represent that my client believed that their rezoning did not preclude fuel sales, but nevertheless, whatever the intention was of the Boone County Commissioners in 2008, we're here today to seek permission and removal modification, if you will, of the commitment proscribing or preventing fuel sales to allow fuel sales in connection with a convenience store and that would be done in association with the contemplated Kroger facility which is not an immediate project, but it is a project that's going through its due diligence phase now, and this is one item that would be essential for that project to move forward, and so our only request this evening is to have that one commitment modified to permit fuel sales. And we're available to answer any questions that you have.

Franz Okay, thank you. Is there any questions or any comments from the public on this matter? Okay, when you come forward please state your name and address.

Graves Julie Earhart Graves and I live at 10731 East 300 South in Zionsville. About three years ago we purchased 3 acres on the southwest corner of 421 and 300 South and began building our dream home. We were excited to be moving to Zionsville from Indianapolis. The small town feel of Zionsville drew us to be part of this community, a community of locally owned boutiques, art galleries and wonderful dining choices. As with many that move to Zionsville, we were also drawn to the standards that the Town has held itself to. Those standards have been at the heart of Zionsville for a very long time and now I feel they are being threatened. The purpose of the US Highway 421, Michigan Road corridor overlay district is to promote coordinated quality development by establishing basic standards for structures and landscaping. As such, things like drive-thru's and bulk storage fuel like gas stations are prohibited within a certain distance of 421. I am here today to ask you to uphold the overlay district standards and deny the request for drive-thru's, which apparently is not on the docket today, and fuel storage within the district. We want to maintain the high standards Zionsville has set for itself now and in the future. Upholding the overlay district will insure 421 in Boone County does not end up looking like 421 in Hamilton County or Marion County. As we all know, there's still a lot of land to be developed along 421 in Boone County. If we start down the path of allowing modifications now, where will we draw the line? How do you say no to future modifications when we said yes to others? Upholding the overlay district standards means others who move to Zionsville or build in Zionsville along 421 can know what they are getting into. They will not have to worry that the standards will be modified and they will end up with something less than what they expected. Please do not start down the road of the path of lowering our standards. Along that same line, from what I understand tonight, the site plan is not under, is not what's being voted on, however, I do have a couple of concerns about the site plan. Should I address those today or another time?

- Franz I think for time purposes, I think that should wait until they actually have a plan that comes forth.
- Jones Actually I'd like to hear them.
- Franz Okay, you would?
- Graves Okay. The site plan that was submitted with the proposal that you have today I noticed a couple of discrepancies. First, for the ordinance 2008-13 calls for a maximum of 150,000 square foot building, but it appears the Kroger store has about 120,000 square feet associated with it with two possible 20,000 foot expansions. By my total that comes up to 160,000 square feet. Second, the same ordinance 2008-13 calls for at least two water features along 421, but I can only find one on the site plan. So I appreciate your time and consideration and again ask that you uphold the overlay district standards for all that do and will live along 421 in Boone County.
- Franz All right, thank you.
- Culpepper Good evening my name is Bill Culpepper. My wife and I live at 3290 South US Highway 421. I support Mrs. Graves in asking the overlay district be withheld, I as well as a couple of other things I'd like to mention. My property is about 50 acres that begins at the south of the proposed development property and runs for 1,000 feet to the north, so I have considerable road frontage just across the road and east of the property to be developed. It takes me, when I depart my property to go to work in the morning from 30 seconds to a minute to get out. There's quite a bit of traffic on 421 as we all know, so I'm assuming that 421 will need to be four lanes at some point in the future. One of my questions is, as I can't tell from looking at the site plan, where will the right-of-way come from that will allow the road to be widened when it is four-laned. Another issue that I think needs to be discussed is the drainage. If you look at the property today, I'd say almost the entire field appears to drain to the east and goes under 421. It enters a 13-1/2 acre lake that is on my property and three of my neighbors, or four of my neighbors. I can tell you that when we get a 1-2 inch rain in one to two hours we have a pretty testy situation. Today of course this is an agricultural field, absorbs a lot of the rainfall. When it goes to asphalt I really wonder what the draining situation will be and how that is planned to be dealt with. Thank you for listening to my concerns.
- Franz Thank you.
- Bash Hi, my name is Allison Bash and I'm at 10725 East 300 South. I agree with Julie Graves and Mr. Culpepper with everything they have said regarding overlay and drainage. My biggest concern, in addition to what they have mentioned, is I have a well and from what I understand with the ordinance, my property would be directly across from the gas station, and I don't think there is enough footage to allow for a well, and I would just like that to be considered and that's it.
- Franz All right, thank you.
- Bash In addition to what they said.

Franz Okay, thanks.

Houghton My name is Sue Houghton and I live at 10711 East 300 South and I'm just here to say that I support my neighbors and I share their concerns and I would appreciate your consideration.

Franz Thank you.

Bash I'm sorry I have one more. My husband would be so mad at me.

Franz Okay. State your name again.

Bash Allison Bash, 10725 East 300 South. He just had a knee replacement, so he's not here. His concern, the map clearly in the proposal clearly talks about down lighting, but we're a little concerned about signage when we're talking about large box stores and gas stations, so we would like further clarification on that as well. With a two-story home we look directly into that property, so it would be great to know what type of light pollution we'll be facing.

Franz Okay, thank you.

Bash Okay, thank you.

Franz Mr. Price, would you like to respond?

Price Yeah, let me clarify a couple of things with regard to the overlay zone. The overlay zone does not preclude the sale of fuel in the overlay zone, and we're not seeking any modification to the overlay as part of this petition. Our only request is that the commitment that is being read as prohibiting fuel sales be removed to permit those fuel sales in connection with a convenience store. So to the extent that it was stated that the overlay prevents fuel sales, that's just not accurate. The other concerns relating to drainage and to down lighting, those are very serious matters that will be addressed in the ordinary course as far as the development plan approval for this site. One of the things that is unique about this property in greater Zionsville is that it is within the 421 overlay. It's over 10 pages of requirements relating to landscaping, lighting, architectural detail. That'll all be applicable to this site at the time the project is taken through that phase of the development. And that's true also with respect to the concept plan that we showed. It's simply that. It's a concept plan. We're at the very early stages of an overall project and once we have detailed plans we would be taking it through the development plan process for your review, so again this is the beginning of a process, not the end of that process. I also can share with you as far as the comment made about the location of a well in relation to the fuel center. That's actually the part of the debate that took place in front of the commissioners. I'm happy to share the excerpts from the minutes with you, but I'll summarize and a fair summary is to say when the commissioners voted on an ordinance that I believe they thought permitted fuel sales, a representative of the Boone County Health Department was actually present and testified about the requirements that would be placed on any future fuel center in terms of the lining of their tanks, the proximity of it to surrounding uses, and that was part of the testimony actually

- that allowed the vote to go forward and the ordinance to be approved back in 2008. And just for the record and so you don't have to take my word for that, I'm happy to hand out the copies that I have of that dialogue.
- Jones I guess Matt I'd just like to point out it does say though vehicle dealers, repair, and services under the commitments that were made so when they say and services and then they specifically list no sale of gasoline, to me that means pretty direct commitment that there will be no gas stations.
- Price Yeah, it's a, I'll parse through it with you because it's, I won't argue with you that it says what it says in the commitments. What the terms the ordinance uses though in the table of uses in the zoning ordinance, it refers to automobile repair, service station. And then when you look back at the definitions, automobile repair is what you'd think it is. It's a facility that you know serves automobiles as far as making repairs to them and suggests that there's outdoor storage and things of that nature. Service station is what the ordinance uses as far as fueling station and so where we believe that some discrepancy at the time these commitments were finalized is whether the no sale of gasoline was meant to be associated with an automobile repair service station as opposed to an automobile repair facility or a service station. And all I can tell you is that when you look at the dialogue that took place back in 2008 as summarized in the commission minutes, it would suggest that the parties that were hearing the matter at the time believed that they were adopting an ordinance that permitted the fuel sales, which are otherwise a permitted use in the general business district and otherwise not prohibited by the overlay zone. Be that as it may, I don't know that anybody knows that for certain. I mean that's what I think is a fair reading of what those minutes represent, but we're respectfully asking that in the context of a gasoline, excuse me, context of a marketplace grocery store that there be allowed ancillary fuel sales associated with that project, which has always been contemplated at this location for many, many years, the marketplace concept.
- Schiferl Mr. Price, I was President of the Plan Commission in 2008 when this was approved and I know you've given us the commission minutes, but did you go back and get the APC minutes as well?
- Price We tried to locate those. I have not been able to find the APC minutes relating to those deliberations and so I got the best I could from Rachel as far as what publically available minutes there were.
- Schiferl Because I would offer, I do know there was discussion about service stations. My memory, sorry for the four people that spoke was, that it was part of the discussion that this is a major intersection or potentially future major intersection, that was going to include that. And I appreciate the distinction that you're making from the table, to answer Mr. Jones' question, but you made mention, when you started by saying there's been an interpretation or the reason you're here is because some people had said that it may be prohibited. Explain that a little bit.
- Price Well, and I don't want to make too much of it, but here's what's happened as this property has been evaluated by other purchasers besides Kroger is that some real estate professionals coming to the document have reached the conclusion that it did permit fuel sales as written just as an interpretative matter. What has been

clarified for us and the reason why we're here this evening is that that is not the position of the Town of Zionsville, that they read it as not permitting fuel sales. Now Staff's report indicates that they're in support of the commitment modification, and I think that is in large part because your recollection and the minutes of the commissioners would support that this was what was intended originally, and I can certainly represent without any qualification that my client and Paul Kite, who were there, certainly understood that that was what was being permitted at the time.

Schiferl And you know it also occurred to me when I was reading this, that's why I was asking about the minutes of the APC, is of equal value might be the APC's minutes with regard to the northeast corner that was also coming in for a rezone, because my memory of that was, is that the residents immediately north, I'm trying to think of the name of the subdivision, they were opposed to a second gas station on that corner, which we did put in a restriction on that property, because people were saying we don't want to have every corner in rural, at that time rural Zionsville, or Boone County where we have multiple gas stations and it was sort, I don't want to say the race to the courthouse, but I do believe that, again my recollection was that the Harris property won that race if you would, to have a permitted gas station, but again I'm pretty strong in my memory, but I think that is what happened.

Price And I concur with that. I went, I was a witness to those hearings because I was present for another petitioner on an unrelated project. I'd certainly commit to you that I will try to track down those minutes from the rezoning that took place in the northeast corner and I think part of what made the southeast corner more palatable, but was maybe not only the race to the courthouse, but also because it was further removed on a piece of property that had been identified for commercial development in the comprehensive plan for a number of years.

Schiferl And there were no adjoining neighbors not separated by roadway?

Price That's right, that's right. I would also add, too, we did not get to meet with everyone we would've liked to prior to tonight's hearing. We did meet with the Willows subdivision, with their Board of Directors, and it was broadcast in their neighborhood. I'm guessing somewhere between 50 people or more were at our meeting and I don't know that they took a vote on our proposal, but we certainly received very favorable response from that neighborhood as far as the project and what's being proposed, realizing that this is a very beginning stage and that we will be coming back to you with detailed plans as we work through the process.

Jones So Matt, real quick, the site plan that we've been provided is that the final or a work in progress?

Price It is, it has gone through various iterations. I would put it this way, it is premised upon, solidly premised upon the original concept plan that was approved as part of the initial rezoning, but this is the most current iteration of it. It is a work in progress though. There's nothing written in stone on that. I can tell you just as to give you some idea of how long the planning has gone on for this project is that when the original footprint for the anchor business was put on the concept

plan back in 2008, it was a Kroger store's footprint. I mean it was that use contemplated at that location dating all the way back to 2008.

Now certainly as things evolve and as Kroger's own concepts evolve, we've looked at different possibilities there, but there's not anything written in stone as far as this and we would, I can assure you that as far as the adherence to the requirement for water features, landscaping, connectivity, dark skies lighting, all the commitments that you see in the rezoning for 2008 we're going to comply with all of those requirements.

Jones Is there any concern by either Mr. Harris or Mr. Kite, that you know as I'm looking at some of these commitments back in 2008 they're sort of limiting this thing to only being sort of a retail development which, you know, given ye olde internet, is kind of a dinosaur. Is there any concern that some of the other commitments regarding residential that this thing doesn't really provide any kind of mixed use development that this site might not be better served with some additional revisions to get something that might, oh I don't know, play out better in the future than focus on what is basically a kind of standard suburban retail development that's, you know, city after city, town after town, are sort of moving away. You know Fishers downtown is moving away from that. Carmel downtown is moving away from that. You know, we understand the Pittman project and The Farm was a completely different set of circumstances with being a PUD and a complete rezone, so there's just any conversation about –

Price There really has not been and I think it's largely driven by the fact that we are under contract and we're, the contract would be entirely consistent with the original vision for the project. Now having said that, is there a possibility in the future that this may become more professional business than what was originally contemplated? I think that might be possible. I mean certainly things evolve, and this is not something that's going to develop overnight. I mean this is the beginning of a lengthy process for this number of acres and this number of users, but so far so good, I think is the way I would characterize it.

Jones Well, I don't know if I'd say so far so good, you had several people who spoke that they weren't particularly excited to see this happen.

Price Well, we are certainly going to remain in contact with those individuals. I wrote down their names, will work with them through their concerns. I will say, though, out of the 60+ notices I think we sent and the reception we received from the closest residential neighbors, we were encouraged. In fact, we were applauded when we left the meeting back on September 15 by folks who I think see a need for more grocery outlets close to where they live.

Fedor If a gas station was not approved, would this torpedo this development?

Price I believe it would.

Franz Is there any additional questions?

Scheckel My name is Mike Scheckel with Kroger Company, 5960 Castleway West Drive, Indianapolis, 46250 is the address. To add some specific responses. Some of them are a little bit anecdotal, but I think are appropriate for the concerns that some of the people have mentioned, and we'll make ourselves, assuming this process goes forward, I'll make myself available for the neighborhood group to discuss these more in detail, but just as some of the things that were raised. The drainage issue, we've never had a problem with any of our new site developments meeting the applicable drainage issues, and we work with the Army Corp of Engineers to that level, all the way down to non-navigable type waters and things like that, so I really don't think, I'm very confident that won't be an issue. Another point that was made was the lighting for example and dark sky initiatives we've worked around all of those things. This is my fourth division with Kroger doing this type of thing and these processes are always evolving. Each municipality has their own restrictions. As long as we can achieve a functional lighting plan, you will see in a photometric plan our spillage if you will of light out past our site is zero. When you go beyond our canopy, beyond our fuel center sites, at the property line, there is zero candle foot, foot candles. I always, I'm not an engineer, so I always mix those measurements up, but the light spillage will not be an issue. Underneath the canopy, obviously, you have to have enough lighting to be functional, see which credit card you're pulling out, the denomination of your bills, for someone digging through their purse, whatever the case may be. But beyond the site we are very conscious and we do tailor those things specifically to the surrounding community if there's a problem. The last thing we want, and we just recently resolved an issue with a light on the back of our store shining into someone's backyard per se, and we will tailor it to that level to make sure that we impact the neighbors as minimally as possible. Another issue that was brought up is drainage, lighting, what was the third one, that was –

Fedor Right-of-way –

Scheckel No, it wasn't. I was more of a functionality, the fuel center with the proximity to a drinking well. Very valid concern. Kroger is relatively new to the fuel business. Most of our, almost all of our 1,100 grocery related fuel centers have been post-2000. In 2000, the entire industry went under new regulations with the double-walled tanks, so there's double-walled tanks. There's also 24/7 monitoring. If anyone wants to know what our track record is, and this is in the State of Indiana, the metro area, any other portion of the country, you can look it up by individual state agencies. IDEM is I believe Indiana's Department of Environmental Management and you punch in Kroger, an address, a blank kind of Google search and you'll get all of our spills, so to speak, and they are all very minimal. We've to my knowledge in this division had nothing underground that's leaked. The moment there is any kind of abnormality we have the ability now with the different sensors, not only are the tanks double-walled, but all of the piping underground is double-walled as well, so if there's any kind of issue like that, the only real issues you'll see on a relatively regular basis, and it's still very minimally compared to the number of customers we have, is somebody leaving it in their car tank and they drive off and they spill a couple of gallons on the top. Underground migrating stuff is virtually nonexistent. No one can guarantee anything in the future.

If there's an earthquake or something, yes something like that could lead to a spill underground and migrating offsite, but something short of catastrophic like that I can assure you with a tremendous amount of confidence that we have not had a problem. To your point on the square footage, yes the Internet is definitely taking a lot of retail square footage now and also projected into the future. The difference is there is still a demand for the brick and mortar side of it and the demand for the brick and mortar is not keeping up with what's falling out of the marketplace because as entire chains or regions of these chains go out of business because they're pulling the plug on the entire region, the entire chain itself, management, issues, all those kinds of things, it's not as prevalent here as it is in other markets. The single two biggest examples are Albertson's and Safeway. #2 and #3 in the country just a few years ago and they are closing stores all over the country left and right. So part of that is because of people's shift in shopping habits. We are trying to adapt to that with our quick list program, things like that, but also just on a grand scale of the square footage being taken out of the marketplace compared to the demand for the traditional brick and mortar. That's why you see Kroger expanding because we're not a general merchandise company overall, but because there is a void there in the marketplace, that's why we have gone from 60 to 70,000 square feet on average to 100,000 plus with plans to go further and part of that is out of our Fred Meyer division based on the Pacific Northwest a very interesting fishbowl phenomenon happened with the Meijer in Michigan. The founder of that chain was also Fred. A fellow by the name of Fred Meyer in Portland, Oregon, Meyer, M-e-y-e-r, decided to start his own grocery chain that grew into a multidepartment chain as well and the largest Fred Meyer's that we have in Alaska are 200,000 square feet plus the larger Kroger stores are bumping up to that 145-ish range and that's why you see the room to expand. It's a little bit of a buffer. We control our own destiny. Right now we're planning approximately 125,000 square feet as we go through this conceptual planning phase. The site plan that has been circulated is very much conceptual at this point in time.

Franz Okay, thank you. Are you through for now?

Price Yes.

Franz Okay. I see the public would like to make some additional comments, so please come forward and state your name again.

Bash Allison Bash, 10725 East 300 South. Looking at the plan, my house would be probably right across from gas station outlot F. When we purchased this property, it was the end of 2014, we closed in 2015, it was under the assumption that no gas station would be allowed. Our realtor called. We had bottom line no gas station will be allowed. Mostly we had to have a well and we knew that because of the congestion for the waterline wouldn't allow for ours, so that was, I appreciate safety efforts, but Boone County ordinance states 1,000 feet to 1,500 feet and there are wells surrounding this. I know the neighborhood where you see outlot J, that whole neighborhood is made up of wells, and then yes my own, so there's an ordinance we're dealing with there. Bottom-line, though, I was told no gas station. It wasn't going to be allowed. My realtor unfortunately is on fall break with his children vacationing and couldn't join us. I do have three daughters and I didn't want to get into this. We can all Google what crime rates

are at gas stations. I don't think with a school right there and neighbors surrounding I did not sign up for a gas station. I signed up for Zionsville. I signed up for The Village and what, I knew there would be development, totally fine with that, but I hoped it would stay Village-esk. Trader Joe's, you know, just something you know nice and villagy still, and I don't see gas station fitting that bill. That's my additional comments, thank you.

Franz Okay, thanks.

Graves Julie Earhart Graves, 10731 East 300 South. I understand that it was debated that we're not talking about the overlay district and gas stations and I believe I didn't even, I referenced gas station, but I called it bulk fuel storage, I have the 421 overlay district requirements right here. #3 on the item says excluded in the overlay district, which is 400 feet from the right-of-way of 421, the #3 item is bulk storage of petroleum products not used for onsite manufacturing. I'm not sure how you could have a gas station without bulk storage of petroleum products, so my, again I am saying here that it is within the 421 overlay district requirements and even if a gas station was approved, that's fine, but it should stay outside the 421 overlay district. Thank you.

Franz Thank you.

Hotten Sue Hotten, 10711 East 300 South, Zionsville and I'd just like to bring up a couple of points. First of all, you know, it really is interesting to me it isn't a matter of convenience really. 3.7 miles down Michigan Road South is a filling station, a large grocery store, and some drive thru restaurants and I don't really see, it seems like an excess to me to think that we need a filling station on every corner in Zionsville and the second thing I'm really worried about is the crime. I remember when, I've lived out in Zionsville for about 12 years now and I was a part of the original discussion on the northeast corner or yes the northeast corner when the Witham projection was originally discussed and then there was some discussion about family dining and 24-hour operations with drug stores, etc. and all of that, I mean people were reasonable then and we moved forward and that wasn't allowed and when you consider 24-hour operations, regardless of what it is, the crime just follows, so I'd ask you to consider that.

Frank Okay, thank you.

Culpepper Bill Culpepper, 3290 South US Highway 421. I raised the issue of the right-of-way and where will the right-of-way come from when 421 is widened as I think we would all agree that is something that's going to have to happen in the future. The reason I ask is, as I indicated, my wife and I have 1,000 foot of right-of-way there. We purchased this home two years ago for privacy and we left, we moved out of Carmel. We were looking for a little less development I guess, but there's of course an open field to the east and it would be easy to expand into that if and when the road is widened; however, if you look at the site plan that is not what it shows, so again I'm asking the question about the right-of-way and how will that be dealt with. Thank you.

- Franz Thank you. That closes the public hearing on this part, so Staff Report please.
- Stevanovic Staff is supportive of the commitment amendment for the fuel station and supportive of the concept of allowing facilities with drive-thru components to be heard next month.
- Franz Okay, thank you. Is there any discussion from the commissioners?
- Schiferl Having been around this for a little bit and on 421 overlay zone, I appreciate some of the comments, but I think it'd be folly for us to think that that was put in place to prohibit fuel stations along one of the most primary arteries that we have. I don't think, with all due respect to the reading of it, that the bulk storage of petroleum products category was meant to exclude fuel stations. That's to exclude storage of petroleum products and above ground tanks and that's a real big stretch because that would essentially make us a community that would have no gas stations along a roadway for two, what had been two townships, and I know that was not my intent when I sat and listened to hear that come forth. I would also say that the comment was made about fuel stations on every corner. Zionsville, I believe, has two gas stations, which means we're a greatly underserved community and I know that the people that are nearer to it have more concerns about it, and I'm not oblivious to those, but we have one here on Ford Road, the corner of Ford and Oak and we have, believe it or not the one that everyone thinks is the Whitestown Marathon station, is actually in Zionsville Those are our gas stations, folks, and if we're going to get more rooftops, like it or not we need to provide services to the residents.
- Franz Is there any additional comments? Being none, is there a motion?
- Schiferl Can I ask a question perhaps?
- Franz Yes.
- Schiferl I know the hearing is closed, but Mr. Price when you got these minutes, none of the, are any of the current commissioners now still commissioners? Mark Applegate is the only one?
- Price I think Mark is the only one, that's correct.
- Schiferl Okay, that's all. Because Mr. Applegate is also probably the commissioner physically that lives closest to this property.
- Price And they did receive notice of the public hearing.
- Schiferl Okay.
- Franz Thanks. Anything else? Is there a motion?

Parks Because we are dealing with a modification of a commitment made, and there is no modification of the underlying zoning, that relates to this property, then I would move that for Docket 2016-45-CA, that the commitment wording that had been associated with this docket in 2008 be allowed to be removed, but I would add another commitment that only one single fuel station be allowed on this site.

Price And the property owner would agree to that modification to our proposal to limit it to one.

Schiferl Counsel, is that a replacement of a commitment, Carol? In other words, that'd be a new commitment?

Drake It's really, it is an amendment. He's recommending taking out the prohibition on no sale of gasoline service station, as I understand Jay's motion, and I appreciate counsel's agreement to the limitation that was placed in the motion.

Franz Is there a second?

Schiferl I would second.

Franz I guess we'll do a roll call on this one. Janice, can you read them?

Stevanovic Mr. Fedor?

Fedor Yay.

Stevanovic Mr. Parks?

Parks Yay.

Stevanovic Ms. Walker?

Walker Yay.

Stevanovic Mr. Jones?

Jones Nay, no.

Stevanovic Mr. Schiferl?

Schiferl Yay.

Stevanovic Mr. Franz?

Franz Yay. Motion carries 5 to 1. Commitment modification will be recommended. Carol, is that modification to be drafted by us?

Drake By counsel.

Franz By counsel, okay all right. Thank you. The next item on the docket is new business. Docket 2016-51-DPA, Fazoli's, 6378 Crane Drive, petition for development plan approval in order to permit installation of a refrigeration unit to the southeast side of a building located at 6378 Crane Drive, which is within the GP Rural General Business Zoning District. Is there a representative please? Step forward, step your name and address.

Aiello Good evening. John Aiello, 1264 Black Oak Drive, Greenwood, Indiana and I'm representing the franchisee as one of the petitioners and also the landlord. I've also brought with me R.V. Young. He'll state his name in just a second. Basically, we are developing the Fazoli's off of the 334 exit there, the Whitestown-Zionsville exit right where the existing Starbucks is. There's a convenience store and there's also an existing carwash that's there, and we're doing a full interior remodel, exterior touchup and some minimal site work. The plans have already been approved by the State of Indiana. We've got a construction design release and the local building permit has already been approved pending the request that we're seeking tonight which is basically to add a refrigeration unit to the rear of the property. In the packet you have in front of you, you'll note that Exhibit 4 is a fairly decent representation of what that outside refrigeration unit will look like. It's actually attached to the building. It is accessed from the building. It's not accessed from the outside. It is a completely enclosed unit. It sits on an insulated slab and I'll allow my general contractor to kind of go into some details on it, but it really doesn't affect the proposed or existing site plan whatsoever. It's really just where the 8 foot sidewalk just bumps right up to it. The cooler unit itself is a cooler freezer unit. It's 8 feet wide, 24 feet long, 192 square feet and as you can see it doesn't affect any ADA or anything like that. The sidewalk just bumps right up to it. You'll also note that there is a split face block fencing if you will that surrounds it that will be painted white to match the split face block of the building, so it'll blend in with the entire building. It won't appear out of the ordinary and an average passerby that's coming through the drive thru of the rear of the building won't know the difference between that and the building other than a little bit of an egress or a little bit of a bump out. Additionally, you'll also note that around the rear of the building if you want to visualize it, it's the existing carwash where the cars would enter in, so right now it's basically just rusted rails where the cars enter in and that will be where the cooler freezer unit sits surrounded by the split face block wall that goes around it. You'll also notice that in Exhibit 5 there is a rendering of what that's going to look like on the rear of the building. That very top one that's circled that says west elevation, you'll see that that pretty much just blends in with the building. It's the same material used. It'll be the same paint color and pretty basic deal there. So I'll allow my general contractor to introduce himself, and he can answer any technical questions for you.

Franz Okay, thank you.

Young I'm R.V Young, general contractor on this project. I live at 96492 Chester Road in Utley, Florida. If there was any questions I would address them now or any specifics on the manufacturer of the walk-in cooler freezer or any specifications that you might need to know.

- Franz Thank you. Is there any comments from the public? Any questions or comments from the commission? Being none, Staff Report please.
- Stevanovic Staff is supportive of the petition as filed. A permit to remodel the interior of the space which was previously a carwash has been permitted. The applicant proposed to further improve this site with a 186 square foot refrigeration unit, which would be accessed from inside the tenant space. This addition would be screened. Staff has considered such items as drainage, vehicular traffic, parking and signage, and found that no one concern would rise to the level of a formal response from the petitioner for the purpose of this hearing. Again, Staff is supportive of the petition as filed.
- Franz Okay, thank you.
- Young Thank you.
- Franz Is there any further discussion, questions, comments? Is there a motion?
- Jones Sure I'll make a motion. I move that Docket #2016-51-DPA, development plan approval to provide for the installation of a refrigeration unit to the southeast side of the building located at 6378 Crane Drive, which is within the GB, Rural General Business Zoning District, be approved based on the findings and the Staff Report as presented.
- Schiferl I would second subject to the findings being adopted that are part of the packet.
- Jones Correct.
- Franz Is that acceptable, to the motion accepted?
- Jones Accepted.
- Franz All in favor signify by aye.
- All Aye.
- Franz Opposed by nay. Motion carries. Additional items on the docket include Docket #2016-05-PP and 06-DP, DeRossi update on the commitments.
- Drake As indicated last month, it was anticipated these commitments would be recorded by your meeting this month. I talked with Mr. Price. They have been finalized, but he is holding up on the recording until he works through some other outstanding issues. So, I believe these should be finalized and recorded by next month.
- Franz Okay, thank you and then on the Get-Go, 7011 Whitestown Parkway there was a minor change to the site plan. Janice, can you speak to that?

Zionsville Plan Commission
October 17, 2016

Stevanovic Yes, there are minor changes that Wayne, as building commissioner, wanted to convey to you. Because of the location of the gas pipeline, the trash enclosure had to move from the east side to the west side. This won't change the building at all although it will spur them to make some changes to the landscaping in order to remain compliant to the ordinance.

Franz Okay, thank you. Is there any other business? Being none, is there a motion to adjourn?

Parks So moved.

Franz And a second.

Jones Second.

Franz We're adjourned.