



MEETING RESULTS - ZIONSVILLE BOARD OF ZONING APPEALS November 9, 2016

The Regular meeting of the Zionsville Board of Zoning Appeals was scheduled Wednesday, November 9, 2016 at 6:30 p.m. in the Community 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 October 11, 2016 Meeting Minutes – continued to December 13th, 2016 meeting
- IV. Continuance Requests

Docket Number	Name	Address of Project	Item to be considered
			None at this time

V. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2016-16-UV	M. Pittard	9810 and 9802 SR 32	<p>Continued to the October 11, 2016 Board of Zoning Appeals Meeting at the request of a Remonstrator Continued to the November 9, 2016 Board of Zoning Appeals Meeting at the request of the Petitioner Continued to the December 13, 2016 Board of Zoning Appeals Meeting at the request of the Petitioner with notice (subject to conditions) Petition for Use Variance to provide for the continued establishment of 2 (two) Commercial Uses on 1 (one) property (neither Business permitted by right)</p>

VI. New Business

Docket Number	Name	Address of Project	Item to be considered
			None at this time

VII. Other Matters to be considered:

Docket Number	Name	Address of Project	Item to be considered
			Approved 5 in Favor 0 Opposed Review/Approval of 2017 Board of Zoning Appeals Meeting Dates
2016-18-DSV	M. Lyons	8541 E. 500 South	Approved 5 in Favor 0 Opposed Findings of Fact
2016-22-DSV	S. Crenshaw	4560 S. 975 East	Status of Commitment
2016-23-SE	M. Squires	1567 N. 1000 East	Status of Right to Farm
2016-24-SE	S. Cope	7750 E. 100 South (Est.)	Status of Right to Farm

Respectfully Submitted:

Wayne DeLong AICP
 Town of Zionsville
 Director of Planning and Economic Development



Petition Number: 2016-16-UV

Subject Site Address: 9810 and 9802 State Road 32

Petitioner: Michael and Debbie Pittard

Representative: Debbie Pittard

Request: Petition for Use Variance to provide for the continued establishment of 2 (two) Commercial Uses on 1 (one) property (neither Business permitted by right) in the (AG) Agricultural Zoning District

Current Zoning: (AG) Rural Agricultural Zoning District (Michigan Road Overlay)

Current Land Use: Residential and Commercial

Approximate Acreage: 23 acres

Zoning History: INV-2016-16

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Site Plan
Exhibit 4 – Comprehensive Plan
Exhibit 5-Petitioners Cover Letter
Exhibit 6–Petitioners proposed Findings of Fact

Staff Reviewer: Wayne DeLong, AICP

PETITION HISTORY

This petition will receive a public hearing at the November 9, 2016, Board of Zoning Appeals (BZA) meeting (as a result of a timely continuance request to the October 11, 2016 meeting, and the Petitioner requesting a continuance to the November 2016 meeting). The Petition was filed with the BZA in response to review by the Town of the property related to compliance with the Zoning Ordinance (INV-2016-16).

PROPERTY HISTORY

Historically the property has been utilized for both agricultural purposes (acreage is currently assessed by Boone County as "Farm Land") and residential purposes (as the property is improved with two (2) pre-1940 single family dwellings). Per the Petitioner's filing with the BZA, the property, since 1996, has been occupied by one (1) or more non-residential (and non-agricultural) land uses at any one time (list includes: construction company / construction equipment outdoor storage, landscape company, seeding company, and an excavation company). While the Zoning Ordinance includes language which supports Non-Conforming Land Uses, Staff is not aware of any efforts, as of the writing of this report, by the Petitioner to demonstrate that the non-residential land uses which have in the past or currently occupy the property, are permissible Non-Conforming Land Uses or that the use(s) secured prior approval(s) from the Boone County Area Plan Commission.

ANALYSIS

As proposed, the Petitioner requests that both an Excavation Company and a Landscaping Company operate from a property zoned Rural Agricultural General District (AG) and recommended by the Comprehensive Plan for continued Agricultural use (specific recommendation: General Agricultural land uses).

The established land use pattern for the area supports a variety of land uses in and the area, including: large lot single-family residential uses, a large animal veterinary clinic, an airport served by a 5,500 foot long runway (with planned expansion to 7,000 feet), a golf course, a mobile home park, the former Girl Scouts of Indiana campground, and agricultural land uses.

While the subject site sits at the intersection of two (2) heavily utilized transportation corridors, it also is adjacent to single-family residential land uses. And, while the mix of land uses supports such a diverse variety, the potential negative impact of the Excavation Company on the adjoining residential land uses (to both enjoyment as well as property values), in the opinion of Staff, due to the outdoor storage, traffic pattern resulting from the operation, and intermittent outdoor operations, has a much higher probability than of a Landscaping Company. Further, as a Landscaping Company shares characteristics of that of an agricultural land use (seasonal plantings and harvesting, for example), Staff does not have the same concerns as expressed related to the Excavation Company and is supportive of the ongoing presence of the Landscaping Company. Staff, however, is not supportive of the presence of the Excavation Company at the subject site as such a use is intended to be located in an industrially zoned area (in part for the reasons identified in this paragraph).

Time Line

Typically, the BZA weighs heavily the concept of establishing a “sunset date” for any Use Variance it approves within the Town, in part, to create the opportunity for the BZA to revisit a matter at some point in the future (to review changes in the land use pattern as well as other potential issues that are revealed during the normal course of a public hearing process). As such, if the BZA is inclined to support a portion or the entirety of the request, the BZA should discuss this topic with the Petitioner during the course of the public hearing. For reference, Use Variances have been supported by the BZA previously with a “sunset date” which is five (5) years in the future.

PROCEDURAL – CONSIDERATION OF A USE VARIANCE PETITION SEEKING APPROVAL

The Board of Zoning Appeals shall hear, and approve or deny, all requests for Use Variance requests as provided for by the Zionsville Zoning Ordinance. A Use Variance may be approved only upon written determination that:

- (a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;*
- (c) The need for the variance arises from some condition peculiar to the property involved; and strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property;*
- (d) The strict application of the terms of the zoning ordinance would result in an unnecessary hardship in the use of the property;*
- (e) The approval does not interfere substantially with the Comprehensive Plan*

As a part of the filing, the Petitioner has proposed a set of finding of fact (Exhibit 6).

STAFF RECOMMENDATIONS

Staff recommends approval of the use variance included in Docket #2016-16-UV, specifically seeking approval for a Landscaping Company, subject to the limitations described in the Petitioner’s submittal, and the following conditions (all being reduced to writing on Town forms and recorded with the Boone County Recorder within 60 days of the date of the grant of the variance):

That the Use Variance (supporting the Landscaping Company) shall expire five (5) years from the grant of the variance.

RECOMMENDATION MOTION

I move that Docket #2016-16-UV (Use Variance) for the property located at 9810 and 9802 State Road 32 be (Approved as filed / Approved as recommended by Staff / Denied/ Continued).

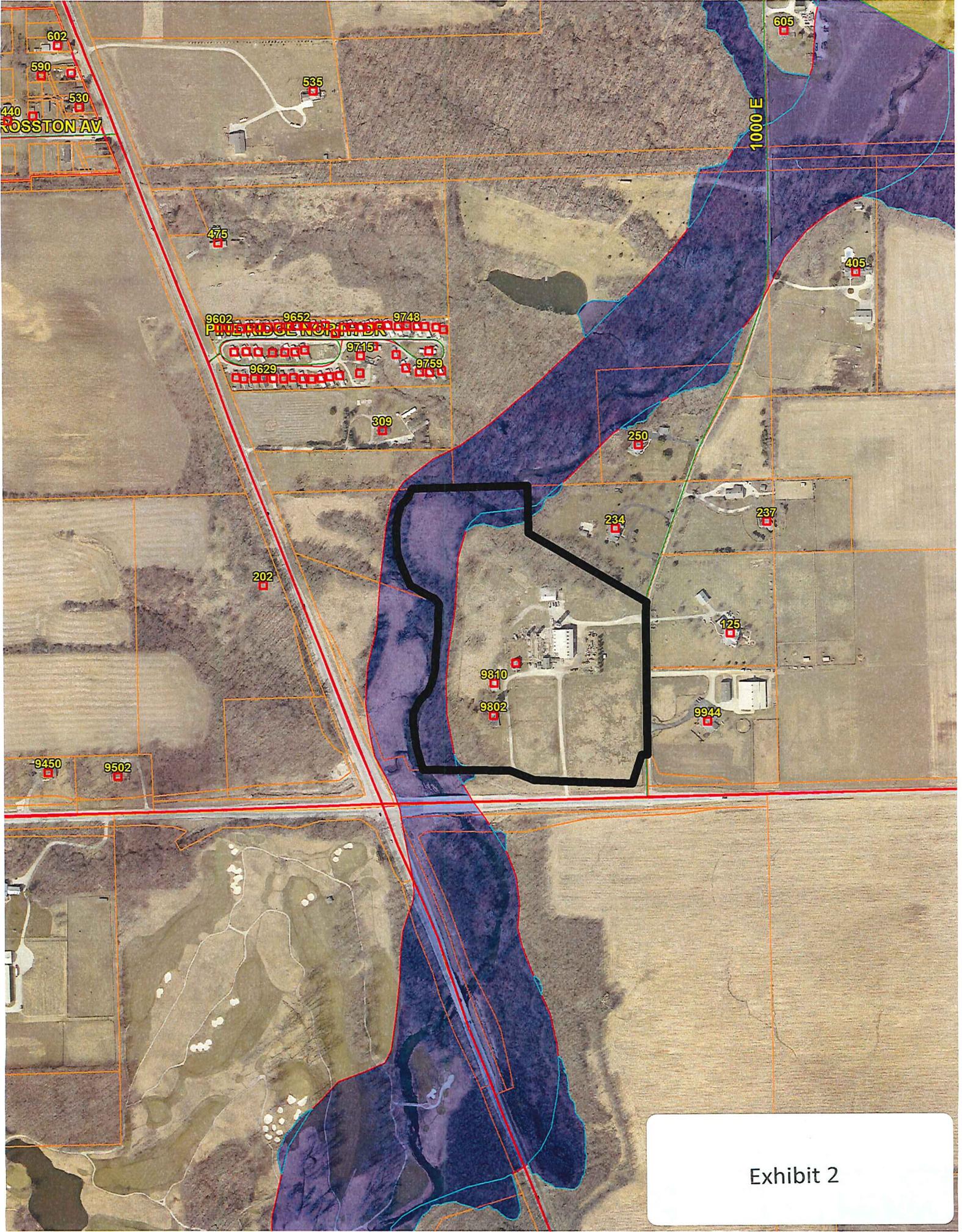


Exhibit 2

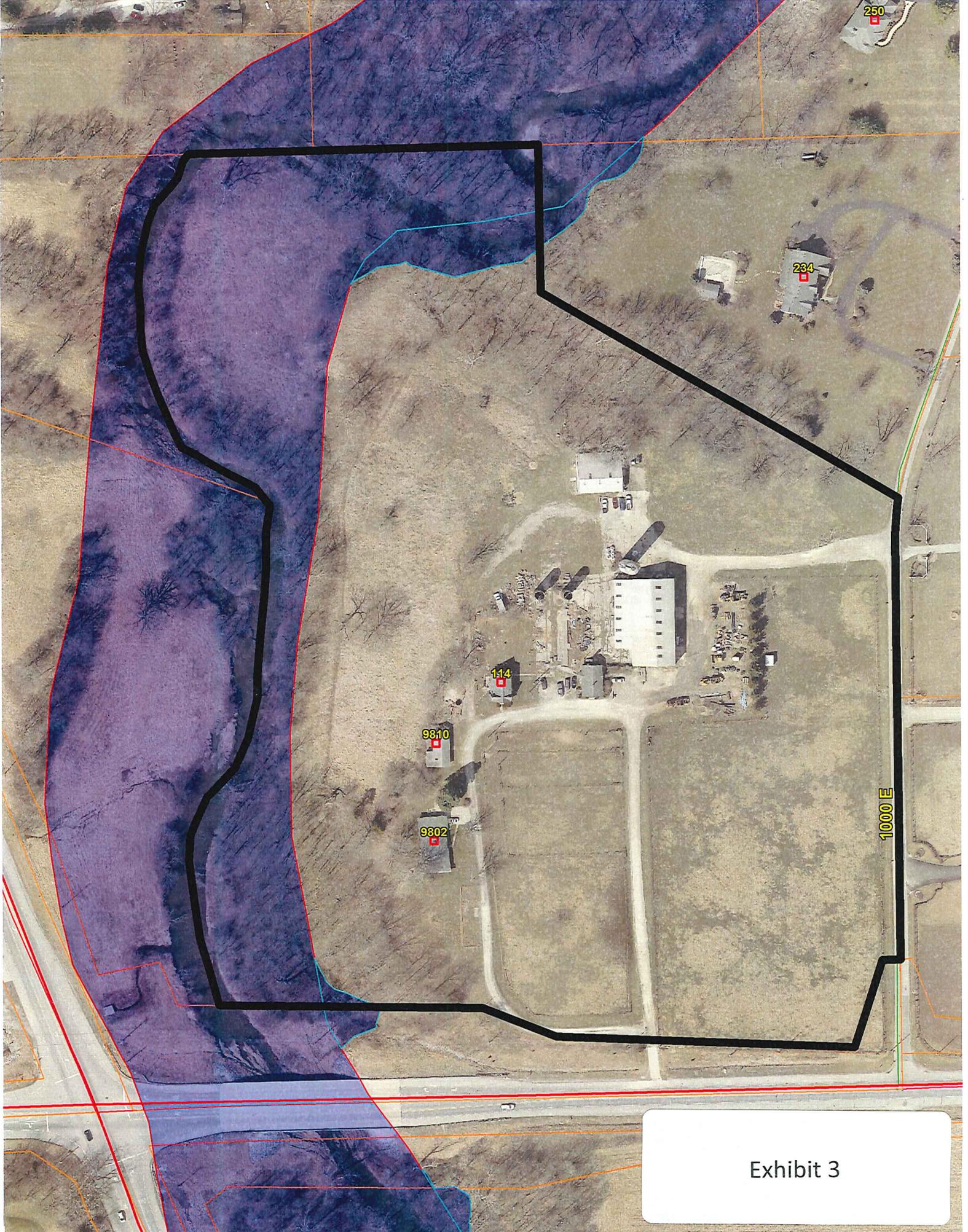
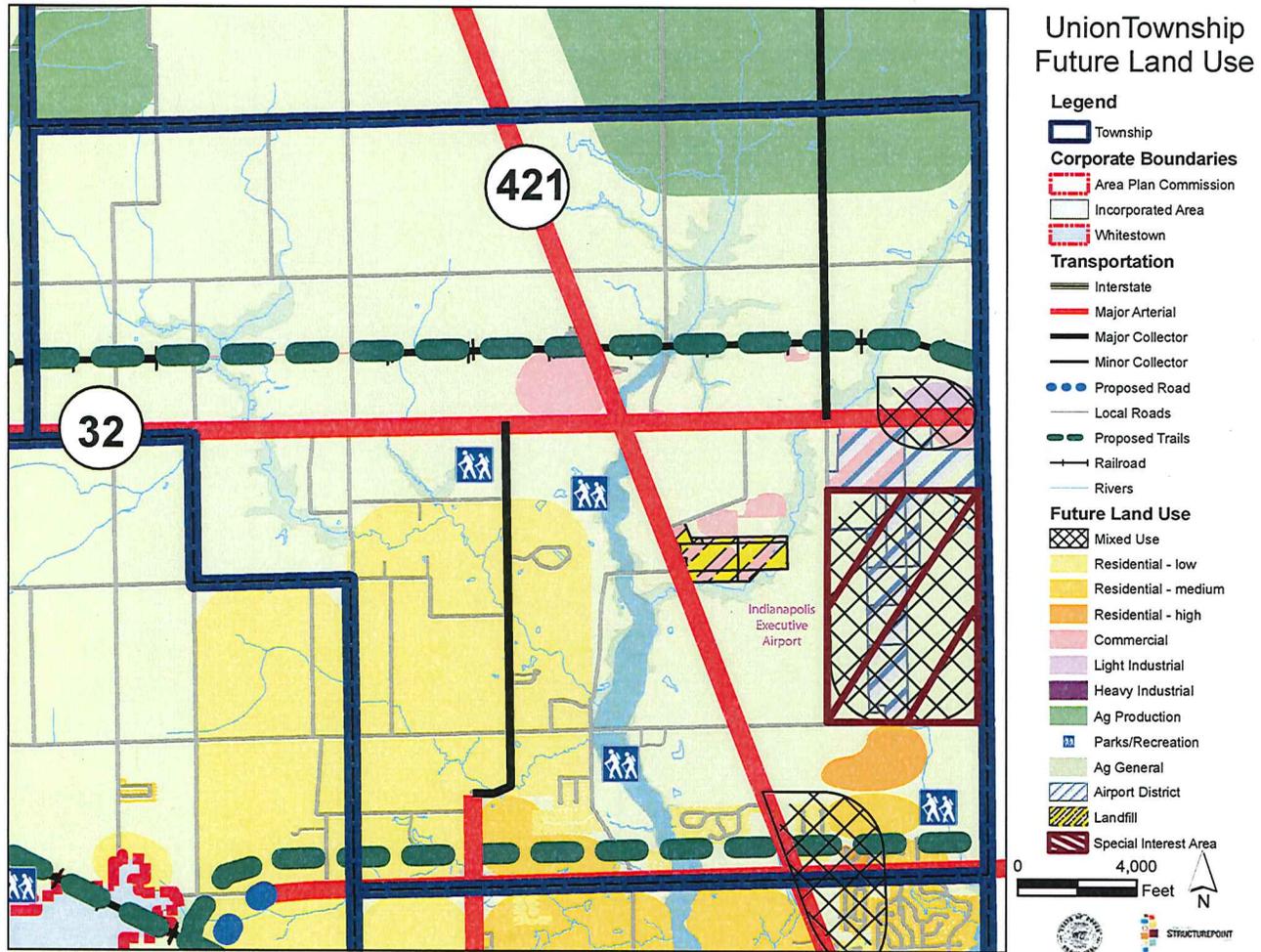


Exhibit 3



The desirability of the rural, small-town character and quality of life of the area combined with ease of access to two townships has created a brisk real estate market for new residential development. Many new homes in the area surrounding Zionsville tend to be high priced compared to other areas of the county. Strip residential development has occurred along a number of the rural roads creating safety and traffic concerns. Sanitary sewer availability from Zionsville and especially from Whitestown has contributed to more residential development.

New residential areas are proposed throughout these two townships adjacent to existing residential development. With respect to undeveloped property in Eagle and Union Townships that is currently adjacent to land developed at 1.75 dwelling units per acre or less, the new development should be consistent with that existing density. Public input strongly supports new residential development and should respect the unique rural and natural character of the area. A variety of open space preservation techniques should be employed to insure new development respects the existing scenic features of the landscape.

As one of the leading towns experiencing growth in Boone County, Zionsville is expected to continue to grow. As mentioned in the Goals and Objectives section of the Comprehensive Plan, the coordination between Town and County officials for establishing a policy and guidelines for annexation is encouraged. Public officials from Zionsville should work together with Boone County officials to ensure the Boone County Comprehensive Plan will be taken into consideration when forming their annexation policy for future growth.

Variance Request :23+ acres zoned Ag for use variance

Board of Zoning Appeals:

My husband and I originally purchased this property 1996 for retirement investment and build our home on the five acres to the north of this property. We owned a construction company at the time and needed space for inventory and equipment and I still use for part of the barns for my storage. I contacted Boone County before we purchased the property to find what uses were accepted for the property and was told that construction equipment and landscaping companies were some of the allowed uses in the Ag zoning. We had extra space in the existing barns and rented them out to a local landscape and seeding company for several years. I have been renting to an excavation company since 2010, which I understood was part of the construction allowance. The excavation company has four employees at this time and sometimes less, only two come in and out each day. The others come and go from the job sites. Equipment is also not moved but a minimum of once a month because the equipment is moved from one job to the next most of the time and does not come to the farm unless the next job is not ready. The landscaper has two employees but only one comes and goes from the farm, they also have less in the offseason. They come in the morning and leave one car and return in the evening to pick it up.

I have also submitted photos of the farm that show that equipment is not visible from State Rd 1000E and hard to see from State Road 32. We are trying to be a good neighbor.

I had no idea we were not in compliance with the zoning regulations.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Debbie Pittard".

Debbie Pittard

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because: The Use will be located on a property with sufficient size (23 acres) and farm buildings which will only be used for administration, storage of equipment; parts, and organic products none of which will be injurious to the public health. In Addition, adequate parking outside of the farm buildings is provided with fencing and other buffering for safety and general welfare to the public.

2. The use or value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because: There will be adequate buffering from the adjacent properties because of State and County roads (3 sides of th property) around the property, an Evergreen tree line, pasture acreage, and woods surrounding all side of the property. (See attached pictures). Also, the primary Use of the property is located more towards the center of the property.

3. The need for the variance arises from some condition peculiar to the property involved and the condition (**is / is not**) due to the general conditions of the neighborhood because: The neighborhood is rural with a 37 acre Veterinary Clinic due East of the property, multiple farm acreage due South of the property, a major highway and vacant ground due West of the property, and a cemetery and woods covering two thirds of the Northern boundary (a five acre property covers the other one third of the Northern boundary).

4. The strict application of the terms of the zoning ordinance (**does / does not**) constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought because: The property is large enough with multiple farm buildings and parking space that the current use zoning restricts its ability to continue its current income production. It should be noted that the current income production has been in existence for over twenty years, and understood to have been within the use guidelines at the time of purchase.

5. The grant (**does / does not**) interfere substantially with the Comprehensive Plan because: The grant does not limit or conflict with the Comprehensive Plan in anyway, and the Comprehensive Plan can be fully executed in its current form with this grant. Its planned Use is simply to be able to park equipment on the property, not unlike what might happen if it were still a working farm.
6. The grant (**is / is not**) the minimum variance that will make possible the reasonable use of land, building or structure. Zoning standards can still be met, no adjacent properties will be devalued, and the property can be more effectively used.

DECISION

It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this _____ day of _____, 201__.

**Town of Zionsville
Board of Zoning Appeals
November 9, 2016**

Pledge of Allegiance was said, and attendance was taken by the Secretary.

Present: Chairman, Greg Morical, Al Wopshall, Larry Jones, John Wolff, Julia Evinger.

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

- Morical Good evening, and welcome to the November 9, 2016, meeting of the Zionsville Board of Zoning Appeals. The first item on our Agenda is the Pledge of Allegiance.
- All Pledge.
- Morical The next item on our Agenda is attendance.
- DeLong Mr. Morical?
- Morical Present.
- DeLong Mr. Wopshall?
- Wopshall Present.
- DeLong Mr. Jones?
- Jones Present.
- DeLong Mr. Wolff?
- Wolff Present.
- DeLong Ms. Evinger?
- Evinger Present.
- Morical The next item on our Agenda is the review and approval of the October 11, 2016, meeting minutes, which are not yet ready for review by the Board, so we will review those at the meeting in December. The next item is continuance requests. I see none on the Agenda. The next item is continued business, and we have Docket #2016-16-UV, M. Pittard, 9810 and 9802 State Road 32. If the petitioner or the representative would –
- Andreoli Mr. President?
- Morical Do we have a microphone?

DeLong If Mr. Andreoli is comfortable walking around with one, we can hand him one.

Morical Excellent. Please resist the temptation to break into song.

Andreoli I get in trouble enough with this case. I don't want to lose it for my clients. Although you indicated there was no formal request for continuance, I did ask Wayne and suggest to Wayne that we would appear tonight seeking a continuance request of this particular agenda item for my clients, the Pittards. And the basis for that is an affidavit that I've filed today. Let me recap, if I may, the history of the filing of this and then that will, I think, better bring into focus why we wanted to maybe postpone it one more month to the next meeting, so Staff has an opportunity to review this. Originally, I did not file the application for the Pittards. They did that on their own. They consulted with Janice and filed an application for use variance for two matters, one a landscape contractor and two, an excavator for their business out there on 1000. Actually the street address is off of State Road 421, but it's essentially accessed through 32 as well as 1000 East. After we got investigating, even though Janice was aware, and I think Debbie and her husband were aware, that there was some argument whether they were "grandfathered" even though she had no idea what that meant at the time she conveyed that. Once we got looking at this, the application as it relates to landscape contractor, there's an argument that we're making that we really don't need to be here with regard to that particular application itself, that particular use, for the reason that as set out in the affidavit, now none of this has yet been confirmed nor vetted by Staff or by Carol and that's one of the reasons for the continuance request. We made our, the request based upon the fact that in essence if, in fact, they are a legal nonconforming use because this use has been in existence on that property, landscaper contractor has been in existence pursuant to the affidavit since 1996. Under the old ordinance back in 1978, the landscape contractor was permitted on that property as a matter of right, and we've attached the copies of that ordinance. Carol has not seen the affidavit until tonight nor has Wayne to be able to review it, but we've attached that, and of course that would have to be verified. Rachel from the Plan Commission indicated that she's in the process of trying to put together an electronic conveyance to me of the 1978 ordinance as well as a 1998 ordinance, and that's significant because the 1998 ordinance provides that landscape contractor is not permitted as a matter of right. It's permitted by way of special exception; however, if it was existing at the time that that ordinance was changed there is a legal nonconforming use status, and it's up to us to establish that chain, and we've done that by way of the affidavit in that regard.

The upshot of all of this is that we will not want to have to ask for something tonight of the Board that we really don't need to ask for or Staff doesn't feel we need to ask for if we've got legal nonconforming use status. That still leaves the issue of the excavator. The excavator is not a legal nonconforming use. That is subject to a use variance request that we've made, so that is not in controversy; that is legal nonconforming use status. It is not in that district and never has been, so that contractor's been there, excavating contractor's been there since 2010, so we just thought that trying to continue it one more month. We will agree that we will ask for no further continuances I think as a way of course.

The first continuance that you had here for the first meeting was an automatic continuance that Mr. Jacob asked for on behalf of one of the neighbors, which was granted as a matter of course, and then at that time we appeared at the meeting and suggested that we couldn't do it in October because my clients were not available, so we continued it to this particular meeting. We're asking that you table it again to allow Staff to weigh in on this particular use. If they feel that they vetted this properly, and we are a legal nonconforming use then we can eliminate that part of the application. We do not need to move forward with that particular request. It still leaves the other issue. You had a Staff Report on that, and I've got to converse you know I think in a little bit more detail with my clients regarding that part of it because of the Staff Report, but that's the upshot of it. We don't think anybody is prejudiced or anything of that nature. We think one more month. We will not continue it again. We filed the affidavit. Staff will be able to vet and let us know at that time. We know what we're really requesting of the Board at that particular point in time, and it just makes a lot cleaner and easier process, so you're not having to guess at this with regard to the particular application that's been filed. The other way to go forward, which I don't think is the best way, is to say we make our presentation, but we don't think we really have to be here on that because we think we were already legally established. I'd rather do it the correct way I think, and make sure that whatever we're asking for is what we think we need. If we don't need it, and Staff agrees then we don't have to have it. It just cuts through a much quicker process, and again, I don't think anybody's harmed in the process because these people have been on this site since 2010 already, so you'll have to make that particular decision. So you know, the excavator also does landscape work, but clearly some of his equipment is not landscaping equipment. It's excavating equipment, and there's no question about that. So while we may argue that he's a hybrid, that he's a landscaper, I don't think we can make that argument given the fact that his actual, some of his equipment is excavating equipment, scrapers, and those types of things. That clearly is not a nonconforming use. We'd have to seek permission from the Board to do that. This actually narrows down the issue, so we actually know what we're requesting and focusing on what we think we may need. I'd be happy to answer any questions that you have or respond to Mr. Jacob, who I understand is going to object.

Morical Mr. Andreoli, a couple of quick questions.

Andreoli Yes.

Morical So the purpose of the requested continuance is to have more time to obtain the records that you were talking about, the 1978 ordinance and the 1998 ordinance?

Andreoli You'll have to talk to Staff about that. We've put the records in the affidavit itself.

Morical So you believe you've got everything you need?

Andreoli We think, but Carol reserves the right to check whether I've done it correctly.

- Morical Sure, she will, but in your mind you've got everything in?
- Andreoli Yes, I don't think there's anything else that we need to file at this point. We've submitted, the only other thing that I mentioned to Wayne that I would get is when Rachel sends me the electronic filings of all of the 1978 ordinance as well as the 1998 ordinance, I think 1978 or 1976 ordinance, the 1998, I'm going to send the entire electronic ordinances on to Carol and to Wayne, so they have those for their records. Not just the excerpts, but the entire ordinance, so she can review it to make sure that I haven't left anything out in my affidavit and my request. So I don't have that from Rachel yet. I think part of the reason, and I talked to her on Monday, was they were closed yesterday for the election, but I suspect I'll probably get it tomorrow or the next day, and I can send those to Carol, so she'd be able to take a look, and Wayne would be able to take a look. And this emanates based upon a conversation I had with Wayne. He understood it's the Board's decision, but suggested this might be a sensible approach, so that he could take a look to vet this issue to see whether we really are a legal nonconforming use as we think we are.
- Morical And so that's helpful and then, essentially, you're requesting the continuance for a month?
- Andreoli One month.
- Morical To be able to talk to Staff and ask them to make an administrative finding that essentially the landscape contractor is a grandfathered use.
- Andreoli If they choose to do so. It would be up to Staff in terms of how Staff would view it.
- Morical But you're asking them to make that administrative –
- Andreoli Yes, I think it would be pretty difficult. Staff can speak for themselves, but to try to vet this particular circumstance as we're sitting here in a meeting tonight without having the opportunity to look at, look at the affidavit itself, look at the ordinances, and make sure that we've included the excerpts that are actually germane to this particular request. So, yes, that would be my request. We don't anticipate needing to file anything else unless we're asked to by Staff. We have no other filings to make. We just simply would request that the hearing be tabled to the next month. If you would want us to re-notice we'll be happy to do that as well. I think each side has kind of had a continuance on this thing, but we'd be happy to go ahead and re-notice if you think that is appropriate.
- Morical Thank you. Are there any further questions for the petitioner's representative? Thank you, Mr. Andreoli. Mr. Jacob?
- Jacob Good evening, how are you?
- Morical We are well. How are you?

Jacob I'm here on behalf of Neil and Rachel Hazaray. They are the property owners directly to the north of the Pittards, recent purchasers of the property. As this body may know, I would not normally stand in front you and object to somebody's continuance, but I think I need to append Mr. Andreoli's history of how we're here just a little bit so you understand what my clients' concerns are and Staff can weigh in a little bit on this. The real reason we're here is because of code enforcement issues. In the spring of 2016 and Staff may have indicated that it went even beyond, back even further than that, the Pittards received notice of zoning violations. So this was the deal they cut to avoid any kind of issues with the zoning violation, saying hey we'll correct it. We'll step up in front of the BZA, and we'll seek these use variances. Now, in looking at their application, my clients have tried to understand what they were asking for, and I think we've weeded through that. This has been continued a couple of times. And I've explained to my clients this kind of thing happens. Let's get it right, but the problem is we've got continued code enforcement issues here, and that's why this application is pending, and that's what our concern is that nothing has been done in that regard. So, we believe that this was the deal the Pittards cut by filing this petition. Jeopardy has, in essence, attached, and both of these issues are properly before this body for full consideration. Otherwise, it's kind of like writing a check and saying look the funds aren't there. That's kind of the way my clients feel that, "Whoops, wait a minute. We filed this to avoid and address neighbor complaints." Which is how the code enforcement issues came up, and once you hear a little bit more about this there's a lot going on in this property, and that's what rose, or the neighbor complaints came from, and hence the code enforcement issue. So that's the basis of our objection. We'd like you to hear all the issues this evening. We're here prepared to do that. We don't think the illegal nonconforming use or legal nonconforming use really is at issue. So, to the extent this Board would want to continue this, we would ask that you hold the petitioners to a little higher standard than just an affidavit establishing the legal nonconforming use status. We would ask that you impose additional requirements. Let's get some Secretary of State documents. Let's get some leases. If we need to have some financial records and the like. This is on them, and I think the mountain that they need to climb is a little higher than an affidavit they submitted today. So, that would be an additional request we would make. I would also, my clients would love to see during this period of time that, I mean keep in mind we're in a code enforcement issue, and this has drug on for a number of months, that they cease all operations until this has been approved. I don't think that's an unfair request. So my clients are here if you'd like to hear from them, but I'd be happy to answer any other questions.

Morical Hold on Mr. Jacob.

Jacob Sure.

Morical So the reason that you're opposing the continuance request is that it's discretionary? They don't have one by right and they have waived, your argument is they've legally waived the right to make a claim that this use is grandfathered?

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- Jacob To seek safe harbor under the nonconforming use element of the zoning ordinance, yes.
- Morical And you believe they have waived that right by virtue of agreeing, as part of the code enforcement activity, to file the variance instead of at that time asserting the right as a grandfathered use?
- Jacob Correct, correct.
- Morical And then actually themselves then filing the variance request.
- Jacob Correct. And by nature of opening this public hearing.
- Morical So once this was noticed, it's set.
- Jacob They had the ability prior to this hearing at any time to withdraw their petition and start over, and then deal with the code enforcement issues separately.
- Morical Okay. Any other questions for –
- Andreoli May I respond?
- Morical Yes, well hold on – I'm not the only one that likes to talk up here. So no other questions? Okay, thank you. Mr. Andreoli. Sorry, Wayne.
- Andreoli I'm not particularly aware of what code enforcement issue Mr. Jacob is talking about. I do know that there was a concern raised at one point and Mrs. Pittard can talk to this, and one of the inspectors came out because they believed they had somebody living in their barn, and that was the nature of the issue that caused them to come out at that particular point in time. They verified that there wasn't anybody living in the barn. You know, you can't really have another single family residence on that without getting approval, and we have those. That was dispelled. That wasn't an issue, and then I think at that time they may have seen the excavating equipment or the other stuff. They weren't even aware of the nonconforming use status or any of those particular issues that had predated their particular visit, so I think my clients were just trying to do the right thing and make sure they got right with the town. They were not trying to pull the wool over anybody's eyes or anything of that nature. That was not a code enforcement that had them to come in other than there was a suggestion or something that was raised that suggested that perhaps they needed to get approval if they were going to have businesses located at that particular site not otherwise agricultural. And that's what they did, and unfortunately my client went in and filed an application, not understanding the significance of nonconforming use status, and those types of things and takes responsibility for that, but that doesn't suggest in any way that a continuance of one more month to allow Staff to vet this issue wouldn't streamline the entire process, so at least we know what we're requesting if we come again in front of the Board, and if we need to not request certain things because Staff has vetted this, and we are legal nonconforming use on landscape contractor, then we know that we've got to deal with the issue of

excavator in some manner, and the Board would be able to weigh in with regard to that.

So, no sense trying to come back several different times and doing those kinds of things. That doesn't make any sense. I would also suggest to you that there's been no formal public testimony or evidence taken on this yet. And so there's nothing wrong with, at this particular point in time, continuing this, and having Staff look at this now that we've provided the affidavit. That's just a sensible way to approach this. Otherwise, it puts us in the difficult position to decide how we're going to move forward if we don't do that tonight. Obviously, we don't want to agree to something or agree to submission of the Board on something that we're already legally permitted to do, and we'd have to make that case. I'd rather not do that. I'd rather have Staff look at it, and tell us that they believe we're a legal nonconforming use. If they don't then we know what steps we have to take. If we do we can eliminate that aspect of it, and come back on the other. So that's all this is.

Morical Okay a couple of questions for you, Mr. Andreoli.

Andreoli Yes.

Morical So, Mr. Jacob noted two arguments for why your clients would have waived the grandfathering argument. One was in connection with the code enforcement activity that you'd think may or may not be relevant.

Andreoli There's not a waiver. I'd respond to that. There's not a waiver simply because there's been a code enforcement. The Board may not like to have to have code enforcements due to the extent there is one before somebody actually accesses the Board. You've made that clear before. But that's not a waiver argument.

Morical Right, but his argument was, and you know, again, I'm just going to restate it, that in order to address the code enforcement issue your clients agreed to submit the variance request. So that's waiver argument #1.

Andreoli No, that's not true.

Morical You're saying that's not correct?

Andreoli No.

Morical Okay. So, his waiver argument #2 is that by virtue of actually submitting the variance application, going through the notice process, and having this hearing actually begin to take place, and those are discrete steps, that that legally acted as a waiver of the ability to seek that grandfathering status through the administrative effort that you're now talking about.

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Andreoli And we categorically deny that. We believe the state of the law in Indiana is such that if you are legal to begin with, and if we are a legal nonconforming use as it relates to the landscape contractor, if we are a legal nonconforming use in the State of Indiana, and simply because we filed an application for a use variance, by the way as suggested by Staff to do, we do not waive presenting that. We don't even waive it if we get a denial of that application if we're legal to begin with, and that's why this is important to let Staff take a look at this to determine because if we're a legal nonconforming use we didn't need to be here to begin with, and even if we go through the process, we have not waived our legal status if we're legal to begin with. That's the state of the law in Indiana as I know it, and as I presented it before. So, I think those arguments are not sufficient arguments for waiver under any circumstance.

Morical Any further questions for Mr. Andreoli?

Evinger Just one more time again, when you're talking about when did all of this come to light, if we knew that the ordinances were there from 1978 and 1998, why are we just addressing it now?

Andreoli I'm sorry?

Evinger If the ordinances have been in place since 1978 and 1998, why is it only being addressed right now? Why wasn't this presented originally when that first application was made?

Andreoli I don't think she understood since she did it herself. I don't think she understood the difference, and I'm not sure, they didn't talk to Wayne. They actually talked to Janice, and I don't think they actually met with Wayne to talk with Wayne about this when they went in. I don't think she understood the significance of what somebody said was grandfathered versus a legal nonconforming use status. Those are different terms in the law. They are different terms in planning and zoning. To some they mean generically the same, but they're not exactly the same terminology in terms of the legal status that that conveys. One conveys sufficient legal status that would allow you not to have to make an application for something that you're already legally permitted to do. Not so in the excavator. I'm talking about just a landscape contractor.

Morical Okay, a couple more questions for you. So as you've stated, the variance has the two components, the landscape contractor and the excavator, and your grandfathering argument only relates to the landscape contractor, so your clients are going to still request the use variance as it relates to the excavator?

Andreoli If Staff believes that we have not, after they vet this, and Staff believes that we have not appropriately presented a sufficient case for, you know, status as a prior use, and we've not presented that appropriately, we then can still ask the Board and would ask the Board for a use variance as to the landscape contractor as well. If they thought that we were already legally in good shape with regard to the landscape contractor, we don't need that as part of the application. We can just talk about the excavator.

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- Morical And then to Mr. Jacob's point requesting or suggesting that this Board have your client provide additional supporting documentation beyond the affidavit to include leases or other supporting documentation on use –
- Andreoli I'm sorry?
- Morical Mr. Jacob suggested that if we were to entertain the continuance that we should ask your clients for additional supporting documentation beyond the affidavit itself to show that prior use, to document and support that. Would you be willing to do that?
- Andreoli Does that mean he wants a continuance, and we provide that information or he wants to object to the continuance?
- Morical No, you know we love as lawyers to argue in the alternative –
- Andreoli I got it.
- Morical So his point is –
- Andreoli It's a good point.
- Morical He objects to the continuance, but to the extent we were to grant the continuance he would suggest that we have your clients provide additional information.
- Andreoli We don't think there's any other information to provide in terms of the fact that my clients have signed an affidavit, listed the contractors, listed the years in which they leased there, and provided the copies of the ordinance; however, to the extent Mr. Jacob hadn't seen this affidavit until tonight, so he may have other concerns raised with Staff with regard to this. Staff hasn't seen it until today, so to the extent Staff feels that they would like additional information or see if we can supplement, I think that's Staff's right to do that. If we're asking them to make an administrative decision, to take a look at this, I think they're within their right to make sure that they're comfortable with what we presented, so.
- Morical So to your point, the Staff can require additional information if they want to?
- Andreoli Staff can request to see what we have, yes.
- Morical Okay. Any further questions for Mr. Andreoli?
- Evinger Just one more, and that's with this nonconforming use, were there any alterations or any other buildings erected on the property since 1996?
- Andreoli I'm sorry.
- Evinger Were there any other buildings erected on the property since 1996?
- Andreoli You mean since 1996?

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Evinger Isn't that when you said that the landscaper had commenced business on the property?

Andreoli Yeah, yeah their –

D. Pittard Inaudible

Evinger Okay.

Andreoli There's not any other, there's nothing –

Evinger Nothing else was erected?

Andreoli Yeah, been nothing else.

Evinger All right, thank you.

Andreoli The actual site itself has pretty much remained the same footprint for that entire period of time.

Evinger Okay.

Andreoli And without really changes or anything and since, well I don't want to get into that. That's more of a factual issue rather than a continuance issue. That'll be something we'll deal with later.

Evinger Thank you.

Morical Any further comments?

Andreoli No, thank you.

Jones Quick question. So just to make sure, it's the property that sits at the northwest corner of 1000 East and 32?

Andreoli Yes.

Jones Correct.

Andreoli Yes.

Jones How many acres is it?

Andreoli How much acreage do you have there?

D. Pittard 23.

Andreoli 23 acres.

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D. Pittard It continues on...

Andreoli Would you come up if you would, please?

Pittard Debbie Pittard.

Jones So the parcel that's described in this legal description, is how many acres?

Pittard 23. It was a total of 28.

Jones But that doesn't include the land that goes all the way over to 421?

Pittard No, no it doesn't. Not on that legal description, no. It's two separate parcels.

Jones Okay, so this parcel, this description here though is for 23 acres?

Pittard Correct.

Andreoli This is the parcel in question on Exhibit 3, and that's in your Staff Report. Could you point out, Debbie, Mr. Jacob's clients' property.

Pittard It's up here.

Andreoli Who owns the property here?

Pittard Oh, I'm sorry.

Andreoli That's their property right there.

Pittard Okay, maybe that's it.

Morical So, it immediately adjoins your property to the north?

Pittard To the north, yes.

Andreoli Yes, so you know, that's property the Pittards lived in for a number of years, sold to an individual, and then that individual just recently sold to Mr. Jacob's clients.

Pittard This is 32. This is Little Eagle Creek.

Morical Thank you. Any further questions for Mr. Andreoli? Mr. Jacob, do you have any further comments?

Jacob Thank you so much. Just so the Board's aware, copied out of Staff's file on this petition is a letter dated April 19. Part of the letter reads, "An inspection was conducted on the site March 28 as a result of the complaint filed with our office, which indicates the operation commercial business, Phoenix Excavating. Research into the activities..." It goes on and on and sites code violation and talks about that it's an unauthorized use. There was an additional letter sent May 16

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that's titled zoning violation citation and fine. So, it's my understanding in talking to your Staff that that's why we're here to cure the code violation issues that were at least complained about in March of 2016, documented by Staff in April and May of 2016.

Morical And Mr. Jacob, you had mentioned that the Pittards had committed, as part of dealing with that zoning code violation, to file a use variance.

Jacob That's my understanding from Staff.

Morical Okay, so that was the comment that Staff made to you. There's nothing in the documentation that talks to that.

Jacob There's nothing that shows that there was any kind of fine paid or any kind of corrective action or administrative action that I saw in Staff's file as a result of the code violation issues, and it was my understanding in talking to Staff this was the result.

Morical One further question. So, Mr. Andreoli made the legal argument that if a property owner has a legal nonconforming use that it cannot be waived. That it can't be waived by virtue of failing to raise it at the administrative stage. That it can't be waived by virtue of filing a variance request. That it can't be waived even if this Board were to decline –

Jacob Am I going to point you to any case law to that, no, to that effect? I believe that makes sense that they would be able to submit to this body's jurisdiction as a result of code enforcement issues to try to cure those, and then to later take a step back, and say, "Whoops, we didn't mean that" and I understand there's some procedural issues here, but we believe that they have done that. That they've waived that.

Morical Okay, so you disagree with his argument to the effect that somebody cannot actually waive or lose a legal nonconforming use. You're arguing that indeed they can?

Jacob. I believe they indeed can.

Morical Can waive it, okay. Any further questions for Mr. Jacob? Thank you. Is there anyone else here tonight that wants to speak for or against the continuance request? Okay, hearing none, Carol, please provide us your legal perspective .

Drake I didn't hear any law cited by either counsel for their respective positions on waiver. We have just received the affidavit this evening and having not had a chance to review it, I am reluctant to weigh in on the waiver issue, and the extent to which these folks have or have not preserved their position on the nonconforming use. Certainly, one option would be to go ahead and hear it, and we'd take that under advisement and counsel can submit support for their respective positions, and that component of the decision can then be appropriately addressed.

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- Morical Okay, thank you Carol. So, really the question we have in front of us is we've got a request for a continuance, correct?
- Drake Yes.
- Morical Neither the petitioner nor the remonstrators have the right to request a continuance by right, to obtain one by right. In other words it's our discretion whether to grant one or not, right?
- Drake The time has passed, and they have both previously had a continuance. I would also note that the petitioner is not at this point, by right, allowed to withdraw their petition because the notice for your September meeting was properly given, so if petitioner wanted to withdraw the petition because of the nonconforming use position on the landscaping business that has to be in writing. Also, if you hear or take any evidence on the petition itself it may not be withdrawn after you do so. After they do so, it's too late to withdraw.
- Andreoli Inaudible
- Drake That's correct.
- Andreoli Inaudible
- Morical That's why at the moment we've got in front of us the continuance request, right? Okay, Wayne, do you have any comments from Staff's perspective on this continuance request?
- DeLong Yes, Staff would not object to the continuance request. Certainly, the BZA has encouraged in the past dialogue between adjacent property owners and parties that are certainly interested in particular projects and filings to continue that dialogue. Certainly, you have had no time to review an affidavit. This petition certainly, as referenced, was filed as a reaction to code enforcement, which was initiated April, March of this year. Certainly, the petition reflects filing that occurred in June of this year. Email references, conversations, and specifically the term 'grandfathering' on at least three occasions in July, and certainly alludes to it in June. So, that might not be the selected and best term of art to use, 'grandfathering' versus legal nonconformity, but certainly it was a dialogue that the Staff was engaged in, and certainly that's exactly why the Staff Report very clearly, I believe, speaks to the fact that this petition was filed, and as of the timing of the writing of the report, no evidence had been presented beyond just the letter that's attached as Exhibit 5 to the Staff Report. So, I just wanted to emphasize that certainly grandfathering was the topic of conversation moving throughout this process. Again, the petition was filed in June, working towards ultimately a September hearing date, and then is now ultimately set again this evening. Again, Staff would support the request for the continuance to allow for review of the affidavit.
- Morical Okay, so I essentially see that we have practically two questions in front of us. #1 is the request for a continuance, and the second one is whether or not there's

been a waiver of the legal nonconforming use argument or not. If waived, that would preclude the ability of the petitioner to have the administrative review that they're now requesting to do during the continuance period. So, I see those as two separate pieces. Carol?

Drake I would concur with that.

Morical So, we could address the continuance request, in our discretion either approve or deny that, and we could require, if we were to grant it, that as a condition to the administrative review that counsel, both for the petitioners and for the remonstrator, address the legal question on waiver, and that any administrative action could be subject to our legal determination on the waiver question.

Drake I like that alternative, and I would recommend that alternative.

Morical Okay. Any discussion amongst the Board? Are people good with the concept that we would vote on the continuance request and that we would require the petitioner, and invite counsel to provide the written arguments for both for and against the waiver argument? Would the administrative decision, if we were to grant a continuance request, so they could meet with the Staff as it relates to the landscaping company, and that administrative decision to be subject to our ruling as it relates to the legal question on waiver, which we would rule on at the time the matter is heard in December. Mr. Andreoli, you're contemplating that this would be continued, you're requesting continuance for one month right?

Andreoli One month, that's it.

Morical Okay. For the record, Mr. Andreoli said one month.

Andreoli One month and one month only.

Morical One month and one month only. Okay, thank you. Any discussion?

Drake With one addition, I would recommend a date certain by which those submissions are made, so that, as we received the affidavit this evening, we're not receiving those legal arguments the night of the hearing, but rather maybe a week or so before that hearing, so we have a chance to digest those appropriately.

Morical Okay. That makes sense. So any further discussion before we try to craft a motion?

Wopshall Yeah, maybe one more thing. Wayne, the Staff has made a recommendation based on certain information and now we have a different level of information, so if we will go forward tonight, the Staff is not privy to what we'll see tonight. Is that an issue?

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- DeLong That's certainly correct. Certainly I would suspect what's in the bound materials that have been presented this evening that we have not even had a chance to review, because we've been just up here working through just the mechanics, is that it tightens and increases the magnification and detail that's in front of you, and I would suspect it would make the petition, it would set parameters of operation for the use. So, I would suspect what's in there makes things, would be to benefit of Staff to review, but certainly there hasn't been a whole lot of time yet.
- Evinger So, Mr. President, I would have to ask, I guess, another procedural question. Would that be approved by the petitioner to re-notice to neighbors?
- Morical The petitioners' representative indicated they'd be willing to do that, so we could certainly include that as part of our well-crafted motion on this particular issue.
- Wopshall We also have, not directly in front of us, but we have a code enforcement issue as Mr. Jacob brought up, and he suggested that they cease those operations until we make our decision.
- Morical Mr. Andreoli, can we ask you to come back up again for a moment? So, your argument for legal nonconforming use relates only to the landscaping business?
- Andreoli It is only to a landscape contractor. It is not to the –
- Morical So the excavation contractor is something that's squarely going to be in front of this Board –
- Andreoli If after the Staff makes a determination on what we can establish with regard to that, if my client continues to want to pursue that, that is purely within the Board. There's no legal nonconforming status argument with regard to that at all.
- Morical Right, and we've talked about that briefly tonight.
- Andreoli Yes.
- Morical So we've got the open code enforcement matter as it relates to that at a minimum, right?
- Andreoli Yes.
- Morical Would it be a hardship on your clients for them to seek or cease, that is, stop all activity as it relates to the excavation business during this continuance period?

Andreoli It would at this late date, and immediately because this gentleman, again, has been utilizing the site without any objection that my clients have ever noted since 2010 other than the most recent visit that was made, and he's going to have to find a place to put this stuff, so at the very least, to the extent that they would not want to pursue that excavating use variance at the next meeting, we would at least ask the Town for some time to allow him to extricate himself from the property. That would be up to Staff or be up to the Board in that regard, but immediately I don't know how we can do that. He's got equipment. There's nowhere else for him to put it. He's got scrapers and those types of things and utilizing that site, so I don't think it works so much of a financial hardship on my clients. It works a real problem with regard to how are we going to physically get that done. We've already had discussions with him and prepped him, with the Staff Report, and prepped him what the possibilities of what could happen, but to do so immediately I just don't, I know after talking to him on Monday that he doesn't immediately have a place to go.

Morical So the question I'm going to ask Mr. Jacob after we finish working through this issue with you is, is there something that's particularly problematic with respect to the excavation contractor that, with that limitation in place during this interim period, it would alleviate some of the key concerns that his clients have.

Andreoli I can tell you this and, although I have not spoken to Jeff about this, I can tell you that generally during the winter periods there's less activity there. He just doesn't do, the equipment's stored there and in the heavy winter periods in December, which we're approaching and in January and February, there's very little activity there at all. The equipment's just stored on site because he's not using it, and so I think probably of all the times to allow this month to go by, this would probably be the best time. If it was in the middle of the summer that might be more problematic in terms of the use of that excavating equipment coming in and off site, but that would be my only response to that. If there is a good time to have this done, this is the time to do it as opposed to the middle of the summer when he's actively using that excavating equipment. It's not so active right now.

Morical So I'm aware of the practical challenges if Mr. Jacob comes up and says, "Hey, it would be great if the excavation contractor were limited in x, and y, and z ways," but we're interested in what he has to say. Would you be willing to commit, as part of a condition of the continuance, that your clients and Mr. Jacob's clients would try to work together to address those issues during this interim period?

Andreoli Sure. Yeah, I've reached out to Jeff on some possibilities of restrictions and other types of things, not to speak out of turn, but of recent vintage, so I'm sure Jeff really hasn't had a full opportunity to vet that or get back with me on that and – pardon?

Jacob That makes sense.

Morical Okay.

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Jacob I have no objection.

Morical Okay.

Jacob You guys don't need to continue to work through that. It's 30 days. That's fair and if we can work out something we'll handle that.

Morical Okay.

Andreoli If they've got some concerns, some logistic concerns and since we're the landlord, if there's anything we can do to facilitate helping with that, we're going to want to do that. Pittards have had this property for years, and they don't want to get crossways with anybody if we can avoid that so.

Morical Okay. Thank you Mr. Andreoli.

Andreoli Thank you.

Morical Folks, any further questions for Mr. Andreoli?

Jones Yeah, I've got a question. So how many businesses are operating at this address, 114 North 1000 East?

Andreoli Two, Phoenix Excavating, which is the excavator, and William Brown Landscapers.

Jones So where's Village Pool and Spa?

Andreoli Pardon?

Jones Village Pool and Spa.

Andreoli Do you know who those people are? Do you know who they are? They on your property?

D. Pittard Inaudible.

Andreoli Okay.

Jones Well they're still listed as just being an active address for them.

Morical Can you tell us when they left approximately?

Pittard Well, they are -

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Andreoli You have to come up.

Pittard They're actually still there. They're actually still there. They're anticipating leaving, but they're still there right now.

Jones So there's three businesses operating at this.

Pittard Yes, yes.

Jones Is there a home there as well?

Pittard There's two homes.

Jones So there's two residences and three businesses operating out of one piece of property?

Pittard Yes.

Andreoli There's also cattle.

Pittard Yes.

Jones So there's four businesses?

Pittard Well, yeah.

Morical It's an agricultural –

Pittard It's an ag, it's an agricultural.

Andreoli It's agricultural use, but it's still a business.

Jones It is a business. They are sold for money.

Andreoli Yes.

Jones So that's a business.

Pittard Yeah, hopefully.

Andreoli That's the idea. We're not, we don't want to kill them just for sport.

Pittard Yes.

Andreoli So, you know.

Wopshall One home is not occupied?

Pittard No, both homes are occupied.

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- Morical Thank you. Any further questions for the petitioner? Thank you. Okay, any discussion amongst the Board?
- Wolff I guess I would be inclined to grant the continuance because I feel like we don't have a complete picture of what we're dealing with at this point. I feel like our counsel, I feel like we would have a more clear picture if we had time to review the legal discussion that occurred tonight.
- Morical What do you think about having them address the legal waiver question?
- Wolff And, are you specifically referring to the fact that granting the written arguments to our counsel a week prior to the December meeting?
- Morical On some date that we would determine.
- Wolff I mean it makes, I think everyone was taken aback by tonight's affidavit, excuse me. I think it feels like we should have this information prior to the hearing in enough time that we can review it.
- Morical Okay, if that makes sense and then the idea that the petitioner would work with the remonstrators on any type of reasonable accommodation as it relates to these uses during the interim period.
- Wolff Yeah, generally as a Board I think we have taken the direction that if the neighbors can work together towards a resolution for these types of issues that it is the preferred solution.
- Morical Okay, thank you. Any further discussion?
- Evinger Just follow up on the documentation that you would request regarding placing this in continuing operations of the different businesses on the property, is that something that we want them to present next time?
- Morical So that really goes to the legal nonconforming use argument, which is going to be properly in front of Staff for their administrative decision, and as part of that, they will request and require whatever information and support they need to make that determination. And if they were to make that determination then that may answer that particular question, subject to us making the legal determination as to whether the petitioner had waived the right to make that argument. Any further questions or comments? Hearing none, I would entertain a motion.
- Wolff Can we review what might be included in our, in the conversation, in the motion.
- Morical Okay, sure. Yeah, so it would be a hypothetical motion. It would be that we would grant the petitioner's continuance to continue this matter to our December --
- Drake 13.

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- Morical 13, 2016, meeting and the petitioner should submit their written documentation as to the argument that they did not legally waive their legal nonconforming use argument by a date certain, to be established by counsel, and then the remonstrator should have –
- Andreoli Is that set yet?
- Morical Yeah, not yet. Unless you want to establish it. Carol, you want it set now?
- Drake I'll send both counsels an email.
- Morical Okay. So it should, I'd presume that we'd want the petitioner to submit their argument and then the remonstrator has an opportunity to respond, right? We don't need a reply brief, correct?
- Drake No.
- Morical So, we just do the two by a date certain, to be established by our capable counsel, and that during this interim period the petitioner would work with the remonstrators on reasonable accommodations to address the concerns around the excavation and landscaping businesses, and the pool business. In other words, to work on reasonable accommodations with them as it relates to the code enforcement violations.
- Jacob Mr. Chairman, notice?
- Morical Thank you. And, thank Mr. Jacob for stating item #4 which would be requiring the petitioners to re-notice.
- D. Pittard To do what?
- Morical Re-notice, provide full legal notice. Any further discussion amongst the Board? Hearing none, I would entertain a motion.
- Evinger You going to try it?
- Wolff No.
- Morical We can amend it. It's okay.
- Evinger We'll give it a whirl. All right, so I make the motion that we grant the petitioner's request for continuance to our December 13, 2016, meeting. Further, that the petitioner provides written documentation that they did not waive their legal right claim to nonconforming use by, would you like to suggest a date?
- Morical A date certain to be established by our counsel.

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- Evinger By our counsel. Further, that the petitioner work with the remonstrators to provide for reasonable accommodations as it relates to code violations and further that the petitioner is required to re-notice prior to the next meeting.
- Morical Thank you. Is there a second?
- Wopshall I second.
- Morical Any comments, Carol?
- Drake I'm fine.
- Morical That hits it all, okay. All those in favor please say aye.
- All Aye.
- Morical Any opposed? Motion carries. Thank you very much. Thanks to everyone for that. So the next item on our Agenda is new business of which we have none and then other matters to be considered are the findings of fact of M. Lyons. Does anybody have anything further to bring before the Board tonight? Okay, well we will then work through our findings of fact.
- Drake Okay, the proposed findings of fact on Michael Lyons' petition for a development standards variance on his cargo container were distributed to you. As you will see, these have been drafted in a manner in which you find that he did meet his burden of proving that approval will not be injurious to the public health, safety, morals, and general welfare of the community, but that he did not meet his burden on the other two elements and for purposes of not meeting his burden, your discussion was incorporated to form the basis for those two findings. So, with having not met either of the two elements on, one, not adversely impacting the adjacent area and not showing that he can't otherwise use his property or it would be a substantial hardship to otherwise use his property, with that, these findings then result in a denial of his petition, and I'd be glad to answer any questions.
- Morical Are there any questions for Carol? Do we need a motion, Carol?
- Drake You do.
- Morical Okay, I would entertain a motion to approve the findings of fact as included in the Board Meeting packet and presented to the Board tonight.
- Jones Second. Are we thinking or are we going to make that motion?
- Evinger So moved.
- Jones So moved, sorry.
- Evinger Second.

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- Morical Thank you. All those in favor please say aye.
- All Aye.
- Morical Any opposed? Motion carries. So we'll pass those down. Do we need to take action on any of the other ones?
- Drake The other items are really just updates. On the Crenshaw commitments, we've received a draft from counsel. That draft has been revised and is currently under review, and on the two right-to-farm commitments, I'm not sure of their status.
- DeLong We're just working through the language as we wait for those to come back from the parties to give us evidence of recordation.
- Morical Terrific, okay. Seeing nothing else before the –
- Drake The dates.
- Morical Oh, right. We need to take action on our meeting dates for calendar year 2017 during which all types of new and exciting things are going to happen. I would entertain a motion to approve those meeting dates as included in the Board Meeting packet.
- Evinger Motion to approve the dates as presented.
- Morical Thank you. Is there a second?
- Wolff Second.
- Morical All those in favor, please say aye.
- All Aye.
- Morical Any opposed? Motion carries. Thank you. We are now adjourned.