



MEETING RESULTS - ZIONSVILLE BOARD OF ZONING APPEALS FEBRUARY 5, 2020

The meeting of the Zionsville Board of Zoning Appeals occurred Wednesday, February 5, 2020 at 6:30 p.m. in the Zionsville Town Hall Council Chamber, 1100 West Oak Street, Zionsville, Indiana.

The following items were scheduled for consideration:

- I. Election of Officers – John Wolff (President), Jeff Papa (Vice President)
- II. November 26, 2019 Meeting Minutes - Approved
- III. December 10, 2019 Meeting Minutes - Tabled
- IV. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2019-38-SE	T. Ball	325 S 1100 East	Approved w/commitments as presented & filed w/exhibits & per staff report - 4 in Favor, 0 Opposed. Continued from December 10, 2019 to February 5, 2020 Meeting. Petition for Special Exception to allow for new residential building(s) in an Agricultural Zoning District (AG).

- V. New Business

Docket Number	Name	Address of Project	Item to be considered
2019-39-AP	R. Mallur	4651 Kettering Place	Withdrawn by the petitioner Petition for Administrative Appeal of staff’s determination of the compliance of the Façade Variety Code as defined in the Hampshire subdivision Commitments in the Urban Single-Family Residential Zoning District (R-SF-2).
2019-40-DSV	G. Judd	602 S 900 East	Approved as presented & filed w/exhibits & per staff report – 4 in Favor, 0 Opposed. Petition for Development Standards Variance in order to allow an addition to an existing accessory structure to: 1) Exceed the allowable accessory square footage & height in an Agricultural Zoning District (AG).

2019-41-DSV	D. Buibish	1135 S 900 East	<p>Approved as presented & filed w/exhibits & per staff report – 4 in Favor, 0 Opposed.</p> <p>Petition for Development Standards Variance in order to allow a lot split of 10 acres, into two 5+/- acre lots, in which:</p> <ol style="list-style-type: none"> 1) the lots will not meet the Lot Width to Depth Ratio of 3:1 2) one lot will have an accessory structure(s) which exceed the height of the primary structure <p>in the Low-Density Single-Family Residential Zoning District (R1).</p>
2020-01-DSV	R. Myers	11690 Sycamore Street	<p>Continued by petitioner representative from February 5, 2020 to the March 4, 2020 Meeting – 4 in Favor, 0 Opposed</p> <p>Petition for Development Standards variance in order to provide for the construction of a detached garage which:</p> <ol style="list-style-type: none"> 1) Exceeds the allowable accessory square footage <p>in the Urban Single-Family Residential Zoning District (R-SF-2).</p>
2020-03-DSV	Appaloosa Crossing	3201 S US 421	<p>Continued by board from February 5, 2020 to the March 4, 2020 Meeting – 4 in Favor, 0 Opposed</p> <p>Petition for Development Standards variance in order to provide for the development of a commercial center which:</p> <ol style="list-style-type: none"> 1) Deviates from the required width of foundation plantings; and 2) Deviates from the required additional six (6) foot wide strip for landscaping around a parking area in the Rural Professional Business Zoning District, Rural General Business Zoning District and the Rural Michigan Road Overlay (PB, GB & MRO).

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



Petition Number: 2019-38-SE

Subject Site Address: 325 S 1100 East, Zionsville

Petitioner: Ramon and Julie VanSickle

Representative: Tim Ball

Request: Petition for Special Exception to allow for new residential building(s) in an Agricultural Zoning District (AG).

Current Zoning: Agricultural Zoning District (AG)

Current Land Use: Vacant Land

Approximate Acreage: 2.5 acres

Zoning History: Consolidated into the Town of Zionsville's jurisdiction in 2010.

2019-33-Z Approved rezone from Rural Airport (AZ) to Agricultural (AG) Zoning District

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial / Location Map
Exhibit 3 – Petitioner's Proposed Site Plan
Exhibit 4 – Petitioner's Survey
Exhibit 5 – Petitioner's Letter dated January 27, 2020
Exhibit 6- Rescinding of Remonstrance (Letter dated January 27, 2020)
Exhibit 7- Zoning Commitments
Exhibit 8 – Petitioner's Proposed Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM

PETITION HISTORY

This petition received an initial public hearing at the December 10, 2019 Board of Zoning Appeals meeting. At the meeting, Interested Parties presented concerns regarding potential negative impacts to the area, which, per Interested Parties, have the potential to occur as a result of the granting of the Special Exception. At the meeting, the petition was continued to the February 5, 2020 meeting of the Board of Zoning Appeals to allow the Petitioner additional time to meet with Interested Parties and design professionals regarding the petition. As of this writing, the Petitioner has been in communication with Interested Parties and a surveyor regarding the petition and intends to present a signed drainage easement between the petitioner and the adjoining neighbor to the north allowing the continued drainage unto the petitioner's property. Additionally, the Petitioner received a signed letter from the adjoiner to the north rescinding his remonstrance and offering his consent to the petition request (See Exhibit 6).

Further, the December 10, 2019 Board of Zoning Appeals meeting included significant dialog regarding the presence of the Indianapolis Executive Airport Authority and its proximity to the subject site. The Petitioner has submitted a letter to the filed dated January 27, 2020 for the Board of Zoning Appeals further consideration on the topics presented by the Hamilton County Airport Authority (See Exhibit 5).

PROPERTY HISTORY

The approximate two and a half (2.5) acres associated with this petition has historically been utilized for agricultural purposes. Additionally, it was part of a petition for the rezone of 5.22 acres from Rural Airport (AZ) to the Agricultural (AG) Zoning District (2019-33-Z). The petition was given a favorable recommendation to Town Council at the September 16, 2019, Plan Commission meeting followed by the rezone approval and adoption of ordinance #2019-21 from the Town Council on October 7, 2019 (subject to written commitments).

ANALYSIS

Based on the applicant's interest in constructing a single-family dwelling on acreage zoned AG, the applicant is required to request a Special Exception. The purpose of the AG agricultural district is to encourage agricultural operations while allowing for limited residential development. In the opinion of Staff, the Petition represents a limited presence of residential development in the AG district as the proposed improvements are contemplated to be located within the existing tillable acreage between two established single-family residences. Further, as proposed the parcel would enjoy approximately 300 feet of lot width and a depth of approximately 350 feet. Given the proposed lot configuration, the selected location for the contemplated single-family residence is not atypical for parcels with substantial depth.

RIGHT TO FARM / PROXIMITY TO AIRPORT

As stated in the Zoning Ordinance, the Applicant for a Special Exception acknowledges and/or agrees that agricultural uses are permitted in the surrounding area, no agricultural or agri-business operation in the area shall be or become a nuisance, and to not object to the continuation of any such agricultural or agri-business operation in the surrounding area as long

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as such operation does not constitute a nuisance. This acknowledgement will be required to be reduced to writing as a part of the Petition process.

And, while the north-south runway (in its current configuration) of the Indianapolis Executive Airport is within approximately 0.3 mile of the subject site, the Zoning Ordinance does not require any special notice or restrictions associated with the proposed dwelling's proximity to the facility. It is mentioned here in this report only as a courtesy to the Petitioner. Further, Indiana Code stipulates regulatory standards, in specific cases, related to noise sensitive construction and height limitations (by example) per Sections 8-21-10-2 and 8-21-10-3. For additional information on this topic, the Petitioner should contact the Indiana Department of Transportation, Airport Section.

PROCEDURAL – CONSIDERATION OF A SPECIAL EXCEPTION PETITION SEEKING APPROVAL FOR THE LOCATION OF A DWELLING IN THE AGRICULTURAL DISTRICT

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

- (a) The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;*
- (b) The proposed use will not injure or adversely affect the adjacent area or property values therein; and*
- (c) the proposed use will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

STAFF RECOMMENDATION

Staff recommends approval of the Special Exception Petition included in Docket #2019-38-SE, subject to execution of the Right-to-Farm acknowledgement (as required by Ordinance).

RECOMMENDATION MOTION

I move that Docket #2019-38-SE T. Ball Special Exception Petition in the Agricultural District for the property located at 325 S 1100 East be (Approved as presented / Approved based upon the staff report and the proposed findings / Denied / Continued).

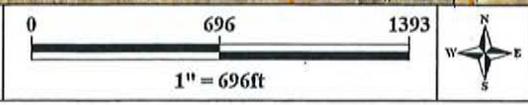
(If Approved, it shall be required that the Petitioner execute the Right-to-Farm acknowledgement documentation)



- Regional Counties
- Townships
- Zionsville Corporate
- Boone Co Corporate
- Parcels
- Boone Subdivisions
- Boone County Address

- Regional County
- Railroads
- Roads
- Highways
- Urban District R

Exhibit 2

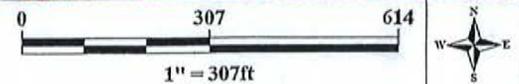


Area Search Results For #D036996, #6.259672	
BOONE	
Feature 6 of Regional Counties layer	
Feature Name	BOONE
UNION	
Feature 9 of Townships layer	
TAG	UNION
Zionsville Rural Service District	
Feature 0 of Zionsville Corporate Limits layer	
Feature Name	Zionsville Rural Service
Year	
Zionsville Rural Service District	
Feature 1 of Boone Co Corporate Limits layer	
Feature Name	Zionsville Rural Service
District 1	
Feature 4 of Town Council Districts layer	
District	District 1
72042	
Feature 623 of Flood Hazard BC 2013 layer	
FLD_AR_ID	72042
FLD_ZONE	X
FLOODWAY	
SFHA_TF	F
STATIC_BFE	-9999.00
V_DATUM	
DEPTH	-9999.00
LEN_UNIT	
VELOCITY	-9999.00
VEL_UNIT	
BFE_REVERT	-9999.00
DEP_REVERT	-9999.00
SOURCE_CIT	FIRM1
AR_REVERT	
<i>(AZ) AG NOU</i>	
Feature 1 of Zoning layer	
Feature Name	AZ
Special	No
Notes	
VANSICKLE RAMON L & JULIA A	
Feature 26846 of Parcels layer	
tag	UN1955
newpin	0
oldpin	0100754003
stpin	06-08-01-000-009.001-016
tract	22
site	325 S 1100 E
acreage	5.2199997902
name	VANSICKLE RAMON L
add1	11025 E SR 32
add2	
add3	ZIONSVILLE, IN 46077
leg1	PT NW 1-18-2E 5.22A
leg2	
leg3	
tm1	
tm2	
tm3	
tm4	
nvalue	139700.0000000000
pvalue	0.0000000000
subdiv	



Zionsville Corporate Li
Feature Name:
Zionsville Rural Serv
Parcels
Urban District R
Roads
Highways
PH02CADEpor

Exhibit 3



CERTIFICATE OF SURVEY

I, the undersigned, hereby certify that this survey and the associated surveyor's report were executed under my supervision and to the best of my knowledge, information, and belief were performed in accordance with the current Indiana Minimum Survey Standards, 865 IAC 1-12, for the type of survey as indicated herein, on the following described real estate:

CUT OFF TRACT LAND DESCRIPTION: (PART OF INSTR. # 9600944)

A part of the Northwest Quarter of Section 1, Township 18 North, Range 2 East, Eagle Township, Boone County, Indiana being that 2.53 acre parcel surveyed by Jonathan E. Hause, P.S. 20600040 and shown on a plat of survey certified on January 28, 2020 as Hause Surveying and Engineering Job Number 195819 (all monuments herein referenced are as set or found on the aforesaid Hause Survey), being more particularly described as follows:

Commencing at an INDOT "B" Monument found marking the Northwest corner of the Northwest Quarter of said Section 1; thence South 00 degrees 40 minutes 52 seconds East 1149.72 feet along the West line of the Northwest Quarter of said Section 1 to the Southwest described corner of the Quadrant Parcel recorded in Instrument Number 049139, in the Office of the Recorder of Boone County, Indiana, and a found magnetic nail, said point being the Point of Beginning of this description; thence North 88 degrees 28 minutes 08 seconds East 333.80 feet along the Southern described line of said Quadrant Parcel to the Southeast corner thereof; thence South 00 degrees 40 minutes 52 seconds East 329.88 feet along the Southern extension of the Eastern described line of said Quadrant Parcel to a capped rebar; thence South 88 degrees 28 minutes 20 seconds West 333.80 feet to the West line of the Northwest Quarter of said Section 1, said point being witnessed by a capped rebar bearing North 88 degrees 28 minutes 20 seconds East 25.00 feet; thence North 00 degrees 40 minutes 52 seconds West 329.86 feet along the West line of the Northwest Quarter of said Section 1 to the Point of Beginning.

Containing 2.53 acres, more or less, and being subject to all Legal Highways, Rights-of-way and Easements of Record.

I further certify that points were found or set at the locations on the subject real estate, as shown, and that this survey correctly shows the location of all visible easements of which the undersigned has been advised, and all visible encroachments, if any, across the established survey lines.

CERTIFIED January 28, 2020

Jonathan E. Hause, P.L.S.
Professional Land Surveyor
Indiana No. LS20600040



Exhibit 4

SURVEYOR'S REPORT

In accordance with Title 865, Article 1, Rule 12, of the Indiana Administrative Code (Formerly Title 864, Article 1.1, Chapter 13), establishing minimum standards for the practice of land surveying in Indiana, currently in effect, the following observations and opinions are submitted regarding the various uncertainties in the location of the lines and corners established on this survey as a result of:

- a) Variances in the reference monuments;
- b) Discrepancies in record descriptions and plats;
- c) Inconsistencies in lines of occupation;
- d) Random Errors in Measurement (Relative Positional Accuracy):

The purpose of this survey was to create and monument a tract out of the Van Sickle Parcel described in Instrument Number 9600944 recorded in the Office of the Recorder of Boone County, Indiana, per instructions from the client.

The survey was controlled by the following monuments:

- 1.) An INDOT "C" Monument was found marking the Northwest corner of the Northwest Quarter of Section 1, T18N, R2E. This monument was set by the Indiana Department of Transportation in the location of their opinion of the position of the Original Corner. Uncertainty in this monument - 0.50 feet.
- 2.) A Harrison Monument was found marking the Southwest corner of the Northwest Quarter of Section 1, T18N, R2E. This monument was set by the Boone County Surveyor's Office in the location of their opinion of the position of the Original Corner. Uncertainty in this monument - 0.50 feet.
- 3.) The monuments called for as found or set on a Survey by Mr. Cary Dodge, P.L.S. S-0288, dated August 4, 1994, Anderson and Associates Job # 940715. Uncertainty in these monuments - 0.50 feet.
- 4.) The monuments called for as found or set on a Survey I performed dated June 4, 2013, Hause Surveying and Engineering Job Number 135145. Uncertainty in these monuments - none.

The basis of bearings for this survey is based upon GPS Observations made on May 8, 2013 (prior Survey), with the West line of the Northwest Quarter of said Section 1, bearing South 00 degrees 40 minutes 52 seconds East.

There are no discrepancies in record descriptions and plats.

Inconsistencies in lines of occupation are as follows:

- 1.) A fence was found to extend up to 0.50 feet South of the North line of the Subject Tract.

As a result of the above observations, it is my opinion that the uncertainties in locations of the lines and corners established on this survey are as follows:

- a) Variance in reference monuments: As Noted Above
- b) Discrepancies in record descriptions and plats: Negligible
- c) Inconsistencies in lines of occupation: As Noted Above
- d) Relative Positional Accuracy (RPA) of the corners of the subject tract established by this survey is within the specifications of a suburban survey (+/- 0.13 feet plus 100 parts per million) as defined in I.A.C. 865.

105 N. MERIDIAN ST.
LEBANON, IN 46052
PHONE: (765) 482-5141
INFO@HAUSESURVEYINGENGINEERING.COM
A SERVICE DISABLED VETERAN OWNED SMALL BUSINESS

DRAWN BY:	JEN
CHECKED BY:	WJ
DATE:	01/28/2020
SCALE:	1" = 50'
NO.	
DATE	
REVISIONS	

ORIGINAL SURVEY
TIM BALL - RAMON VAN SICKLE
PT. NW 1/4, SEC. 1, T18N, R2E,
EAGLE TOWNSHIP, BOONE CO., IN
SHEET NO. 2
OF 2 SHEETS
PROJECT NO. 195819

MELISSA RHODES GARRARD
ATTORNEY AT LAW, P.C.

January 27, 2020

Via E-mail

Chrissy Koenig
Planner I - Petitions
Department of Planning & Economic Development
Town of Zionsville
1100 West Oak Street
Zionsville, Indiana 46077



Re: Petition 2019-38-SE Pending Before the Board of Zoning Appeals for the Town of Zionsville (the "Petition")

Dear Chrissy:

At the December 10, 2019, Board of Zoning Appeals hearing on the above-referenced Petition, I referenced a newly constructed house which is located at 1331 South 1100 East. The residence on that property has been constructed in the last two years. This residence is located in the airport's statutorily defined "noise sensitive" area (the Van Sickle/Ball parcel which is the subject of the current Petition is NOT in the statutorily defined noise sensitive area). The residence at 1331 South 1100 East is also located in the AG-Agricultural District and required a Special Exception to build a house on that lot. It is Petitioner's position that it is arbitrary and capricious to treat the instant Petition differently from that similarly situated petition (Petition No. 2017-45-DSV) considered just two years ago.

Further to the arguments I presented at the December 10, 2019, Board of Zoning Appeals meeting, I am submitting the file for Petition No. 2017-45-DSV for the Board's further consideration. Please submit this letter as well as the attached file for Petition No. 2017-45-DSV to the members with your staff packet.

You will note that Petition No. 2017-45-DSV required not only a Special Exception, but also a Variance. The instant Petition requires only a Special Exception (no Variance is requested). The Airport Authority also submitted a letter of remonstrance in opposition to Petition No. 2017-45-DSV. That letter notes that since the house that was the subject of Petition 2017-45-DSV was in the statutorily defined noise sensitive area, the construction of that house would require a permit from INDOT (which that petitioner apparently received since the house has already been constructed). Further, the Hamilton County Airport Authority makes a point of noting that "[t]he Airport Authority has done nothing to change the restrictions imposed upon surrounding landowners," and "this letter does not change any potential use of land near the Airport, but is provided to you to help you understand existing State law." However, unlike the case in Petition No. 2017-45-DSV, "chang[ing] the restrictions imposed upon surrounding landowners" and "chang[ing] the potential use of land near the Airport" is PRECISELY what the Hamilton County Aviation Authority has sought to achieve by way of its remonstrance to the instant Petition (since the notification of state permitting procedures is NOT an issue in this case).

The Hamilton County Aviation Authority's letter was referenced in Mr. DeLong in giving his Staff Report on Petition No. 2017-45-DSV. However, the Board of Zoning Appeals was apparently not significantly concerned by it as there was no substantive discussion other than the acknowledgment of its receipt. The request for Special Exception in Petition No. 2017-45-DSV was approved unanimously by the Board of Zoning Appeals on December 12, 2017. Mr. Jones actually seconded the motion for the approval of that Special Exception.

Thank you for your consideration.

Regards,

Melissa R. Garrard

POST OFFICE BOX 478 • LEBANON, INDIANA 46052
TELEPHONE 765.482.4000 • E-MAIL mgarrard@tds.net

Exhibit 5



2017-44-SE R. Campins



HAMILTON COUNTY AIRPORT AUTHORITY

December 12, 2017

Dear Mr. Campins, Mr. Rieder, and Ms. Rieder:

As the owner of the Indianapolis Executive Airport, the Hamilton County Airport Authority is providing notice of two State laws which restrict the use of privately owned land near the airport. Both statutes require a permit issued by the Indiana Department of Transportation ("INDOT"). These statutes have been in place for over thirty years and have been binding on surrounding landowners. The Airport Authority has done nothing to change the restrictions imposed upon surrounding landowners. These laws are State laws and apply to land around any public use airport in the State. Therefore, this letter does not change any potential use of land near the Airport, but is provided to you to help understand the existing State law.

The two statutes are found in Indiana Code 8-21-10-2 and 8-21-10-3. The types of restrictions which require a permit are generally described as follows:

Indiana Code 8-21-10-3(a). This statute requires a permit for the construction of a building or structure within twenty thousand (20,000) feet of any part of the airport runway. This restriction extends one hundred (100) feet from the runway for each one (1) foot of elevation of the structure. No building or structure can be erected in this Area without a permit issued by the aviation section of the Indiana Department of Transportation.

The other restriction which requires a permit from INDOT is for the construction of a building to be used for a noise sensitive purpose.

"Noise sensitive purpose" is defined in Indiana Code 8-21-10-2 as "the use of a building or structure as a residence, school, church, child care facility, medical facility, retirement home, or nursing home."

The area of the restriction of a noise sensitive purpose is an area 3,000 feet wide, or one thousand five hundred (1,500) feet on either side, of the extension of the centerline of the airport runway. This restriction extends six thousand seventy-two (6,072) feet, or 1.15 miles from the boundary of the airport.

Exhibit 5

RECEIVED
JAN 27 2020
TOWN OF ZIONSVILLE

RECEIVED
DEC 12 2017
TOWN OF ZIONSVILLE

See Indiana Code 8-21-10-3(c). This permit must be issued before construction begins and recorded in the Boone County Recorder's Office.

The Airport's most recent Airport Layout Plan ("ALP"), which should assist you in determining how the restrictions imposed by the above State laws may affect the future use of your land, is included within the Airport Layout Plan chapter of the Airport's most recent Master Plan at the Hamilton County Auditor's Office.

This information is provided to surrounding landowners so they are on notice of the types of restrictions which State law places upon land near an airport. If you have further questions, feel free to contact our Airport Director, Mr. Brad Cozza, at the Indianapolis Executive Airport located at 11329 East State Road 32, Zionsville, IN 46077, or by telephone at (317) 385-3015.

Very truly yours,



William H. Frye, President
Hamilton County Airport Authority

RECEIVED
JAN 27 2020
TOWN OF ZIONSVILLE

Petition No.: 2017-45-DSV
R. CAMPINS

**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

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 increased lot width to depth ratio will not be a problem as this new high value home will sit farther back from the road and not impact visibility for motorists and pedestrians. It will still have great street frontage visibility and will in fact benefit surrounding neighbors with the design and increased value.

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:

The increased lot width to depth ration will not affect adjacent properties. It will only increase the property values and the high value custom home will have a positive affect for the surrounding neighbors with its country design.

3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:

Within the context of this site, and a large parcel to be come from an even larger family tract, the strict application of the terms of the zoning ordinance with respect to the increased lot width to depth ration represents an unnecessary hardship. There would be no other way for our daughter and her family to build on the acreage behind ours.

DECISION

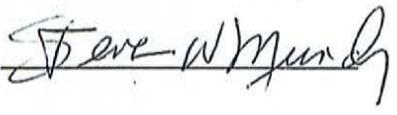
It is therefore the decision of this body that this VARIANCE petition is APPROVED/DENIED.

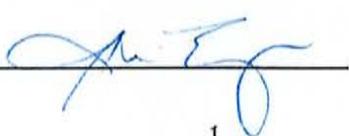
Adopted this 12 day of December, 2017











⑤
25.00
RAMIRO CAMPINS



2018002338 MISC \$25.00
03/21/2018 11:12:06A 5 PGS
Nicole K. (Nikki) Baldwin
Boone County Recorder IN
Recorded as Presented



**ZIONSVILLE BOARD OF ZONING APPEALS
PETITION #2017-45-DSV**

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL
ESTATE VOLUNTARILY MADE IN CONNECTION WITH DEVELOPMENT
STANDARDS VARIANCE APPROVALS**

In accordance with IND. CODE § 36-7-4-918.5, RAMIRO CAMPINS (hereinafter referenced as "Owner") represents and warrants that Owner is the owner of certain real estate located in the Town of Zionsville, Boone County, Indiana, which real estate is described in Exhibit "A" attached hereto (the "Real Estate") and is commonly known as 1331 S 1100 East, Zionsville, Indiana. Owner further represents and warrants that Owner has the authority to, and does hereby voluntarily make, the following **COMMITMENTS** concerning the use and development of the Real Estate, including any portion thereof.

STATEMENT OF COMMITMENTS

Owner voluntarily agrees and commits that the approval by the Zionsville Board of Zoning Appeals of a petition docketed as Docket No. 2017-45-DSV, requesting approval of a development standards variance in order to provide for a new single family home on a lot which 1) Deviates from the required 3:1 lot width to depth ratio in an Agricultural Zoning District (AG), is conditioned on the following:

1. The Owner commits there will be no further division of the subject site, unless accomplished in accordance with the Town's Major Subdivision standards found in the Subdivision Control Ordinance.

The **COMMITMENTS** contained herein shall be effective as of December 12, 2017, when the Zionsville Board of Zoning Appeals approved the petition docketed as Docket No. 2017-45-DSV and shall continue in effect until modified or terminated in conformance with the requirements herein and/or applicable statutory standards.

These **COMMITMENTS** shall be promptly executed and recorded by Owner in the Office of the Boone County Recorder, Boone County, Indiana, within ninety (90) days after the Board of Zoning Appeals approved the petition for a Development Standards Variance in Docket No. 2017-45-DSV and shall, as of December 12, 2017, be considered a covenant running with the land described herein as the Real Estate, including any portion thereof.

These **COMMITMENTS** shall be binding on Owner, subsequent owners of the Real Estate or any portion thereof, and on any and all other persons or entities acquiring an interest in any portion of the Real Estate (hereinafter collectively "Owners"). Owner shall have an affirmative duty to inform any



third parties with whom Owner negotiates for a possible sale, lease, assignment, mortgage, or transfer of the Real Estate, or any portion thereof, of the existence of these **COMMITMENTS** recognizing the right to industrial use and occupancy. In the event any sale, lease, assignment, mortgage, or transfer occurs, Owner shall ensure that a copy of these **COMMITMENTS** is incorporated into any such written agreement with the third party. If Owner fails to comply with the terms of this paragraph and the third party fails to perform and/or comply with these **COMMITMENTS**, the Town of Zionsville shall be entitled to recover from Owner and from each such third party, jointly and/or severally, any and all damages which arise from this failure and shall also be entitled to injunctive relief to terminate any non-compliance herewith.

These **COMMITMENTS** may be modified or terminated by a decision of the Zionsville Board of Zoning Appeals made after a public hearing for which proper notice is given, including hearings for other land uses or zoning approvals involving the Real Estate or any portion thereof.

These **COMMITMENTS** may be enforced, jointly and/or severally, by the Town of Zionsville Board of Zoning Appeals, the Director of Planning for the Town of Zionsville (or a position created for the Town of Zionsville which is analogous thereto), the Town (including any successor city or municipality), and/or owners of any parcel of ground adjoining or adjacent to the Real Estate. Owner and all Owners shall be obligated hereunder to indemnify the Town of Zionsville Board of Zoning Appeals and the Town (including a successor city or municipality), and to hold said entities and their respective authorized representatives, including the Director of Planning for the Town, harmless from any liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from the failure to perform Owner's and/or Owners' obligations under the terms and conditions of these **COMMITMENTS**. Throughout these **COMMITMENTS** any reference to "Town" or "Town of Zionsville" shall also include any successor city, municipality, or other governmental body having land use, planning, and/or zoning jurisdiction over the Real Estate.

In the event it becomes necessary to enforce these **COMMITMENTS** in a court of competent jurisdiction, and Owner and/or any subsequent Owners of the Real Estate are found to be in violation of these **COMMITMENTS**, all such violators shall pay all reasonable costs and expenses the Town and the Town's Board of Zoning Appeals and other authorized representative(s) incur in the enforcement of these **COMMITMENTS**, including reasonable attorney fees, expert witness fees, and court costs.

Owner and all subsequent Owners of all or a portion of the Real Estate shall be obligated hereunder, jointly and/or severally, to indemnify the Town of Zionsville Board of Zoning Appeals and/or the Town and hold said entities and their respective authorized representatives, including the Director of Planning for the Town, harmless from any and all liability, expense (including reasonable attorney fees and court costs), costs, or damages which result from the failure to perform Owner's and/or owners obligations hereunder and/or to comply with the terms and conditions of these **COMMITMENTS**.

Any controversy arising under or in relation to these **COMMITMENTS** shall be litigated



exclusively in the applicable state courts of Indiana without regard to conflicts of law principles. Owner irrevocably consents, for himself and all subsequent Owners, to service, jurisdiction, and venue in such state courts for any and all such litigation and hereby waives any other venue to which Owner or subsequent Owners might be entitled by virtue of domicile, habitual residence, or otherwise.

Owner shall be responsible, at Owner's expense, for recording these **COMMITMENTS** in the Office of the Recorder of Boone County, Indiana, within sixty (60) days after final approval of the Zionsville Board of Zoning Appeals of Docket Number 2017-45-DSV, and shall promptly provide the Planning Department of the Town of Zionsville with a copy of such recording as a condition precedent for the Development Standards Variance approved in said docket to be applicable to the Real Estate and issuance of any Improvement Location Permit, Building Permit, and/or Certificate of Occupancy for the Real Estate. The **COMMITMENTS** shall be considered a covenant running with the Real Estate, including any portion thereof.

The undersigned, by executing these **COMMITMENTS**, represents and warrants that at the time of executing this document, Ramiro Campins is the sole owner of the Real Estate, that execution of these **COMMITMENTS** is being voluntarily undertaken and requires no authorization of a third party, and that these **COMMITMENTS** shall be binding upon the undersigned as to all the particulars herein and shall be considered a **COVENANT** running with the land described herein as the Real Estate, including any portion thereof. By affirming his signature below to these **COMMITMENTS**, the undersigned further represents and warrants that he has full capacity and authority to execute these **COMMITMENTS**.



Exhibit A

PARCEL 1

Part of the Southwest Quarter of the Northwest Quarter of Section 12, Township 18 North, Range 2 East of the Second Principal Meridian, situated in Union Township, Boone County, Indiana, being more particularly described as follows:

Commencing at a Harrison Monument at the Southwest corner of the Southwest Quarter of the Northwest Quarter of said Section 12; thence North 00 degrees 00 minutes 00 seconds East (assumed basis of bearings) along the West line of said Quarter Quarter 741.00 feet to a Mag Nail with washer marked "Firm #0066" and the *POINT OF BEGINNING* of this description; thence continuing North 00 degrees 00 minutes 00 seconds East along the West line of said Quarter Quarter Section 50.00 feet to a Mag Nail with washer marked "Firm #0066"; thence North 90 degrees 00 minutes 00 seconds East 372.31 feet to a 5/8 inch diameter rebar with red cap marked "Firm #0066" (hereinafter referred to as rebar); thence North 00 degrees 00 minutes 00 seconds East parallel with the West line of said Quarter Quarter 234.00 feet to a rebar; thence North 90 degrees 00 minutes 00 seconds East 522.51 feet to a rebar; thence South 00 degrees 00 minutes 00 seconds West parallel with the West line of said Quarter Quarter 284.00 feet to a rebar; thence South 90 degrees 00 minutes 00 seconds West 894.82 feet to the Point of Beginning, containing 3.834 acres, more or less.

Subject to the right of way of County Road 1100 East.

Zionsville Board of Zoning Appeals
December 12, 2017



Morical Thank you.

Drake I recommend, if that's your motion, that that also be subject to counsel drafting appropriate findings of fact for your consideration.

Wolff I'm amenable to that.

Morical Great. Thank you. Is there a second?

Jones Second.

Morical All those in favor, please say aye.

All Aye.

Morical Any opposed? Motion passes. Thank you very much. Thank you, Mr. Collier. Okay, the next item on our agenda is new business. **Docket #2017-44-SE, R. Campins.** Please approach the podium, and state your name and address for the record.

Rieder My name is Ashley Rieder, and my husband Chad Rieder, and we currently live at 16046 Bounds Court in Noblesville. We're representing my father, Ramiro Campins.

Morical Okay, great. So, you're interested in building, this is kind of a family setup.

Rieder So, the story is, my uncle originally purchased 30 acres of land. After he passed away, my aunt sold off 7 of those acres. So, my family still has 23 acres. We are asking to build a home out there that currently my parents reside on, and my brother now resides in my grandparents' house on the property. In the next two Dockets, we have the special exception of new residential building in an Agricultural Zoning District, and then also deviating from the required 3 to 1 lot width to depth ratio.

Morical Okay. Thank you. And, have you read the staff report?

Rieder Yes.

Morical And, in the staff report on your design standards variance, the **staff recommended that a condition that there wouldn't be any further subdivision, or division of the site unless accomplished in accordance with the Town's major subdivision standards.**

Rieder Yes.

Morical Are you amenable to that?

Rieder Yes.

Morical Okay. Thank you. Any further questions for the petitioner?

Zionsville Board of Zoning Appeals
December 12, 2017



- Evinger Have they been informed or have they received a copy of the Hamilton County Airport Authority letter?
- Rieder Yes, we received that today.
- Evinger Okay.
- Morical Good. Thank you for mentioning that. Any further questions for the petitioner? Hearing none, are there any remonstrators here tonight? Seeing none, Wayne, may we have the staff report, please?
- DeLong Thank you. Covering the variance and then the special exception petitions that are in front of you, if you're looking to combine these Dockets, we really need to talk about the variance petition first. This would help the situation to establish the lot in question. Currently, the parcel that's in front of you is comprised of the two tracts, and totaling 13.226 acres, and in that configuration, one parcel has 0 feet of frontage. The other parcel has 100 feet of frontage. And, this request, per the variance, the road frontage would be split in half. So, each parcel would enjoy 50 feet of road frontage, therefore reducing the non-conformity that exists today where you have one parcel with 0 feet of frontage. Staff sees that as a very large benefit to the homeowner as well as the community to have a dedicated road frontage for each parcel that's out there, eventually potentially hosting a new dwelling. And, so the special exception that's in front of you this evening is dealing with the consumption of agricultural land, and the staff's charge and the ordinance charge in addressing that request and the site of the home is the northern portion of the property. The smaller tract that you see on Exhibit 5, and that site of the home allows the acreage to still be utilized for agricultural purposes, pushes the home, if you will, up closer to the tree line, which naturally would not be farmed as it's a stand of trees currently. In conclusion, staff is supportive of the variance request, and certainly appreciated the acknowledgement of the staff condition and also the letter that came in from the airport authority. Certainly, the staff report speaks to the proximity of this property to the airport. Airports are always looking to protect their own perimeter fence, and in this particular case, we have an airport that is 35,000 plane movements a year, on average, and is one of the busiest in the state. Certainly would only anticipate that changing and intensifying over the years to come. Again, staff is supportive of the variance petition as filed, except for the condition as noted, and supportive of the special exception. I'd be happy to answer any questions.
- Morical Thank you, Wayne. Any questions for staff? Hearing none, I would entertain a motion. And, we've got two items in front of us. We can deal with each one separately.
- Wolff What was the, I'm sorry. I'm looking for the record here. On the staff report, what was the condition that we discussed? Right to farm, but there was something else mentioned.
- Morical It is right above the right to farm paragraph in the design standards variance report.

Zionsville Board of Zoning Appeals
December 12, 2017



- Wolff It was the further subdivision. Perfect. Okay, I'd like to make a motion on #2017-44-SE. Can we start with that one? Okay, perfect. I move that Docket #2017-44-SE, special exception petition, in the Agricultural District for the property located at 1331 South 1100 East be, approved based on the staff report and the proposed findings as presented.
- Morical Thank you. Is there a second?
- Jones Second.
- Morical We may want to also include the note about the requirement, and the petitioner, you guys are good with executing the right to farm acknowledgement? Yes? Okay, thank you. So, would you be amenable to--
- Wolff --I'm amenable to that.
- Morical Okay. Can we have a second?
- Jones Second.
- Morical All those in favor please say aye.
- All Aye.
- Morical Any opposed? Motion carries. Okay, now on to the next item.
- Wolff I would make a motion that Docket #2017-45-DSV, design standards variance petition in order to provide for a new single-family home at 1331 South 1100 East, on a lot which deviates from the required 3 to 1 lot width to depth ratio in the Agricultural Zoning District be approved based on the findings and based on the staff report as presented, with the condition that the petitioner agrees to no further subdivide that lot.
- Morical Would you be amenable to amending that to say "no further subdivision of the site unless accomplished in accordance with the Town's major subdivision standards"?
- Wolff I'm amenable.
- Morical Thank you. Is there a second?
- Mundy Second.
- Morical All those in favor, please say aye.
- All Aye.
- Morical Motion carries. Okay. Thank you. The next item on the agenda is Docket #2017-46-DSV, S. Singer. Please approach the podium, and state your name and address for the record.

MELISSA RHODES GARRARD
ATTORNEY AT LAW, P.C.

January 27, 2020

Via E-mail

Chrissy Koenig
Planner I - Petitions
Department of Planning & Economic Development
Town of Zionsville
1100 West Oak Street
Zionsville, Indiana 46077



Re: Petition 2019-38-SE Pending Before the Board of Zoning Appeals for the Town of Zionsville (the "Petition")

Dear Chrissy:

You will recall that I appeared at the December 10, 2019, Board of Zoning Appeals hearing on the above-referenced Petition.

This letter will confirm that I have reached a mutually satisfactory agreement with the Petitioner (Mr. Ball) with respect to the drainage matters I referenced. Therefore, I hereby consent to the relief sought by the Petition and withdraw my previous remonstrance..

Thank you for your consideration.

Regards,

Matthew Quanrud

WRITTEN COMMITMENTS CONCERNING THE USE OF REAL ESTATE

WHEREAS, pursuant to Ind. Code § 36-7-4-608, et seq., Ramon L. Van Sickle and Julia A. Van Sickle (collectively, "Owner") have applied for a zone map change affecting that certain real property located in the Union Township, Boone County, Indiana, more particularly described on Exhibit A attached hereto and incorporated by reference herein (the "Real Estate"); and

WHEREAS, Owner desires to make certain commitments in connection with such application;

NOW THEREFORE, in accordance with Ind. Code § 36-7-4-1015(a)(1), the Owner of the Real Estate, hereby makes the following commitments ("Commitments") concerning the Real Estate:

1. All prospective and current Owners of the Real Estate (or any part thereof) are hereby put on notice that the Board of Commissioners of Boone County have established an AZ-Airport Zone Classification and that the Indianapolis Executive Airport has been zoned to that classification, as set out in Ordinance Number 2004-11 adopted August 23, 2004. The AZ-Airport Zone designation allows The Hamilton County Board of Aviation Commissioners, or another operating airport authority, to conduct airport-related activities, including the building and maintenance of hangars, and the taking off and landing of planes, as permitted in the definition of the AZ-Airport Zone Classification, subject to any limitations or restricting commitments agreed to by the Hamilton County Airport Authority, the owners of Indianapolis Executive Airport. The airport is allowed, as a matter of right, to own, operate and conduct its business as defined in the AZ-Airport Zone Classification, and all prospective and current Owners of the Real Estate (or any part thereof) are urged to examine the AZ-Airport Zone Classification so to understand the extent of the airport's ability to operate now and in the future.
2. The Owner acknowledges for itself, its heirs, its successors, and its assigns that the Real Estate may experience significant levels of aircraft operations, and the Owner is erecting a building designed for a noise sensitive use upon the Real Estate, with the full knowledge and acceptance of the aircraft operations as well as any effects resulting from the aircraft operations.
3. Further, the Owner, and all successors in title to the Real Estate (or any part thereof) acknowledge their understanding of Ind. Code § 32-30-6-10 (or as it may be recodified) which limits the circumstances under which a public use airport operation may be a nuisance in order to reduce the potential for the state to lose the benefits to the state's air transportation system that are provided by public use airports. Specifically, a public use airport operation or any of the operation's appurtenances may not become a private or public nuisance by any changed condition in the vicinity of the locality that occurs after the public use airport operation operates continuously on the locality for more than one (1) year if the following conditions are met: (1) The public use airport operation was not a nuisance at the time when the operation began operating at that locality; (2) The public use airport operation is operated in accordance with the rules of the Indiana department of transportation, aeronautics section; and (3) There is no significant change in the hours of the operation of the public use airport operation.
4. These Commitments shall run with the land, be binding upon the Owner of the Real Estate and subsequent owners of the Real Estate. These Commitments may only be modified or terminated by a decision of the Zionsville Plan Commission.

IN WITNESS WHEREOF, the Owner has executed these Written Commitments
Concerning the of Real Estate this 10 day of OCTOBER, 2019.

Ramon L. Van Sickle

Ramon L. Van Sickle

Julia A. Van Sickle

Julia A. Van Sickle

STATE OF INDIANA)
)SS:
COUNTY OF BOONE)

Before me, a Notary Public in and for said County and State, personally appeared Ramon L. Van Sickle and Julia A. Van Sickle who acknowledged execution of the foregoing as their voluntary act and deed.

Witness my hand and Notarial Seal this 10 day of OCTOBER, 2019.

Christine I. Koenig

Notary Public

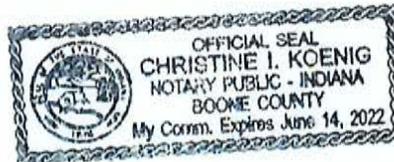
CHRISTINE I. KOENIG

My Commission Expires: 6-14-2022
My County of Residence: BOONE

I affirm, under the penalty of perjury, that I have taken reasonable care to redact each Social Security number in this document.

Melissa R. Garrard

This instrument prepared by MELISSA R. GARRARD, Attorney at Law, P.O. Box 478,
Lebanon, Indiana 46052



**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA**

PETITION FOR SPECIAL EXCEPTION

FINDINGS OF FACT

1. The proposed use (will / will not) be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;

The proposed special exception will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare.

2. The proposed use (will / will not) injure or adversely affect the adjacent area or property values therein; and

The proposed special exception will not injure or adversely affect the adjacent area or property values. We plan to follow the rules & development standards of the Town of Zionsville.

3. The proposed use (will / will not) will be consistent with the character of the District, land uses authorized therein and the Town of Zionsville Comprehensive Plan.

The proposed special exception will be consistent with the character of the District and should increase the value of the surrounding homes.

DECISION

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

Adopted this _____ day of _____, 20____.



Petition Number: 2019-40-DSV

Subject Site Address: 602 S 900 East

Petitioner: Gene & Lorna Judd

Representative: Gregg Linder

Request: Petition for Development Standards Variance in order to allow an addition to an existing accessory structure to:
1) Exceed the allowable accessory square footage in an Agricultural Zoning District (AG).

Current Zoning: Rural Agricultural Zoning District (AG)

Current Land Use: Residential

Approximate Acreage: 62.36 acres

Zoning History: This parcel was consolidated into the Town of Zionsville's jurisdiction in 2010. No prior petitions are known.

Exhibits: Exhibit 1- Staff Report
Exhibit 2 - Aerial Location Map
Exhibit 3 – Petitioners Narrative
Exhibit 4 – Petitioners Site Plan
Exhibit 5 – Petitioners Exhibit
Exhibit 6 - Petitioner's proposed Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM

PETITION HISTORY

This Petition will receive a public hearing at the February 5, 2020, Board of Zoning Appeals meeting.

PROPERTY HISTORY

This property is comprised of 62.36 acres and is presently improved with a single-family dwelling and accessory structures/uses. The acreage associated with this petition has historically been utilized for residential purposes under the Boone County Area Planning jurisdiction. In 2010 the area was consolidated into Zionsville's jurisdiction. As of the writing of this report, Staff is not aware of any prior approvals being considered and granted by the Boone County Area Plan Commission or Board of Zoning Appeals related to this property.

VARIANCE REQUEST – ACCESSORY SQUARE FOOTAGE EXCEEDING PRIMARY

The parcel is currently improved with a 9,747 square foot single family dwelling (the primary structure) as well as 7,726 square feet of roofed accessory structures. The parcel is currently utilized for residential purposes and accessory buildings and uses all as further described below (data source: Boone County Assessor and/ or Petitioner):

1. Existing dwelling living space: 9,747 square feet
2. Existing and proposed accessory uses total 15,406 square feet, inclusive of:
 - a) A 1,596 square foot older barn
 - b) A 2,400 square foot barn
 - c) A 288 covered barn porch
 - d) A 770 square foot covered barn porch
 - e) A 720 square foot covered barn porch
 - f) A 696 square foot attached garage
 - g) A 192 square foot covered primary porch
 - h) A 120 square foot covered primary porch
 - i) A 692 square foot covered primary patio
 - j) A 252 square foot covered primary deck
 - k) Proposed Barn addition (2 floors) 7200 square feet
 - l) Proposed Barn addition covered porch 480 square feet

The Petitioner is requesting a development standards variance to allow their total roofed accessory square footage (inclusive of detached outbuildings as well as the attached accessory garage, porches and covered deck areas) to exceed that of their existing primary square footage by approximately 5,659 square feet. As described in the petitioner's narrative, the proposed addition to the existing barn would be one-story and utilize a subterranean walkout basement, reducing the visual impact of the structure within the surrounding landscape. Additionally, the additions location sits 600'+ and 1,000'+ from either road frontage and is tucked into a wooded area on the petitioner's property out of site from adjoining parcels. A variance for height would not be required as the proposed outbuilding would be subordinate in height to the primary.

By Ordinance, properties in the Agricultural AG (Rural) District are permitted by right to be improved with Accessory Structures which exceed the 1) height, 2) area, 3) bulk extent, and 4) purpose to the Primary Structure IF the property is at least 20 acres in size AND is classified as a Farm. Although the

subject site is well above 20 acres in size, making it by definition a farm, the requested addition is not for farm purposes and therefore a variance must be sought for the roofed accessory square footage to exceed the primary. The Ordinance limits accessory uses in a manner which maintains the presence of accessory uses, as accessory (as to not dominate the use of the property and become Primary use of the property). Specific to the current improvements, securing a 1) variance to allow the roofed accessory square footage to exceed the primary square footage by approximately 5,659 square feet, is necessary. In this case, a variance of development standards is requested as per the scope of anticipated additions to be made to the existing accessory structure, the Petitioner is requesting this existing accessory structure be allowed to be added on to with approximately 7,200 square feet (2 floors) as well as a covered porch area of approximately 480 square feet, as well, be maintained).

As a part of the review process, Staff examines the established development pattern found in the immediate area to the subject site, in an attempt to identify similarly situated properties enjoying similar deviations. While the current Zoning Ordinance requires such restrictions, a review of the development pattern found in the immediate area finds several development configurations which are not supported by the current Zoning Ordinance (example: flag lots, percentages of accessory buildings, heights of accessory buildings, non-conforming uses, and lots with reduced road frontage). In this particular case and while requested improvement and resulting development pattern is atypical, the property (and its topography) is as well atypical. While there is a limited presence of residential parcels in the area, the parcel is largely surrounded by large open parcels (farms, a golf course to the North and East, and a wooded undeveloped parcel to the West). As the Petitioner is proposing a subterranean improvement located well away from adjoining parcels and road frontage, the overall resulting height of the accessory structure is subordinate to the proposed primary structure, and barring any concerns of the neighbors being made of record during the disposition of the Petitioner's request, Staff is supportive of the request. If the overall accessory uses were above grade, Staff would modify its support for the petition.

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards 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 strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property.*

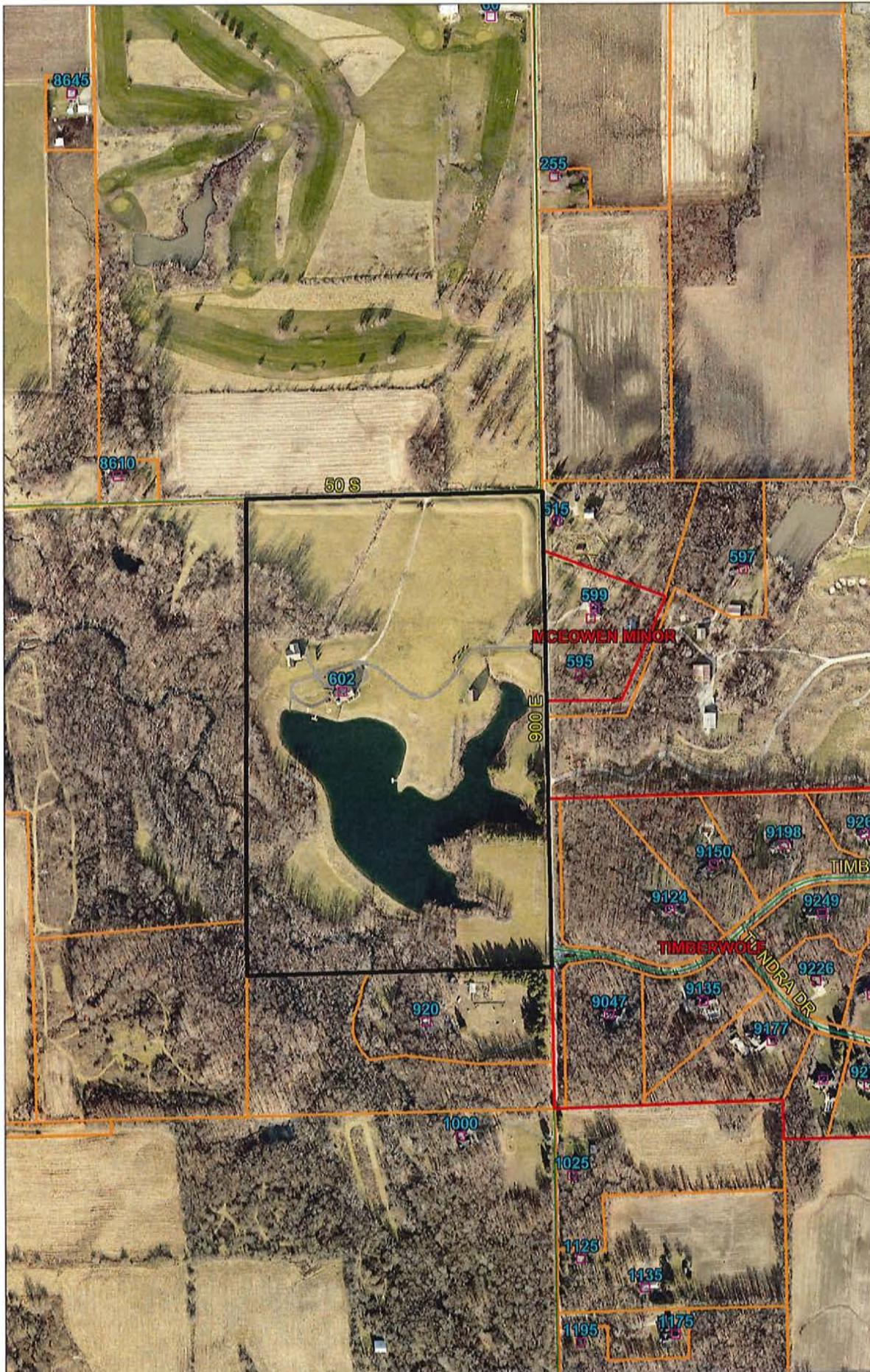
Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

STAFF RECOMMENDATIONS

Staff is supportive of the Development Standards Variance petition included in Docket # 2019-40-DSV, (based on the submitted conceptual site plan and renderings), as filed.

RECOMMENDATION MOTION

I move that Docket # 2019-40-DSV Development Standards Variance in order to allow an addition to an existing accessory structure to: 1) Exceed the allowable accessory square footage, in an Agricultural Zoning District (AG), for the property located at 602 S 900 East be (Approved as filed, based upon the findings of fact / Denied/ Continued) as presented.



- Regional Counties
- Townships
- Zionsville Corporate
- Boone Co Corporate
- Parcels
- Boone Subdivisions
- Boone County Address
- Regional Count
- Railroads
- Roads
- Highways
- Urban District R

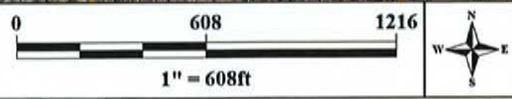


Exhibit 2

Gene and Lorna Judd
602 S. 900 E
Zionsville, IN 46077

RE: Public Hearing Notice - Outbuilding addition to existing structure

To Whom It May Concern:

This packet contains a few documents (Notice of Public Hearing and an overview of the proposed addition) regarding the subject property. The intent of providing this information is to assist in better understanding the request.

The variance of development standards is being requested to add an addition to an existing structure of a barn. The proposed addition requires a variance to the current standards from the city of Zionsville, this is why you are being notified of this request. The requested addition will be located on the back side of the current structure and will not be visible from the road. The set back of the existing structure is approximately a quarter of a mile off the county road and is located on 62 plus acres (see attached area view of the proposed addition). The proposed addition is a single level structure with a full below-grade basement. The design of the addition will match the existing structure and will have all the same design elements and features.

If you should have any questions or concerns please contact Gregg Linder at 317-606-0261 or gregg.linder@gmail.com, or you can contact me (Gene) at your convenience.

Much appreciation for your support

Regards,

Gene and Lorna Judd

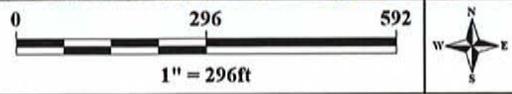


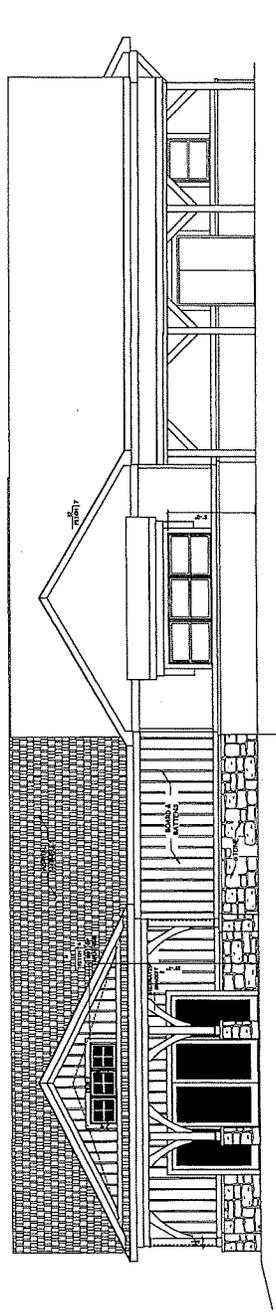
Exhibit 4



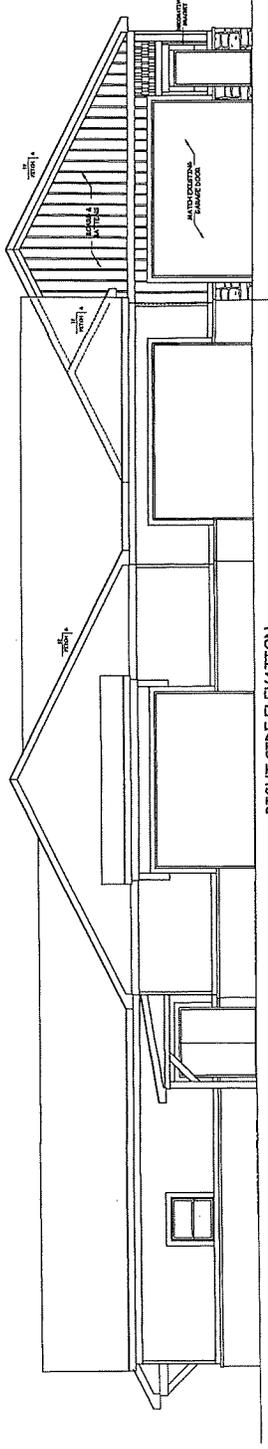
- Regional Counties
- Townships
- Zionsville Corporate
- Boone Co Corporate
- Parcels
- Boone Subdivisions
- Boone County Address
- Regional County
- Edge of Pavement
- Miscellaneous
- Railroads
- Roads
- Highways
- BC Legal Drains
- Urban District

Exhibit 4

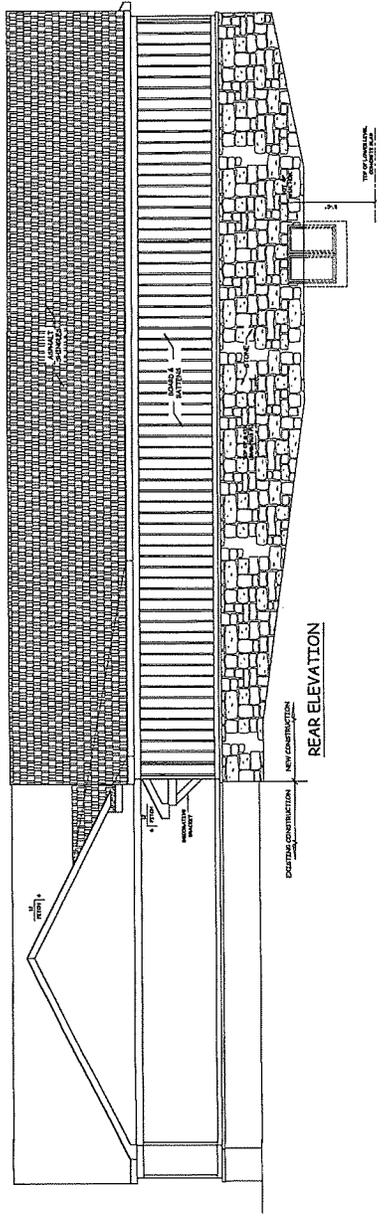




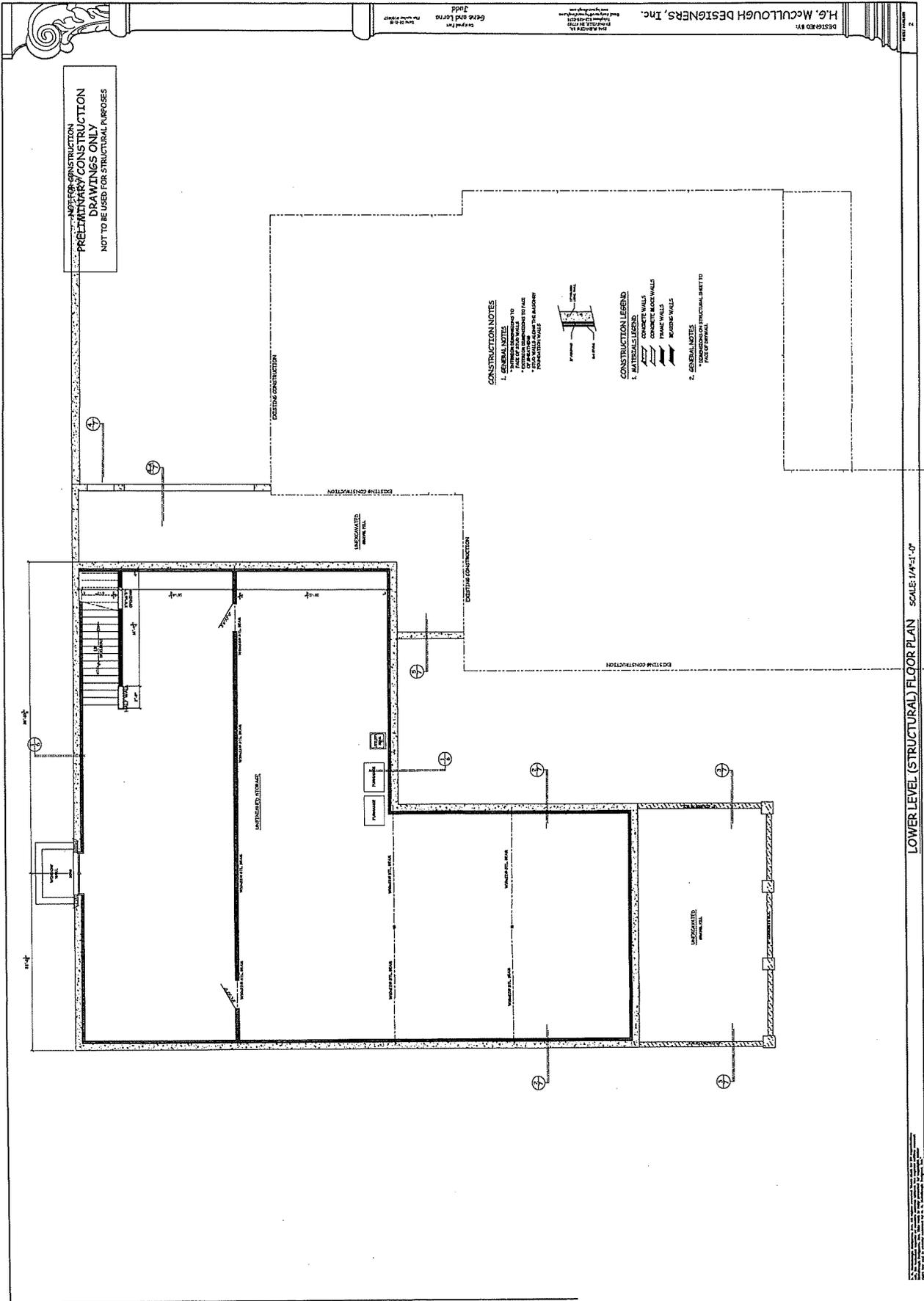
FRONT ELEVATION



RIGHT SIDE ELEVATION



REAR ELEVATION



NOT FOR CONSTRUCTION
 PRELIMINARY CONSTRUCTION
 DRAWINGS ONLY
 NOT TO BE USED FOR STRUCTURAL PURPOSES

CONSTRUCTION NOTES

1. GENERAL NOTES
 - REFER TO SPECIFICATIONS TO ARCHITECTURAL CONTRACTS TO FACE
 - REFER TO SPECIFICATIONS TO FACE



CONSTRUCTION LEGENDS

1. MATERIALS LEGENDS
 - CONCRETE WALLS
 - CONCRETE BLOCK WALLS
 - FRAME WALLS
 - BRICK WALLS
2. GENERAL NOTES
 - REFER TO SPECIFICATIONS TO FACE OF WALL

Exhibit 5

**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because:
 - o This request will not be injurious to the public health, safety, moral and general welfare of the community because the request is in a rural area, sets on 62 acres and the set back is approx. a quarter of a mile off the main county road. The proposed addition will not have any impact on any adjacent homeowners or the general community. In addition, this addition will provide additional tax base for the community.

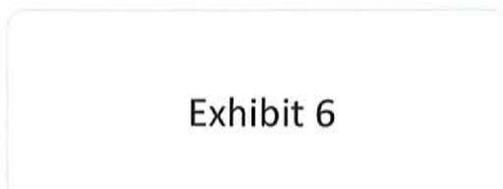
2. The use or value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because:
 - o The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the requested for the addition sets on a 62-acre plot of land and will not be visible from the county road. There is a large ravine on the west side of the proposed location that cannot be developed and has a tree line and small ravine on the north side of the proposed site for the addition.
 - o The current use of the property agricultural that currently approx. 40 of the 62 acres are being farmed. It also has a home/residence and a few outbuilding (barns) the proposed addition will add additional value to the property. The proposed addition will be of the same design and standards of the current structure.

3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:
 - o Strict application of the terms of the zoning ordinance will result in unnecessary hardships in the use of the property because the terms of the zoning will not change the use of the current property will be the same as the current use. However, if the variance is not approved it will result in limiting the ability to use the addition for serval hobbies that I started with my father when I was a child. In addition, it will limit the ability to store additional equipment, tools and vehicles that help maintain the property and related farming of approx. 40 acres.

DECISION

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

Adopted this _____ day of _____, 20____.





Petition Number: 2019-41-DSV

Subject Site Address: 1135 S 900 East

Petitioner: David & Anne Marie Buibish

Representative: David & Anne Marie Buibish

Request: Petition for Development Standards Variance in order to allow a lot split of 10 acres, into two 5+/- acre lots, in which:
1) the lots will not meet the Lot Width to Depth Ratio of 3:1
2) one lot will have an accessory structure(s) which exceed the height of the primary structure
in the Low-Density Single-Family Residential Zoning District (R1).

Current Zoning: Rural Low-Density Single-Family Residential Zoning District (R1)

Current Land Use: Residential

Approximate Acreage: 10 acres

Zoning History: This parcel was consolidated into the Town of Zionsville's jurisdiction in 2010. No prior petitions are known.

Exhibits: Exhibit 1- Staff Report
Exhibit 2 - Aerial Location Map
Exhibit 3 – Petitioners Narrative
Exhibit 4 – Petitioners Site Plan
Exhibit 5 – Petitioners Exhibit
Exhibit 6 - Petitioner's proposed Findings of Fact

Staff Presenter: Wayne DeLong, AICP, CPM

PETITION HISTORY

This Petition will receive a public hearing at the February 5, 2020, Board of Zoning Appeals meeting.

PROPERTY HISTORY

This property is comprised of ten (10) acres and is presently improved with two (2) single-family dwellings and accessory structures/uses. The acreage associated with this petition has historically been utilized for residential and farming purposes under the Boone County Area Planning jurisdiction. In 2010 the area was consolidated into Zionsville's jurisdiction. As of the writing of this report, Staff is not aware of any prior approvals being considered and granted by the Boone County Area Plan Commission or Board of Zoning Appeals related to this property.

ANALYSIS

The site is currently improved with both a 3,024 square foot single-family dwelling (occupied for single-family dwelling use) and a 1,456 square foot single-family dwelling. By Ordinance, the second, smaller single-family dwelling is considered a legal non-conforming use as only one primary use is permitted per building site. The parcel is currently utilized for residential purposes and accessory uses. As per the narrative within the petition application, the Petitioners have purchased the property with intentions of splitting the lot into two parcels and adding a pole barn to the southern lot which includes an existing 3,024 square foot single-family dwelling as well as an existing 400 square foot barn.

VARIANCE REQUEST – 3:1 LOT WIDTH TO DEPTH RATIO

As proposed, the first lot including an existing single-family dwelling and a detached accessory structure is contemplated to be approximately 5 acres with roughly 150 feet of frontage on a public street. The split will create a second lot including an existing single-family dwelling contemplated to be approximately 5 acres with roughly 120 feet of frontage on a public street. The need for the variance arises as the contemplated configurations of the parcels deviate from minimum standards found in the Zoning Ordinance related to lot depth to width ratio (requested ratio is in excess of 8:1 on both lots). While this is the case, the contemplated development pattern is not atypical for the immediate area (adjacent property to the south enjoys 63 feet of minimum lot width and a depth in excess of 560 feet, ratio in excess of 8:1). Additionally, the contemplated split follows an existing divided entry drive shared with a second single-family dwelling on the property. Further, the action of splitting the parcel will bring the residential improvements of the proposed second lot into conformity as the parcel is currently viewed as a legal non-conforming lot. With the above information in mind, Staff is supportive of the variance from the required lot width to depth ratio request as filed.

Barring any concerns of the neighbors being made of record during the disposition of the Petitioner's request, Staff would not oppose the request to approve a variance to allow a lot split of which will not meet the Lot Width to Depth Ratio of 3:1, as proposed.

VARIANCE REQUEST – ACCESSORY HEIGHT EXCEEDING PRIMARY

The Petitioners have intentions of adding a pole barn, not exceed 20'-0" in height, to the southern lot behind (and to the East of) their existing dwelling. By Ordinance, properties in the R-1 (Rural) District are permitted by right to be improved with accessory structures which exceed the 1) height, 2) area, 3) bulk

extent, and 4) purpose to the primary structure IF the property is at least 20 acres in size AND is classified as a Farm. As the subject site is not 20 acres in size, and the dwelling is a single-story structure (with walkout basement), a variance must be sought for the height of the accessory to exceed the primary.

While the exact size of the proposed accessory is unknown at this time, the Petitioners are aware of the Ordinance standards and acknowledge that a variance for accessory square footage to exceed the primary is not anticipated to be required in order to facilitate the construction of the contemplated pole barn.

While the current Zoning Ordinance requires such restrictions, a review of the development pattern found in the immediate area finds several development configurations which are not supported by the current Zoning Ordinance (example: flag lots, percentages of accessory buildings, heights of accessory buildings, non-conforming uses, and lots with reduced road frontage). While the development pattern is atypical, Staff is supportive of the request based 1) that the placement of the improvements, being east/behind the home, will be no less than 425 feet from the public way (which reduces the ability to discern the difference between the variation of heights of the two structures) and 2) that if the primary structure had two floors above grade, the variance would likely not be necessary.

Barring any concerns of the neighbors being made of record during the disposition of the Petitioner's request, Staff would not oppose the request to approve a variance to allow an accessory structure(s) which exceed the height of the primary structure, as proposed.

PROCEDURAL – VARIANCE TO DEVIATE FROM STANDARDS

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards 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 strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property:*

Proposed Findings of Fact are attached for the Board of Zoning Appeal's consideration.

STAFF RECOMMENDATIONS

Staff recommends approval of the design standards variance included in Docket #2019-41-DSV, as filed.

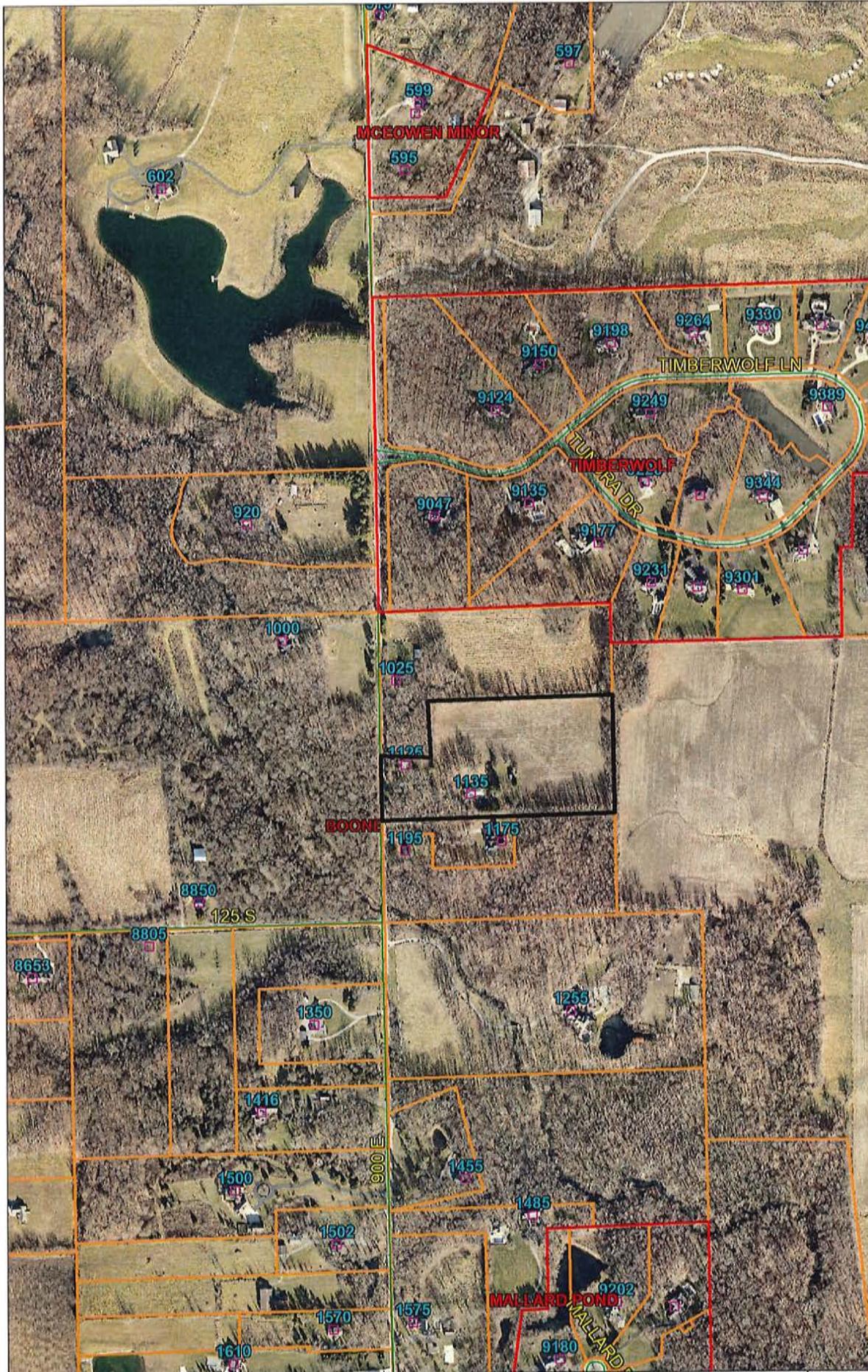
RECOMMENDATION MOTION

I move that Docket # 2019-41-DSV Development Standards Variance in order to allow a lot split of 10 acres, into two 5+/- acre lots, in which 1) the lots will not meet the Lot Width to Depth Ratio of 3:1 and 2) one lot will have an accessory structure(s) which exceed the height of the primary structure in the

Rural Low-Density Single-Family Residential Zoning District (R1), be (Approved, based on the finding and based upon staff report and presentation / Denied / Continued).

PROCEDURAL NOTE

Division of the parcel into two (2) tracts (lots), as currently contemplated, will not require action of the Plan Commission due to the contemplated division complying with the exempt standards of the Definition of Subdivision in the Rural District.



- Regional Counties
- Townships
- Zionsville Corporate
- Boone Co Corporate
- Parcels
- Boone Subdivisions
- Boone County Address

Regional County

Railroads

Roads

Highways

Urban District R

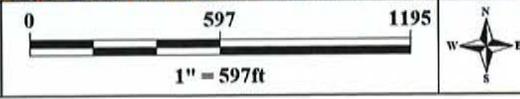


Exhibit 2

Hello neighbor,

My name is Anne-Marie Buibish. My husband, Dave, and I recently purchased the home and 10 acre parcel at 1135 S 900 E, Zionsville. This home was built by Frank and Danna Gordon in 1964.

In order to improve the property and bring it into conformance, we are requesting 2 variances from the Zionsville Board of Zoning Appeals -

- 1) depth to width ratio (3:1) – we plan on splitting this 10 acre parcel into two +/- 5 acre parcels. The current parcel is non-conforming in that two homes are on the same parcel. This variance brings both parcels into conformance.
- 2) Barn height to exceed primary structure – we are planning to add a pole barn/garage to the east of the house, which would be taller than the home, but not to exceed 20 feet in height.

We appreciate your support in this request. If you have any questions or concerns, please contact me at 260-693-7930.

Thank you!

Anne-Marie Buibish

	Regional Counties
	Townships
	Zionsville Corporate
	Boone Co Corporate
	Parcels
	Boone Subdivisions
	Boone County Address
	Regional Count
	Edge of Pavement
	Miscellaneous
	Railroads
	Roads
	Highways
	BC Legal Drains
	Urban District R

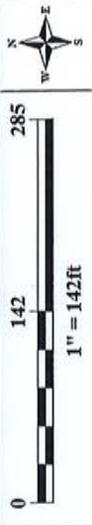


Exhibit 4



Exhibit 5

**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant (**will / will not**) be injurious to the public health, safety, morals, and general welfare of the community because:

2. **The grant will not be injurious to the public health, safety, morals, and general welfare of the community because the parcels will continue to be used as primary residences.**

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:

3. **The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the parcels will continue to be used as primary residences.**

3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:

- 1) the existing lot shape was defined before current depth to width ratio
- 2) the current lot is in nonconforming, since it has 2 primary residences
- 3) maintenance of 10 acres is difficult. Machinery size (combine, planter) unable to gain access to land due to width or access lane, terrain, and overhead wire.

DECISION

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

Adopted this _____ day of _____, 20____.

_____	_____	_____
_____	_____	_____



Petition Number: 2020-03-DSV

Project Address: Approximately 10901 E. C.R. 300 South (146th Street) and U.S. 421

Project Name: Appaloosa Crossing - Shops

Petitioner: Harris FLP

Representative: Matthew Price, Attorney for Petitioner
Dentons Bingham Greenebaum LLP

Request: Petition for Development Standards Variance in order to provide for the development of a commercial center which:
1) Deviates from the required width of foundation plantings; and
2) Deviates from the required additional six (6) foot wide strip for landscaping around a parking area in the Rural General Business Zoning District and the Rural Michigan Road Overlay (GB & MRO).

Current Land Use: Unimproved - farmed field

Approximate Acreage: 3.40± Acres (identified as “Shops” Lot on pending Plat) within the 57.53± Acres of the to-be-platted integrated center, Appaloosa Crossing. The requested Variances are only applicable to the 3.40± acre subject site, not the entire integrated center.

Zoning History: 07-EA-16-839 (2008 Rezoning): While under the jurisdiction of Boone County, the property was rezoned from the R-1 Residential Zoning Classification to the GB General Business (44.25± Acres) and PB Professional Business (13.28± Acres) Zoning Classifications with Commitments (*Approved*).
2016-45-CA: Commitment Amendment to permit an automobile fuel station/service station with a convenience store (*Approved*).
2019-44-CA: Commitment Amendment to permit a liquor store, single-family dwellings, major residential subdivision, more than two (2) fast food restaurants, fast food restaurants to be adjacent to each other, a reduction in the side building setbacks to 30 feet (applicable only to the south property line of the southernmost outlot), a reduced number of water features along U.S. 421 to one (1), modifications to the main access drive off U.S. 421, increased number of outlots along U.S. 421 and 146th Street to eight (8), and five (5) respectively, placement of a monument sign on either the north or south side of the primary U.S. 421 Entrance, a right-in only access from C.R. 300 South (146th Street) west of the main entrance off C.R. 300 South (*Approved*).
2019-45-Z: Zoning Change to rezone approximately 1.5 acres from the Rural (PB) Professional Business Zoning District to the Rural (GB) General Business Zoning District to allow for additional retail/commercial opportunities (*Approved*).

Exhibits: Exhibit 1 – Staff Report
Exhibit 2 – Aerial Location Map
Exhibit 3 – Petitioner’s Narrative
Exhibit 4 – Proposed Building Rendering
Exhibit 5 – Proposed Landscape Plan

Staff Presenter: Wayne DeLong, AICP, CPM

PETITION HISTORY

This Petition will receive a public hearing at the February 5, 2020, Board of Zoning Appeals meeting. Four other Petitions regarding Appaloosa Crossing have been filed with the Planning Department; three of the Petitions are scheduled to be heard by the Plan Commission at their February 18, 2020 hearing:

- 2020-01-PP Primary Plat of Appaloosa Crossing (Pending Plan Commission Hearing)
- 2020-02-SP Secondary Plat of Appaloosa Crossing (Administrative Approval - Hearing not required)
- 2020-03-DP Development Plan Approval of Shops (Pending Plan Commission Hearing)
- 2020-04-CA Commitment Amendment to relocate a pond/water feature along U.S. 421 frontage (Pending Plan Commission Hearing)

PROPERTY LOCATION, ZONING CLASSIFICATION & PROJECT DESCRIPTION

The subject site is generally located 250 feet south of C.R. 300 South (aka 146th Street) on the east side of U.S. 421. The subject site is 3.40± acres and is a portion of the 57.53± acres to be developed as the Appaloosa Crossing integrated center. The subject site is bordered on the north by another undeveloped outlot of Appaloosa Crossing; on the east by an internal road of Appaloosa Crossing; on the south by a primary entry into Appaloosa Crossing; and on the west by U.S. 421. The site is zoned Rural General Business Zoning District and is within the Rural Michigan Road Overlay (GB & MRO).

The Petitioner proposes to construct a multi-tenant, retail building of approximately 23,000 square feet with related parking areas. This will be the first building within the Appaloosa Crossing integrated center. Vehicular access to the subject site will be from U.S. 421 and C.R. 300 South via internal private streets; no curb cut directly onto the subject site from U.S. 421 is proposed. Pedestrian maneuverability on site will include sidewalks along the front façade of the proposed building. A 12-foot-wide recreation path along U.S. 421 will parallel the building, but no connectivity from the building to the recreation path is shown on the submitted Landscape Plan.

ANALYSIS - VARIANCE REQUESTS

The subject site is within the Rural Michigan Road Overlay (§194.079(C)) and is, therefore, required to meet the development standards of the Overlay. The Petitioner requests the following two variances of development standards from the Overlay, both related to landscaping:

1. **Variance of Foundation Plantings (§194.079(C)(15)(b)2.):** This development standard requires “Foundation plantings shall be included along all sides of any building. The minimum width of the planting area shall be five feet; except that, when adjoining a parking area located in the front yard adjoining U.S. Highway 421, the minimum width shall be ten feet.” The Petitioner requests that no foundation plantings be required along the front building façade (the façade facing U.S. 421).

From the Petitioner’s Variance Narrative (Exhibit 3), “A commercial building of this sort is often designed with an awning-type front building façade (providing cover from the elements for patrons, while also limiting the viability of foundation plantings because they would have limited exposure to light and rain), with a sidewalk and individual points of pedestrian customer access into each of the tenant spaces under that ‘awning.’ The design for the Retail Shops, incorporating the awning feature, does not include sufficient space to also accommodate foundation plantings adjacent to the building front.”

If the Petitioner’s Variance Request is granted, the result would be no foundation plantings along the front building façade (facing U. S. Highway 421). The Petitioner’s building design does include an awning

feature along the front facade which is unique and would shield the area from sunlight and rain (Exhibit 3). The long-term survival of foundation plantings in this area, under the awning, would be problematic. Additionally, the proposed design of tenant spaces in the building include glass walls on the front façade extending down to grade level. To place foundation plantings where required would result in the backs and root areas of the plants to be visible from the interior of the tenant spaces. The Petitioner is proposing to relocate the landscaping which would have been used as foundation plantings to the eastern portion of the subject site along the interior access drive of the integrated center.

With these items in mind and presuming the retail shops are constructed substantially in the manor of the building rendering presented (Exhibit 4), Staff is supportive of the requested Development Standards Variance for the removal of the required foundation plantings along the front of the building with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5). Absent the presence of the awning features, Staff would re-evaluate its support of the request.

2. **Variance of Parking Lot Perimeter Plantings (§194.079(C)(15)(c)5.b.):** This development standard requires “Where parking areas are located in the front yard, with frontage directly on U.S. Highway 421, a six-foot wide perimeter planting area shall be provided along the front and sides of those areas.” The Petitioner requests that the six-foot wide perimeter planting area not be required.

In addition to the six-foot wide Parking Lot Perimeter Planting area, another landscaping requirement of the Rural Michigan Road Overlay applicable to this subject site is “there shall be a 30-foot wide landscaping buffer within the front yard of all lots with frontage on U.S. Highway 421.” The Zoning Ordinance states the six-foot wide Parking Lot Perimeter Planting area be “in addition to the landscape buffer.” The result of these two abutting landscaping requirements is a 36-foot wide landscaping area be established between the parking area and the subject site’s property line.

If the Petitioner’s Variance Request is granted, the result would be a 30-foot wide landscaping buffer within the front yard of the subject site. The Petitioner is proposing to relocate the landscaping which would have been placed within the six-foot wide perimeter planting area to the eastern portion of the subject site along the interior access drive of the integrated center.

With this in mind, Staff is supportive of the requested Development Standards Variance for the removal of the requirement of a six-foot wide Parking Lot Perimeter Planting area with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5).

PROCEDURAL – CONSIDERATION OF A DEVELOPMENT STANDARDS VARIANCE PETITION SEEKING APPROVAL

The Board of Zoning Appeals shall hear, and approve or deny, all variances from development standards of the Zionsville Zoning Ordinance. A variance from development standards 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 strict application of the terms of the zoning ordinance will result in an unnecessary hardship in the use of the property:*

Proposed Findings of Fact from the Petitioner for each requested Variance are attached for the Board of Zoning Appeal’s consideration (Exhibit 6).

STAFF RECOMMENDATIONS

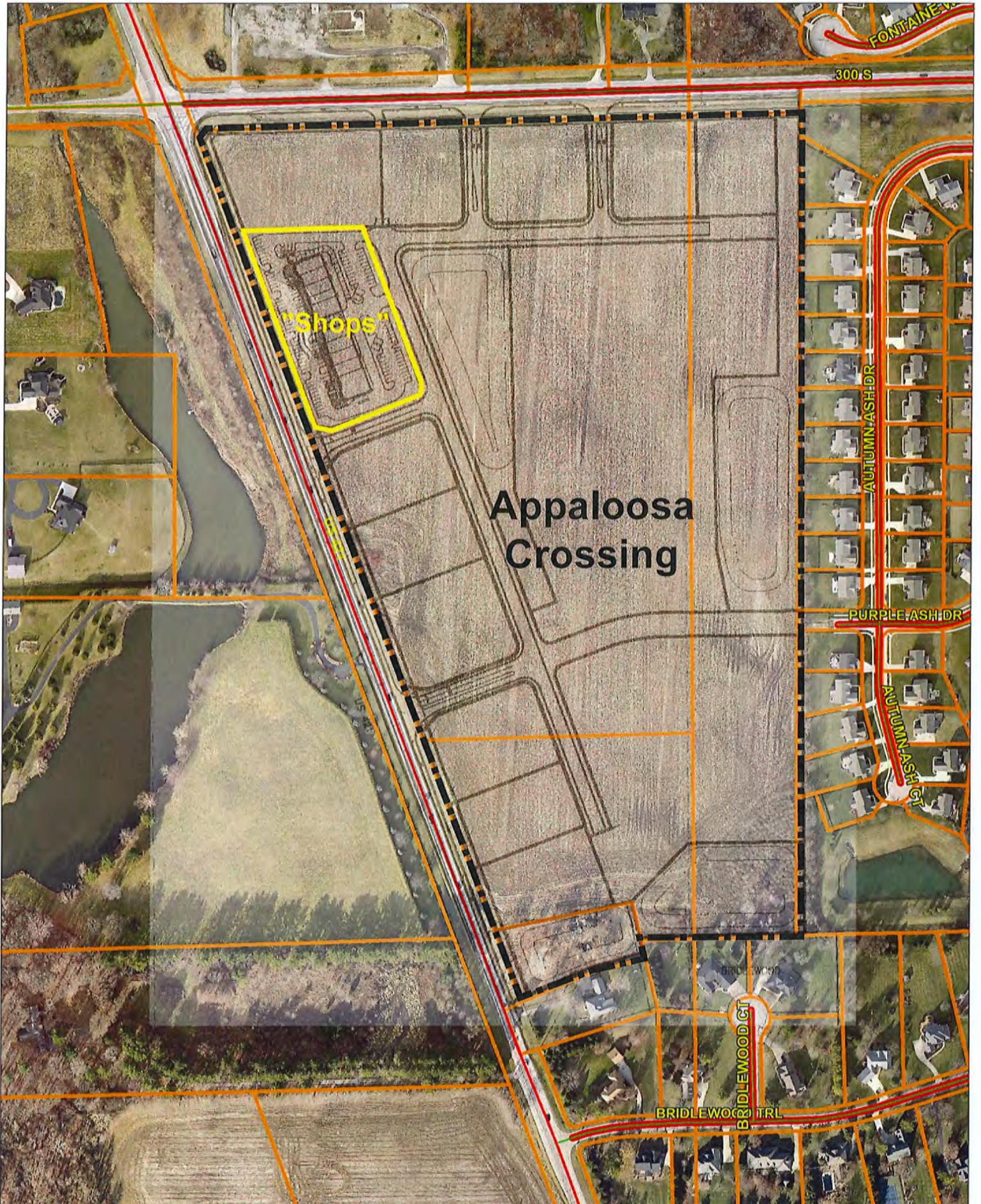
Variance Request #1: **Variance of Foundation Plantings** - Staff recommends approval of the requested Development Standards Variance for the removal of the required foundation plantings along the front of the building, with the building to be constructed substantially in the manor of the building renderings presented, with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5).

Variance Request #2: **Variance of Parking Lot Perimeter Plantings** - Staff recommends approval of the requested Development Standards Variance for the removal of the requirement of a six-foot wide Parking Lot Perimeter Planting area with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5).

RECOMMENDATION MOTIONS

I move that Docket #2020-03-DSV, Variance Request #1 being a Development Standards Variance for the removal of the required foundation plantings along the front of the building, with the building to be constructed substantially in the manor of the building renderings presented and with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2020-03-DSV (Exhibit 5), be (Approved as filed, based upon the findings of fact and subject to the proposed Commitments / Denied / Continued) as presented.

I move that Docket #2020-03-DSV, Variance Request #2 being a Development Standards Variance for the removal of the requirement of a six-foot wide Parking Lot Perimeter Planting area with the landscaping to be allocated to the eastern portion of the subject site along the interior access drive as depicted on the Landscape Plan filed in Docket #2019-35-DSV (Exhibit 5), be (Approved as filed, based upon the findings of fact and subject to the proposed Commitments / Denied / Continued) as presented.



Appaloosa Crossing

Shops

300 S

AUTUMN ASH DR

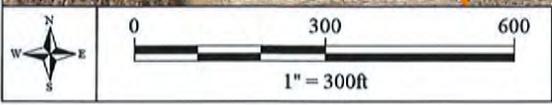
PURPLE ASH DR

AUTUMN ASH CT

BRIDLEWOOD CT

BRIDLEWOOD TRL

FONTAINE



Appaloosa Crossing - "Shops" Location - Exhibit 2

**APPALOOSA CROSSING
ZIONSVILLE**

**VARIANCE NARRATIVE
2020-03-DSV**

Harris FLP is requesting a variance of development standards to provide for development of a Retail Shops building within the Appaloosa Crossing development site, specifically located immediately south of the corner outlot near the southeast corner of U.S. 421 (Michigan Road) and 300 South (146th Street).

Because the Retail Shops outlot will consist of a multi-tenant building, with an awning and multiple tenant entry points in front, with drive-thru windows on the sides, and loading in the rear, it is impractical or impossible to provide the otherwise-required 10-foot wide foundation plantings around the front perimeter of the building. A commercial building of this sort is often designed with an awning-type front building façade (providing cover from the elements for patrons, while also limiting the viability of foundation plantings because they would have limited exposure to light and rain), with a sidewalk and individual points of pedestrian customer access into each of the tenant spaces under that “awning.” The design for the Retail Shops, incorporating the awning feature, does not include sufficient space to also accommodate foundation plantings adjacent to the building front. The overall landscaping plan further mitigates the degree of the variance requested by including plantings along the sidewalk fronting the building, allowing for these plantings to provide greenery while not being located in the shade below an attractive awning feature.

An extensive landscaping area, however, will be provided in the rear portion of this outlot, along an interior access drive. Plus, the U.S. 421 (Michigan Road) overlay requires an extensive landscaping width (30-feet) along the road frontage.

Additionally, given the extensive 30-foot wide landscaping buffer to be provided along the Michigan Road frontage as required by the U.S. 421 (Michigan Road) corridor overlay district, the otherwise-required 6-foot wide parking lot perimeter planting strip would be superfluous. Within the context of this already-required 30-foot wide landscaping space along the road frontage, such an additional and modest (6-foot) planting strip would not be noticeable or beneficial, and would only result in a hardship on the outlot, resulting in a smaller and less desirable building.



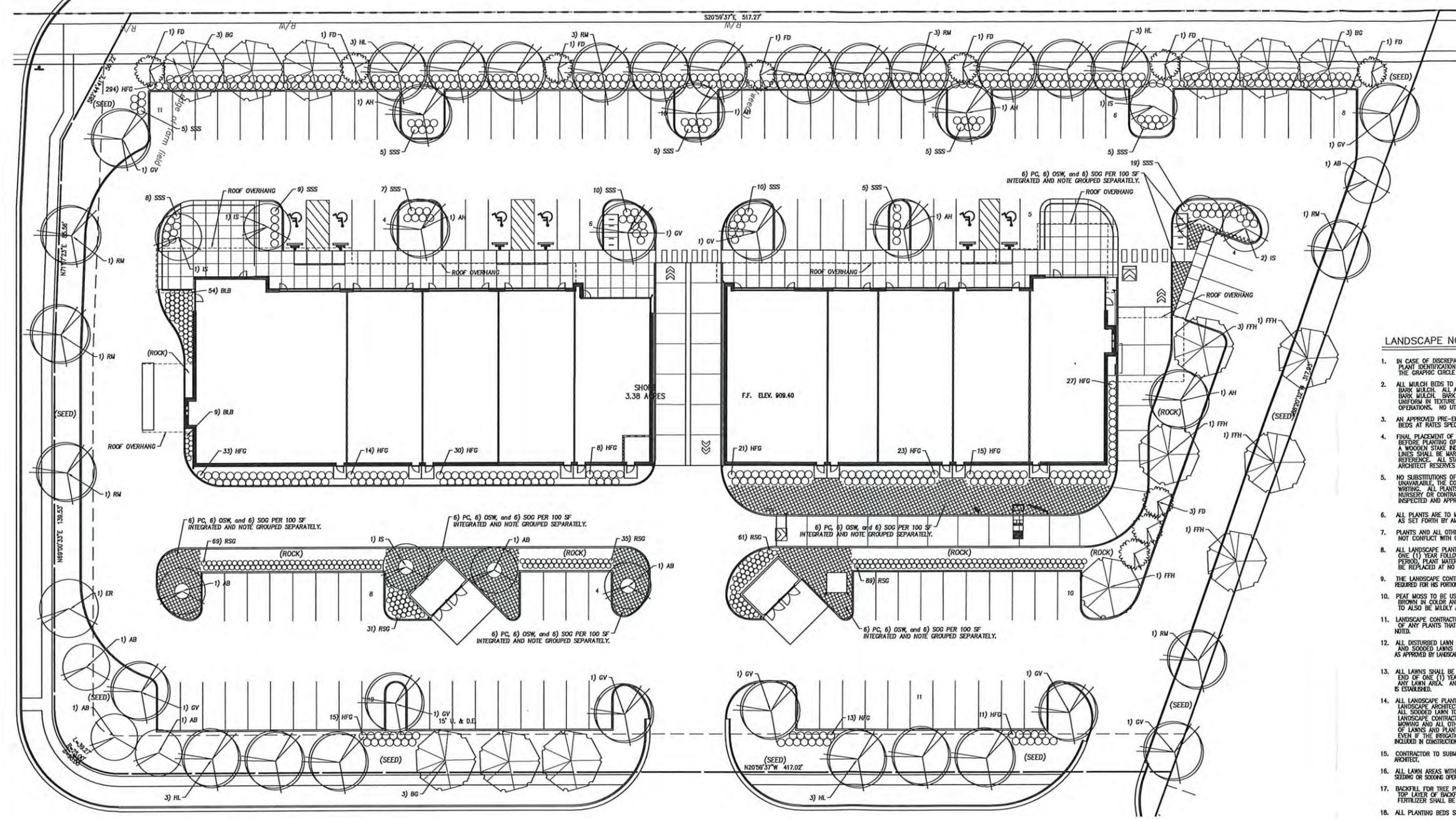
146TH & MICHIGAN SHOPS

CONCEPTUAL DESIGN

ZIONSVILLE 12/11/2019

Exhibit 4

(grass)



LANDSCAPE NOTES

- 1. IN CASE OF DISCREPANCIES BETWEEN THE PLAN AND PLANT LIST, THE PLAN SHALL DICATE...
2. ALL MULCH BEDS TO BE COVERED WITH 3" THICK LAYER OF SHREDDED HARDWOOD BARK MULCH...
3. AN APPROVED PRE-EMERGENT HERBICIDE SHALL BE APPLIED IN ALL PLANTING AND FLOWER BEDS...
4. FINAL PLACEMENT OF PLANT MATERIALS, ETC. SHALL BE APPROVED BY LANDSCAPE ARCHITECT...
5. NO SUBSTITUTIONS OF PLANT MATERIAL WILL BE ALLOWED...
6. ALL PLANTS ARE TO MEET OR EXCEED AMERICAN STANDARDS FOR NURSERY STOCK, 1996 EDITION...
7. PLANTS AND ALL OTHER MATERIALS TO BE STORED ON SITE...
8. ALL LANDSCAPE PLANTINGS, INCLUDING TRANSPLANTS, SHALL BE GUARANTEED FOR A PERIOD OF ONE (1) YEAR...
9. THE LANDSCAPE CONTRACTOR SHALL OBTAIN AND PAY FOR ALL PERMITS AND FEES THAT MAY BE REQUIRED...
10. PEAT MOSS TO BE USED ON PROJECT SHALL BE A DOMESTIC OR IMPORTED MATERIAL...
11. LANDSCAPE CONTRACTOR SHALL NOTIFY LANDSCAPE ARCHITECT IN WRITING PRIOR TO BID DATE...
12. ALL DISTURBED LAWN AREAS SHALL BE SEEDING OR SOODED AS DIRECTED BY OWNER...
13. ALL LAWNS SHALL BE GUARANTEED TO HAVE A FULL UNIFORM STAND OF ACCEPTABLE GRASS...
14. ALL LANDSCAPE PLANTINGS TO BE MAINTAINED FOR A PERIOD UNTIL FINAL INSPECTION...
15. CONTRACTOR TO SUBMIT UNIT PRICES ON EVERY TYPE OF WORK AS REQUESTED...
16. ALL LAWN AREAS WITH LAWN LIMIT LINES TO RECEIVE 6" MINIMUM APPROVED TOPSOIL...
17. BACKFILL FOR TREE PLANTING SHALL BE 75% APPROVED TOPSOIL AND 25% APPROVED PLANTERS MIX...
18. ALL PLANTING BEDS SHALL HAVE A SPADED EDGE TO A DEPTH EQUAL TO SPECIFIED MULCH THICKNESS.

Ornamental Trees & Shade Trees

Table with columns: Code, Plant Name, Size, Spacing, Exposure, and Notes. Lists plants like NYSA sylvatica, Cedrela tomentosa, Zelkova serrata, etc.

Ornamental Shrubs & Grasses

Table with columns: Code, Plant Name, Size, Spacing, Exposure, and Notes. Lists plants like Pennisetum alopecuroides, Scheuchzeria palustris, etc.

Gravel Area Plugs

Table with columns: Code, Plant Name, Size, Spacing, Exposure, and Notes. Lists plants like Coreopsis palmata, Tridax asarifolia, etc.

NOTE: LANDSCAPE ROCK WHERE NOTED SHALL BE DECORATIVE IN A STYLE AND COLOR SELECTED BY ARCHITECT.

REVISIONS

Table with columns: DATE, DESCRIPTION, and revision number. Shows one revision on 01/27/20.



7601 N PERIMETER ROAD INDIANAPOLIS, IN 46241 PHONE: (317) 550-0090

SNELLING ENGINEERING, LLC 13295 Illinois Street Suite 142 Carmel, IN 46032



APPALOOSA CROSSING SHOPS U.S. 421 AND CR. 300 SOUTH ZIONSVILLE, INDIANA

Table with columns: DRAWN, CHECKED, SCALE, DATE. Shows GSS for drawing and 01/27/20 for date.

LANDSCAPE PLAN

SHEET: C501

Exhibit 5

**TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

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 reduction in foundation plantings will not impact the public health and safety, and will promote a site development scenario with significant landscaping otherwise provided, which will benefit the general welfare of the community and the aesthetic character of the subject site.

- 2. The use and value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because:

The reduction in foundation plantings will be unnoticeable and immaterial to the properties adjacent to this commercial development. The subject outlot(s) are oriented toward the U.S. 421 (Michigan Road) frontage, which is a heavily-traveled transportation corridor. Additionally, the deviation will not be visually noticeable due to the significant landscaping otherwise required within the Michigan Road corridor overlay, further benefiting the use and value of the area adjacent.

- 3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:

Within the context of this development proposal, located within the Michigan Road corridor overlay, the requirement for foundation plantings underneath awnings along a multi-tenant commercial building, necessitates such a deviation because such plantings would detract from the architectural theme for the structure and result in such plantings being obscured by the awnings, compromising the health of the plantings and the aesthetic value of such plantings. Therefore, the strict application of the terms of the ordinance, within the context of this specific development scenario, represents an unnecessary hardship in the use of the property.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this _____ day of _____, 2020.

TOWN OF ZIONSVILLE BOARD OF ZONING APPEALS
BOONE COUNTY, INDIANA

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

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 reduction in parking lot perimeter landscaping will not impact the public health and safety, and will promote a site development scenario with significant landscaping otherwise provided, which will benefit the general welfare of the community and the aesthetic character of the subject site.

- 2. The use and value of the area adjacent to the property included in the variance (**will / will not**) be affected in a substantially adverse manner because:

The reduction in parking lot perimeter landscaping will be unnoticeable and immaterial to the properties adjacent to this commercial development. The subject outlot is oriented toward the U.S. 421 (Michigan Road) frontage, which is a heavily-traveled transportation corridor. Additionally, the deviation will not be visually noticeable due to the significant landscaping otherwise required within the Michigan Road corridor overlay, further benefiting the use and value of the area adjacent.

- 3. Strict application of the terms of the zoning ordinance (**will / will not**) result in unnecessary hardships in the use of the property because:

Within the context of this development proposal, located within the Michigan Road corridor overlay, parking lot perimeter landscaping necessitates a deviation. The Michigan Road corridor overlay requires significant landscaping above and beyond the typical commercial development scenario. Therefore, the strict application of the terms of the ordinance, within the context of this specific development scenario, represents an unnecessary hardship in the use of the property.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED/DENIED.

Adopted this _____ day of _____, 2020.

Zionsville Board of Zoning Appeals
February 5, 2020

In Attendance: John Wolff, Julia Evinger, Larry Jones, Jeff Papa. Absent is Steve Mundy.

Staff attending: Wayne DeLong, Darren Chadd, attorney.
A quorum is present.

Wolff Good evening, and welcome to the February 5, 2020 Board of Zoning Appeals meeting. The first item on our agenda is the Pledge of Allegiance.

All Pledge.

Wolff Thank you. The next item on our agenda is attendance. Mr. DeLong?

DeLong Mr. Papa?

Papa Present.

DeLong Mr. Jones?

Jones Present.

DeLong Mr. Wolff?

Wolff Present.

DeLong Ms. Evinger?

Evinger Present.

DeLong Mr. Mundy?

Wolff Thank you, Mr. DeLong. The next item on our agenda is the election of officers. We will start with the President of the BZA. Any nominations?

Jones I nominate John Wolff.

Wolff Thank you. Is there a second?

Evinger Second.

Wolff Thank you. All those in favor, please say aye.

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries. Thank you, Mr. Jones. The next item would be the election of the Vice President of the Board of Zoning Appeals. Are there any nominations for that role?

Zionsville Board of Zoning Appeals
February 5, 2020

Evinger Jeff Papa.

Wolff Jeff, would you be interested in that role?

Papa I am the new guy. So, I would defer to anyone with interest. I would do it if you need somebody. Sure.

Jones That's fine. The biggest thing is you have got to run the meeting sometimes, so that's about it; I'm fine with that.

Wolff I think that was a reluctant, he might be willing to think about it. Mr. Jones, would you be willing to second that motion?

Jones I'll second that motion.

Wolff Thank you. All those in favor, please say aye.

All Aye.

Wolff Those opposed?

 [No response.]

Wolff Motion carries. The next item would be the election of our Secretary, which Mr. DeLong has filled that role in the past. Is there a motion to continue that?

Jones So moved.

Wolff Wonderful.

Evinger Second.

Wolff Thank you for the second. All those in favor of keeping Mr. DeLong, please say aye.

All Aye.

Wolff Those opposed?

 [No response.]

Wolff Motion carries. Congratulations, Wayne.

DeLong Thank you.

Wolff Very good. As we move on to the approval of our meeting minutes, I want to note that the Town and staff are still working on the December meeting minutes and clarifying some of those, so we are only going to entertain a motion and look at the November meeting minutes. Any discussion amongst the group about the

November 26, that was the special meeting, if you recall, minutes that we have in front of us? And, if not, I will entertain a motion.

Evinger Motion to approve the minutes as presented.

Wolff Thank you. Is there a second?

Jones Second.

Wolff Thank you. All those in favor, please say aye.

All Aye.

Wolff Those opposed.

[No response.]

Wolff Motion carries. Again, we will review the December meeting minutes when we have a thorough, or more complete, copy. Moving on, the next item on our agenda is continuance requests. Is there anyone on our agenda tonight who is here to ask for a continuance? If so, please come forward and state your name and address for the record.

Andreoli Thank you, Mr. President. For the record, Mike Andreoli, 1393 West Oak Street. I am here representing Roy Meyers, who is seeking a variance. We noticed in the discussions with staff last week that the actual site plan and the actual layout of the accessory structure was appropriate, but the square footage calculation was not, and we had sent out narratives to the surrounding property owners with different square footage narrative than what we're going to end up with. In addition, we have now got a better design of what the building is going to look like, and we're in further discussions with Mr. DeLong, we're even tweaking that. So, I would like to respectfully ask for this to be tabled to the next meeting so you know, even though we may not necessarily have to do notice, I am going to send the new narrative with the new design of the building and the actual layout of the building to all the surrounding property owners, but not by certified mail, just by first class mail, so they have that to the extent they have any concerns given the tweaking that's being done, then they will have an opportunity to see what changes we're proposing to that and why. So, I just want to let you know about that, and respectfully request that the matter be tabled.

Wolff Mr. Andreoli, I have it in my notes that the next meeting will be March 4, and that's the meeting you're aiming for?

Andreoli Yes.

Wolff Perfect. Any discussion amongst the group? Any concerns about the notice? Very well. Is there a motion to continue, this is Docket # 2020-01-DSV, to the March 4 Board of Zoning Appeals meeting? I'm looking for a motion.

Evinger So moved.

Zionsville Board of Zoning Appeals
February 5, 2020

Wolff Thank you. Is there a second?

Jones Second.

Wolff Thank you. All those in favor, please say aye.

All Aye.

Wolff Those opposed?

[No response.]

Wolff Motion carries. Thank you, Mr. Andreoli. Is there anyone else tonight here on our agenda who is looking to continue their item to another date? Seeing none, that moves us on to continued business, which is Docket # 2019-38-SE. Will the petitioner please come forward and state your name and address for the record?

Gerard Melissa Gerard, attorney in Lebanon, and I am representing the land owner, Mr. VanSickle, and he has here his purchaser, Mr. Ball, who is with me tonight. As you will recall, this was continued from your December meeting, and I would note that the Board was quite prescient in urging us to be continued to February because the surveyors were quite slow, and I just got some of the documents today.

For the most part, I am content to rely on my comments at the previous meeting, and the staff report and the submissions that we attached to the staff report. I would like to note, however, I have submitted a few additional things to you tonight. There was some typographical stuff with the letter from the neighbor consenting. It had headers and footers it was not supposed to have, but he signed a new letter, but substantively it is still the same. We just cleaned it up for the record. I have given you a survey so you can understand what I'm talking about with regards to the drainage issue when I explained what happened, and then I have also submitted to Mr. DeLong an easement agreement that we have agreed to with the neighbor. Basically, the situation with the easement is, his property is on one side, the neighbor's property is one side. The property Mr. Ball is going to purchase is on the other side. There is a natural water course running between the two of them. Mr. Ball's house drainage will never touch the neighbor's property because it drains into the natural water course before it gets to his house. Basically, they're both draining into the natural water course, and the petitioner, or the neighbor's concerns were about his right to continue discharging water onto a legal, or onto a water course on someone else's property without any real legal entitlement to do that, so the agreement that we based, I told Mr. Ball, it's just easier just to make the problem go away. Give him a legal drainage easement to discharge into that natural water course. So, they have worked it out. We're giving him an easement so that he can reach the natural water course that will be on our property for the discharge of the water on his property. So, that issue has been completely resolved. But, in no event will Mr. Ball's house affect the drainage at all.

Wolff Thank you, Ms. Gerard. Moving on to, I would like to, I don't know if we need to hear the narrative again, because we have the minutes in front of us. We were

all part of the conversation last time. So, what I would suggest is, are there any questions that you guys have for the petitioner? Or, if there is a remonstrator here, any questions that my fellow Board members would like to ask on the record? Thank you. Is there a remonstrator here tonight? I'm going to ask the man in the back row, because that's where I got last time. Okay. Perfect. Thank you. With that, I think it would be appropriate for us to hear the staff report.

DeLong Yes. Thank you. Staff is supportive of the petition as filed. This is a request that's very typical for you to see. The request for a special exception to support the construction of a single-family residential dwelling within the ag district. Certainly, the dialogue and the information that's been provided is atypical. This is, to have this level of dialogue and investment by all parties, certainly, very appreciated, but at the same time, I think your requests generally are focused on the matters as spelled out in the zoning ordinance. But certainly, the additional information that's been provided, certainly the remedies as proposed with Ms. Gerard certainly go above and beyond where the world has taken this group previously, but certainly not discouraging, again, that dialogue. Again, staff is supportive of the petition as filed, and I'd be happy to answer any questions.

Wolff Thank you, Wayne. Is there any questions for staff? Any discussion amongst the group? Hearing none, I would entertain a motion

Papa Mr. President, I would move that Docket # 2019-38-SE, T. Ball special exception petition in the agricultural district for the property located at 325 South 1100 East be approved as presented. Is that the correct version, or do we need?

Wolff I would also add just that it approved based on the staff report and proposed findings.

Papa Approved based on staff report and the proposed findings. That is my motion.

Wolff Thank you.

Evinger Friendly amendment. Including the right to farm commitment.

DeLong Yes. And, would the group want to add just that Ms. Gerard has proposed that a drainage easement be executed. Is there any need to wrap that into your motion?

Wolff Mr. Papa, would you be amenable to adding that into your motion?

Papa Yes. I would like to do that.

Wolff Thank you.

Gerard It's already been executed and signed.

Wolff Is there a second to that motion?

Evinger Second.

Wolff Thank you. All those in favor, please say aye.

- All Aye.
- Wolff Those opposed, please say nay.
- [No response.]
- Wolff Motion carries. Good luck with your project. Next item on our agenda is Docket, I'm sorry, we're moving on to new business. Next item on our agenda is Docket # 2019-40-DSV. Will the petitioner please come forward and state your name and address for the record?
- Judd Gene Judd, property owner at 602 South 900 East.
- Wolff Mr. Judd. Thank you. We've got the information in front of us. Have you seen the staff report?
- Judd Yes.
- Wolff Okay. So, in your words, will you describe why you're here, what you're asking for?
- Judd Yes. So, we're asking for a variance to do an addition on the existing barn on our property.
- Wolff And, in front of us is a, it's an accessory square footage and height to those things. Can you describe the barn? So, the barn exists today? So, how much square footage are you adding and what is the height of the proposed structure?
- Judd So, it's a one-story barn existing. We're going to add to it with a one-story barn. The addition would be - -
- Wolff --Use round numbers.
- Judd 3500 square feet on the first floor, and then a basement 3500 square feet.
- Wolff Yes. So, it looked like the property was unique with some elevation changes, and so the intent was to have a, is it a walk-out basement, or is it just, you're going to go down and, okay.
- Judd Yes. A walk-out basement.
- Wolff Okay. And, can you describe the property in its entirety. So, how many acres?
- Judd It's just over 62 acres. We bale probably 40 acres for hay. There is a pond on the property, an existing old barn on the property, and we're going to use some of this addition for a tractor, a bush hog and storage.
- Wolff And, Mr. Judd, your intent is not to lease out this barn, or any sort of, it's just a barn?

Zionsville Board of Zoning Appeals
February 5, 2020

- Judd Yes.
- Wolff Okay.
- Judd Personal use.
- Wolff Great. Any questions for our petitioner tonight? Mr. Judd, I note that you have, several of your neighbors signed a letter in support of this petition?
- Judd Yes. So, we've done a certified letter to all of our surrounding neighbors letting them know we were applying for a variance, and then I spoke to all the neighbors that are adjacent to our property, that touch our property, and they were all fine with that.
- Wolff And, it seems with 62 acres nobody is going to be too close.
- Judd I don't think so.
- Wolff Very well. If there is no questions for Mr. Judd at this time, I would ask, is there any remonstrators here to speak for or against this particular project? Seeing none, Wayne, may we have the staff report?
- DeLong Certainly. Staff is supportive of the petition as it's been filed and described to you this evening. Several different items jump out when considering this particular petition. First and foremost is the acreage. This property is actively farmed. Your zoning ordinance actually supports a barn, or accessory uses that are constructed for agricultural purposes. The mere fact that you do have some potentially ancillary uses that will be in the barn that are not ag-related, have an abundance of caution to petitioners pursuing this variance to protect that reason, as well as, just providing for the overall property and the aesthetics. The acreage is certainly, again, a compelling part of this conversation. The barn itself is rather unusual as indicated in the presentation, but the topography of the property itself allows a basement to be built under the barn, which then drives up the accessory square footage. So, a couple different characteristics, but the overall ag use of the property, the preponderance of the acreage and the certainly the ag components of the barn itself really drive this petition, and support by staff. Again, staff is supportive of the petition as filed, and I'd be happy to answer any questions.
- Wolff Thank you, Wayne. I have one. It was a comment you just made. So, when we calculate the accessory square footage, it's not, I don't know the correct term, but we include, if the first floor is 1200 square feet and the basement is 1200 square feet, the accessory square footage now is 2400 square feet?
- DeLong Correct.
- Wolff But, the footprint is really only 1200 square feet.
- DeLong Correct. And, what you can see from the street is 1200 square feet.
- Wolff 1200 square feet. Correct. Any questions for staff? Mr. Judd, I do have another question, since you're present. Is the new proposal, the new addition, is the roof

line going to change, or are you going to just extend the current roof line? It's an addition to the current structure, correct?

Judd It's an addition. It will be the same height, and we'll just tie into it.

Wolff Okay. Any discussion amongst the group? Quiet group tonight. Worried about the weather. Hearing no further discussion, I would entertain a motion.

Evinger Okay. I guess I'll make a motion.

Wolff Thank you.

Evinger I move that Docket # 2019-40-DSV, development standards variance, in order to allow an addition to an existing accessory structure to, one, exceed the allowable accessory square footage in an agricultural zoning district for the property located at 602 South 900 East be approved based on findings of fact as presented.

Wolff Thank you. Is there a second to that motion?

Papa Second.

Wolff Thank you. All those in favor, please say aye.

All Aye.

Wolff Those opposed, please say nay.

[No response.]

Wolff Motion carries. Mr. Judd, good luck with your project.

Judd Thank you.

Wolff Next item on our agenda is Docket # 2019-41-DSV, will the petitioner please come forward and state your name and address for the record.

Boivish Hello. My name is AnneMarie Boivish. I am property owner at 1135 South 900 East.

Wolff Ms. Boivish, will you please describe what's in front of us tonight?

Boivish Well, we have a 10-acre parcel in Zionsville, and we would like to split that into two 5-acre parcels, so we're looking at a variance on the depth to width ratio. In addition, we're asking for a variance on the height of the accessory structure to build a barn. We just have a very short house, and so we want to build a typical barn and it could be higher.

Wolff There are some structures on the property today. Can you describe what is there today for us?

Zionsville Board of Zoning Appeals
February 5, 2020

- Boivish There is a 3000-sqaure foot home, a small barn. I think it's a 400-sqaure foot barn, and there is also another primary residence on what would be the other 5-acre parcel. There is a small home there.
- Wolff So, there are two primary residences on one parcel today, and what you're proposing is to divide that parcel into half, approximately, and so then there will be a primary residence on each half?
- Boivish Yes.
- Wolff And, is it in front of me the height of the proposed accessory structure, the barn?
- Boivish We don't know exactly, but we have, it will be less than 20 feet. So, a single-story barn. Just a workshop, basically. There is a slight elevation behind the home, so that, combined with the low-pitched roof, we ask for the variance because we're not completely sure of the height yet.
- Wolff Thank you. What questions do we have for Ms. Boivish tonight?
- Evinger It's hard to tell from this plat, but are there two different curb cuts there now, or two different, you know, ingress/egress, for the two different homes, or is it served by one driveway?
- Boivish There is a shared driveway that splits off. So, the entrance onto the property is shared, and it's double-wide, and then they go into two different directions.
- Wolff And, is the intent to keep it that way? If we agreed to split the parcel, the intent is to keep it, and is that shared driveway on the property line?
- Boivish Yes.
- Wolff The proposed property line.
- Boivish Yes. The property line would go down the center of that. The proposed property line.
- Evinger Do we have any concerns as far as address? Having two different addresses?
- Boivish There are two different addresses now. It used to be two separate properties. I think back in '98, they were combined. The split was not the same. The small house, actually the very small house, had about 8 ½ acres, and then the larger home was on an acre and a half. So, it was purchased, and then combined, and now we're splitting it back. So, it has two separate addresses, 1125 South and 1135 South.
- Wolff Very good. Any other questions for our petitioner tonight?
- Jones So, then will 1135 then get a new home built on that lot with the barn? Is that what I heard?

Zionsville Board of Zoning Appeals
February 5, 2020

- Boivish No, 1135 has the 3000-sqaure foot home. We are looking to add a barn to that property, and then the other property would have just the small house.
- Jones Okay.
- Wolff Is the intent to sell that property? The 1125?
- Boivish Possibly.
- Wolff Yes. Okay.
- Boivish It's really pretty out there. I don't know if I want to sell it yet.
- Wolff I want to give my fellow Board members another minute to mull over the information before we ask for any remonstrators. Any other questions? I don't see any right now. Thank you. Are there any remonstrators here tonight to speak for or against this particular proposal? Seeing none, Wayne, may we have the staff report?
- DeLong Certainly, staff is supportive of the petition as it's been filed and presented to you this evening. The petition itself, as the Board knows, this petition seeks to hopefully remedy a non-conformity that's existed for quite some time. The lot dimensions themselves, the depth to width, do exist, however the condition would be exacerbated with the division, but the division itself reduces the non-conformity, so really, it's a discussion, if you will, of what non-conformity would the community rather wrestle with: the presence of two primary dwellings on one property, or a lot depth to width ratio, which is common in some places within the community, and certainly this area is not exempt from that discussion. However, what is uncommon would be the presence of two single-family dwellings on one property. So, staff, given that analysis, staff is supportive of the petition as it's been filed. Certainly the information tonight about the shared driveway, shared driveways are encouraged by the zoning ordinance in the rural area, however, we just always provide the suggestion that shared driveways also come with shared driveway maintenance agreements, so if, at a point in time, you are moving towards selling one or either of the dwellings, that maintenance can be provided for in perpetuity. Gravel meanders, other things change over time. Definitely something that would be encouraged, but certainly there is no instrument here such as a Plan Commission action that would be engaged, which would then require such actions.
- Wolff Thank you, Wayne. I have a couple questions. And, I think what I heard you say was, we have a legal non-conformity situation now, and by approving this, we would eliminate the two primary residences on one parcel, and that is a good thing, but we would create, or we would exacerbate, I think was your word, the issue of the flag lot. But, as I look at it, that looks like that's sort of a consistent feature in that particular area.
- DeLong Yes.

Zionsville Board of Zoning Appeals
February 5, 2020

- Wolff Looks like the property immediately to, let me get my bearings right, the south has that situation and there is a couple more on the west side of the street, as well.
- DeLong It's not uncommon throughout specific portions of town.
- Wolff So, in the opinion of staff, this proposal is consistent with the area, and it helps correct a legal non-conformity issue with two primary residences on one parcel.
- DeLong Correct.
- Wolff Okay. What questions do we have for Wayne? Any discussion amongst the group? Quite group. Okay. I appreciate it. The Purdue game is tonight, and I certainly appreciate your efforts to get me back there. Seeing no further discussion, I would entertain a motion.
- Jones I move that Docket # 2019-41-DSV, development standards variance, in order to allow a lot split of 10 acres into two 5-plus or minus-acre lots in which, one, the lots will not meet the lot width to depth ratio of three to one, and two, one lot will have an accessory structure which exceeds the height of the primary structure in the rural, low-density, single-family residential zoning district R1, be approved based on the finding and based on the staff report as presented.
- Wolff Thank you. Is there a second to that motion?
- Papa Second.
- Wolff Thank you. All those in favor, please say aye.
- All Aye.
- Wolff Those opposed, please say nay.
- [No response.]
- Wolff Motion carries. Good luck with your project. The next item on our agenda was continued to the March Board of Zoning Appeals meeting, which I believe brings us to Docket # 2020-03-DSV. Will the petitioner please come forward and state your name and address for the record?
- Price Yes. Good evening. My name is Matt Price. I am an attorney with Dentons, Bingham, Greenebaum. I am here tonight on behalf of Harris FLP and Bob Harris, who is immediately to my right. These two variances relate to the Appaloosa Crossing shopping center development, which is underway at the southeast corner of County Road 300, or 146th Street and Michigan Road. The total parcel, a little over 57 acres, the total development. This particular proposal relates to our retail shops component on a 3-plus acre parcel, and we have come up with a design where we're requiring two development standards variances, both of which relate to the Michigan Road Overlay zone requirements, which this property is subject to. And, in particular, they are to eliminate the requirement for

front foundation plantings for the building, and also to modify or eliminate the requirement for a 6-foot wide perimeter parking landscaping area.

Let me describe it in a little more detail with regard to some of the exhibits that we have provided. We had pre-filed some exhibits in these bound set of materials, which hopefully you have. If you do not, I have a couple extra copies. But, if you look behind Tab #3, we have a conceptual design of the shops being proposed. And, what Mr. Harris would like to achieve here is to build upon kind of the equestrian feel of this portion of Zionsville. And, so what he's done is in proposing a design that borrows from some of the architectural features that you would see in equestrian areas, in particular kind of the Lexington, Kentucky part of the country. One component of that is to include the front awning. And, it's that front awning that really inhibits our ability to plant foundation, building foundation plantings. And, so we're asking for those to be not required, and then I should also mention that you'll see on each end of the building there is kind of a white barn-type feature. And, that borrows from, the property has been in the family for over 50 years, and it is really a nod to his family's legacy here, which, at one point, included a barn, a white barn like this on this very property. So, it's kind of a tribute, if you will, to that legacy that exists on this property. And, so it's one of the features that we want to have, in addition to the architectural quality of providing that awning. It's also providing some shelter for customers as they come to the various shops where they're shielded from sleet on a night like tonight, and the elements that sometimes exist here in Indiana. I'll skip over Tab #3, but we provided some engineered drawings for the building itself, which show the more specifics about the awning.

But, let me go back to Item #4, which is our landscaping plan. The building orientation, as you look at this drawing, Michigan Road, or 421, is at the top. So, you'll access this building from the rear, and to your east is the Willow Glen subdivision, who we met with, actually just last Tuesday. We've had kind of regular meetings with that subdivision and its homeowner's association, and described and kept them up to date on our various undertakings here. And, what we propose to do is maintain the requirements of the overlay zone with regard to the 30-foot required buffer in the front. We have limited our parking rows to just 2 parking rows in the front of the building and then to take some of the landscaping that would otherwise be within the 6-foot front perimeter parking area, and relocate it to the east, so that we would provide some additional screening for the project to the east, benefiting initially the homeowners in Willow Glen, and providing them some additional screening on that side of the building. And, then as the project evolves, we anticipate future uses, which could be other commercial retail uses to the east and between Willow Glen and the shops, or could be other residential uses. One of the things that we undertook last fall, and was approved by the Town Council was the possibility to include some residential uses on this property, as well, as part of creating kind of a lifestyle-type center where the center would include walking paths, maybe some senior housing component, and allow people to walk comfortably from their homes to the shops. I should also add that one of the things that came out of our last meeting with the Willow Glen residents was the desirability for them to also be able to walk from their homes into the development, and so we have tried to provide an overall package, including the landscaping package, that takes into consideration really how all four sides of this facility need to be appropriately

landscaped, and adding to the overall quality of the project. I should also add that the overlay requirements contemplate that 6-foot perimeter landscaping.

What we have done throughout this development process is taken steps to limit the types of uses that are permitted on the development itself, so we have eliminated a number of uses that the surrounding residential users found less desirable. We have added the component for residential uses to help create some transition as you go west to east, and we have worked very hard to adhere to the overlay zone requirements with regard to the limitations on the number of parking rows in the front of the building, while also maintaining the front buffer area, which we're not seeking any deviation from with regard to these requests this evening. We think what this allows us to do is create that lifestyle-type center that is a nice mixture of retail uses, accessible to members of the public generally, while also providing kind of the neighborhood feel that folks to the east and Willow Glen can access and hopefully future residents within the development itself will be able to access. And, so for those reasons, we would respectfully request your approval tonight and Mr. Harris and I would be available to answer any questions that you have. Thank you.

Wolff Thank you, Mr. Price. I will start with the first question. As we look at the rendering of the building behind Tab #2, where are we at with this project in the sense that, how close to the actual project will this rendering be? Where are we at in the design phase? I think what I heard you say was the landscape buffer along the building, we're essentially replacing that with another, I believe the intent of that is to make it look nice. And, you're saying that, well, we have an awning that looks nice, and that awning is prohibitive of that landscaping, and it won't grow underneath it. And, I think I can buy that. But I'm concerned that if we make an approval, and we go a couple years down the road, is it going to look like this? Or where are we at in that process. Can you answer that question, please?

Price It's an excellent question. It's such a good question I wish I would have addressed it as part of my presentation, but we are along in that process. In fact, we have filed for both our plat and our development plan approval before the Zionsville Plan Commission to be heard at its next meeting in February. And, so we are very well evolved, as far as this being the building that is to be built at that location and, in fact, we are actively, based on this square footage and this design and the contemplated users, and we're actively pursuing contracts with the individual users, as well.

Wolff So, you would be comfortable with the word significant? It's going to look significantly close to this rendering?

Price I would be very comfortable with that. Yes.

Wolff What other questions do we have for the petitioner? Or the petitioner's representative?

Evinger I guess I'm just a little confused on the landscaping. So, this is not representative of what we're, of what you're proposing? What you're proposing is kind of like your explanation, but we don't have a drawing of how the trees and things would be re-apportioned on the property?

- Price Yes, behind Exhibit #4 is our proposed landscape plan.
- Evinger Okay.
- Wolff So, the landscaping that we look at behind Exhibit #2 is just artist rendering?
- Price Yes. Correct. Yes.
- Wolff That's really representative of the building or the structure?
- Price It's representative of the building and not the plantings. Correct.
- Evinger I just wanted to make sure that I'm following along with you here. Okay.
- Price Yes.
- Wolff What other questions do we have for the petitioner?
- Evinger Well, I have one more question, I guess. And, this is going to be looking at your development plan. With the landscaping plan for this parcel, versus the other parcels that are here, are they going to end up looking similar in plantings, or is this one going to look denser with plantings than the others. What is the overall scheme look like for the whole property?
- Price Well, so each individual user will need to come in and address that, but our intent is to have the same types of robust landscaping that we're showing here, both along Michigan Road, as well as to the east, along that internal access drive. What we're trying to create is a, you know, a park-like feel, and really emphasizing the walkability of the project. That's something that the neighbors have expressed a great desire for. It's something that we think is good for our users when they have looked at the site, and so we would intend to see, you know, the same or equivalent type of landscaping for the other parcels, as well.
- Evinger Okay. And, then one more question, and that's, what kind of signage are you designating for this, just so that, again, since you have several different parcels, and this is the first one being built. How does the signage play into this? Where will that be?
- Price We have, I don't know that I recall exactly the placement of the sign for this parcel, but when we have gone through the approval processes relative to the zoning commitments, we have certain limitations that have been placed on us regarding the specific locations of signs, and so the precise location and design of those signs will need to be part of the development plan approval process and that will be informed by those commitments, which puts some strictures on where they could be located.
- Evinger I was just curious if there was going to be monument signage, or if this is just going to be just on the building itself.

Price I believe we will have a monument sign, as well. Yes. I apologize. I can't tell you exactly where that's going to be right now.

Evinger That's okay. I was just curious as to how this is all going to play out, because we were only seeing one small parcel right here versus the whole plan.

Jones I guess my commentary is going to go along the lines of I understand that the Town of Zionsville's hands are somewhat restricted into what we can do since this project was basically approved back in 2007. And, the problem is what we're looking at is a 13-year-old development concept, that, in my opinion, is dated. People are pulling back from it all across the country. You know, we keep talking about how we don't want to be Carmel, or we don't want to be Westfield, or don't want to be Fishers, or any of that kind of stuff, but every one of those areas is doing whatever they can to embrace this concept of walkable, mixed-use, denser kind of things, and this is just straight up old-school car-centric, big-box something with outlots.

I appreciate everything you're saying, Matt, in the park-like, walk-like, equestrian nature of this thing, but just because I'm a smartass, I see no place to hitch my horse. But, more to the point, you specifically call out the 12-foot path that will eventually go along 421, and you even specifically note that there will be no connection from this project to that path. And, as you look through the limited portion of the overall site development, you see whatever sidewalks you show aren't even really connected to this project. They circle it, but if you were truly not just going to cut through the grass, your only option is to walk through the parking lot. With the Michigan Road Overlay, I think the intent of that is always to soften the façade treatment along 421. As I go up and down 421 every day, I look at all the projects and all the buildings and depending on the type, all of them have tried to embrace somewhat, if not a full strip of dirt down the front of their building, but they have done something.

One of my concerns that I always have when I look at any of these kind of projects is that your renderings don't match your site plan, and don't match your request. Your request to remove the plantings and move something to the east side of the building, but your site plan shows what looks to be 6 or 7 plant beds along the front, but your renderings show only 2 or 3. I'd be more comfortable if there was actual commitments that the plantings that are required by the Michigan Road Overlay were then moved out into the plant beds that are shown on your plan, and there was actually a commitment to it, not just a crafted statement that, you know. I mean, once again, you read back through what you say in here and your proposals, there is always a chance that this thing doesn't come back looking like this, and what we are, the Town of Zionsville, is stuck with is a piece of property that's been entitled to deviate from the Michigan Road Overlay. Same thing with, I don't quite even understand why the need to strip out the 6-foot piece along 421. Whenever I'm researching any of these projects, I kind of get out good old-fashioned Google Earth and take a stroll from 96th Street all the way up to 146th. And, generally you will find properties that pre-date the Michigan Road Overlay that may be up closer, but generally everything new has followed suit. I, you know, once again, that is a, literally, a 100-mile view. Correct? You know. So, I just get, you know, concerned that we are, the Town of Zionsville, causing a problem for ourselves both by deviating from the look that

we can actually enforce here, and then I think we all ought to take into mind the hoops we made The Farm go through in getting an overall development plan and making sure the whole trail, mixed-use, residential, retail, commercial pieces were all kind of spelled out and in play.

I also want to make sure everybody is cognizant of the fact that across the street we have Holliday Farms coming up, where they have provided initially what looks to be sort of an inward-facing office, retail, kind of commercial district, kind of, not directly across the street from this, but in close proximity, and as we, like I said, we are limited because in 2007, they got somewhat of a plan approved. So, I am reluctant to keep stripping that back even further. I'd also want to make sure we all remember that there was actually additional water features on this property that were previously removed, as well. So, once again, I keep looking at something that is, to me, a 13 or 14-year-old dated retail plan that everywhere I personally turn to look to see what I should be developing using my money on, it ain't this. It's other types of projects, and I think we're creating a situation to set a precedence for ourselves that, you know, once again we, I think every time I hear a meeting regarding the old historic part of downtown Zionsville, you know, people always bring up, they don't want it to look like what we've got, when you head out towards Whitestown, but that's what we're approving by consistently stripping back the little checks and balances we have on something.

Price May I respond to some of that?

Jones Sure. Certainly.

Price First of all, with regard to the connectivity, that's just not correct.

Jones But, it's what's shown.

Price It's what's shown with regard to - -

Jones - - and you actually say it.

Price But, Mr. Jones, there is a forum for that discussion. And, that discussion is in front of the Plan Commission where we have detailed filings showing the connectivity of our overall project, and that is one of the most salient features of this entire project. It's why Mr. Harris received a standing ovation at the Willow Glen homeowner's association meeting last Tuesday night. It was because he not only got the onsite trails, he is going to even potentially enhance offsite trails that are in their own community as part of this project, which is something the Town has been extremely supportive of, and it's a big part of what we've done to update and modernize this proposal over the last year, which has received overwhelming approval as we have worked through the development approval processes. And, so there is a venue for that discussion. I don't think that venue is here before the Board of Zoning Appeals when we're asking about two very discreet ordinance, or variations from the ordinance. One of which relates to foundation plantings, which is driven entirely by the architecture of the building, and what we believe is attractive and fits in with the equestrian nature of the immediately surrounding area, and the second part has to do with the 6-foot

perimeter parking landscaping, and I would suggest that where you see that actually being applied, are situations where the property owner has not committed to limit the number of parking rows. Has not limited the nature of the land use. And, so because of the large parking field they have in front of their buildings, they have been required to have that type of landscaping in front of their use, as opposed to what is modern, and the modern aspect of this is to have that landscaping diffusely spread out throughout the entire project, and in this case, along its eastern perimeter, because that's precisely what makes it fit in with the residential uses both what we contemplate on this property, as well as the ones that already exist to the east. So, it is the modernity of the project that drives the need for these variances. And, I think that's why it's received the public support that it has, and the support through the development approval process that it has.

Jones I guess my concern is, as a member of the Plan Commission, I've never seen anything other than the overall site plan you provided us tonight. I've never seen anything in the press other than the overall site plan that's here, and I'm not seeing anything different tonight, and as I look at the drawings you presented me, and as I read through the information you provided, you state, "We're not connecting to the trail along 421."

Wolff Mr. Jones, I want to make sure I'm clear on some of your concerns. The trail on 421, is that the sidewalk running up 421? What is that referencing? And, then, Mr. Papa, I'll turn to you because he's looking this up. Has this gone to the Planning Commission? Have you guys seen this?

Price It's at the next meeting.

Wolff It's on their agenda?

Price It's on their agenda.

Wolff Okay.

Papa Two weeks.

Price I'm not seeing anything that would say we're not connecting.

Jones It's on property location zoning classification and property project description, last sentence of the second paragraph. 'A 12-foot wide recreation path along US 421 will parallel the building' but no connectivity from the building to the recreation path is shown on the submitted landscape plan.

Price Yes. It's shown on the submitted landscape plan. That's right. The landscape plan is meant to depict the plantings, that we're not short-changing the number of plantings. We're simply relocating them from west side to eastern side.

Jones Once again, you're not really committing to the landscape plan you have provided us.

Price What's that?

- Jones You're stating that you're not going to commit the landscape plan you provided us.
- Price We are going to commit to that. Absolutely we are.
- Jones But, like I said, this gets back to my original, one of my original comments. The renderings show one thing, the landscape plan shows 1, 2, 3, 4, 5, 6, 7 planting beds along the façade of the building, and then there is another batch out in the parking lot.
- Price Mr. Jones, if we, if every petitioner were held to the standard that their building rendering needed to include a landscaping package that was the same as their landscaping plan, there wouldn't be any projects approved here or anywhere else.
- Jones Are you saying it is too difficult to have a rendering?
- Price No, what I'm saying is that's an extraordinary standard, and we have provided a landscaping plan that depicts exactly the plantings that we're proposing and willing to commit to, but what I'm saying is showing a rendering, though, that shows our building, and is meant to depict the awning, is not the same thing as showing a landscaping plan. That's the case in every submittal here in Zionsville and everywhere else.
- Jones So, the question we now have is that the Exhibit #5, the landscape plan, does not show the 6-foot Michigan Road buffer in addition to the 30-foot?
- Price It shows the 30-foot buffer.
- Jones But it doesn't show the 6?
- Price It doesn't show the 6 because we're seeking a variance from that, which is precisely why this is consistent was what we're applying for.
- Jones Okay.
- Wolff So, just to make sure I'm connecting the dots. There is a landscape trail, there is a sidewalk going up Michigan Road. The landscaping plan that we have in front of us does not show a connection to that sidewalk, but the intent is to connect to the sidewalk that goes along Michigan Road.
- Price Yes. We'll be required to do that by ordinance. Absolutely.
- Wolff And, Mr. Jones. I think you raise some good points. I think, you know, what the market is demanding, whether it's walkability and those types of things, I'm not an expert in that subject matter, but it's not for us right now. For now, we have a 6-foot issue we're dealing with and an awning issue that we're dealing with, and if Mr. Price, Mr. Harris think that this is what the market is asking for, you know, that's not our narrow scope right now. So, with that, any other questions for Mr. Price?

- Jones Maybe I ought to restate what, typically when we would see a development of this scale, this number of acres, we would see an overall development plan for the entire site that would include basically the connectivity and the paths and all this kind of stuff that we're talking about. What my concern is, we are backing into this by granting variances from the 6-foot buffer and from the landscaping across the front, and so we're going to find ourselves then, as much as they talk about it being a park, walk-like, equestrian thing. We've already got ourselves set up with a gas station and a liquor store at this site. And, we don't know if they're going to actually ask for variances of the same. You see what I'm saying?
- Wolff Absolutely I understand what you're saying. I think many of your concerns are valid. I also think they're more of a Planning Commission, which is, you know, part of your bias, or part of your role.
- Jones Right. But we're going to end up going in front of the Plan Commission then saying we granted variances for things.
- Wolff That's why we have members on both.
- Jones Okay.
- Wolff Any other comment? Ms. Evinger. I thought you might?
- Evinger No, that's why I was asking, even with this landscape, how this is all going to interconnect as far as the whole development and to Larry's point, if you have a 6-foot variance on one, it would look odd not to have a 6-foot variance on the next. Just, you know, from aesthetics, right? So, really, I think if we're granting the 6-foot variance on this one, we're basically saying that we're going to be granting it all, even though each one has to come up before us. But it just seems like overall that the aesthetic would have to match, so we don't have a mis-mosh.
- Wolff Yes. Yes. I certainly understand that point. Wayne, I have a question. I know we haven't heard your staff report yet, but I do have a question about that 6-foot ordinance.
- DeLong Sure.
- Wolff What is, is the nature of that ordinance specific to provide an aesthetic barrier? It's not a safety-related issue, it's just a breakup of line of sight.
- DeLong I would say it's not related to safety. It's related to aesthetics. It's related to finding a place to put the snow, when you're plowing your parking lot. It's finding a way to keep the headlights from spilling into the right of way, or onto other properties.
- Wolff Is this property unique because if we, if there was a fictitious road just to the east of this, and we put this proposal on that fictitious road, it wouldn't have the 30-foot buffer. It would have just the 6-foot buffer, correct?
- DeLong Correct.

Wolff And, I know I'm speaking hypothetically, but this property is unique because, in addition to... what it's required is to have a 6-foot buffer, but what actually is going to end up happening is a 36-foot buffer if we don't approve the ordinance.

DeLong Correct. And, I dive into the details of that in the staff presentation.

Wolff We'll get there because I think that's important. I'd like to understand a little bit more about that. Any other questions or comments for the petitioner or discussion amongst the group right now?

Papa What's in the 30-foot? Is it just grass?

Price That's where the sidewalk and grass, and then the landscaping that you see on our landscape plan, as well.

Wolff So, you're taking the landscaping that is on the proposal. The landscaping proposal, that is the 30-foot? Correct? That represents.

Price Yes. It does. With the landscaping that's proposed, and then we also show the landscaping to the east is augmented. It's beyond what is required by any requirement in the ordinance.

Wolff Right.

Price And, the sequence of events here is that when we go before the Plan Commission, we have the plans that will reflect the variances that have been granted. That is the standard way of proceeding, not the other way around.

Wolff Questions right at this point? Seeing none, are there any remonstrators here tonight to speak for or against this petition? Seeing none, may we have the staff report, please?

DeLong Certainly, staff is supportive of the petition as it's been filed. Certainly, I'll dive into each point in the staff report. In referencing the, which project to dive into first here, the, everything is inter-related. Certainly, your foundation plantings that is a standard. That's in your ordinance found throughout the Town. However, in cases where there are breaks in the façade for doors or other prudences of the entry system, storefront glass, things like that, you do find variations that are supported. In this particular case, and along 421, and this remote of 421 Overlay, awnings are encouraged. The awnings that the petitioner is proposing are more robust than what you typically see, and that is going to be detrimental to the plantings if they were to be installed. That's encouraging the aesthetic of the building itself. That's where staff finds its support of the proposal. You do find the project being inclusive of additional plantings throughout the property that are above and beyond, which is part of the conversation that's happening this evening.

Specific to the parking lot perimeter landscaping, especially that 6-foot buffer, and specifically that 6-foot buffer, as spoken earlier, spoken to earlier, that is regarding aesthetics. It's regarding a place to push snow. It's regarding lighting and buffering, and with that, this property staff would find is unique in that what

is being strived for is 4-sided architecture with 4-sided amenities and plantings, and that is not typical for portions of Michigan Road Overlay in Zionsville. Certainly as your more built-out areas, you do see that 4-sided architecture, but you may not find the intensity of the landscaping on the rear and sides of certain buildings that are maybe in other jurisdictions as you do see here, and so when staff is working with the petitioner, and working through the quandary, if you will, of 30 feet, 36 feet, and the movement of the plantings and the buffering of the view-shed of this building being from all angles, that's where the crux of staff's support comes from. The movement around the building to enhance other sides of it that may not actually exceed ordinance standards, and we're finding that the 30-foot buffer yard still functions and serves the purpose as intended by the ordinance. Ms. Evinger brought up some great points, and certainly the staff report for the Plan Commission process will focus on this somewhat. Certainly the staff, certainly the Town, cannot mandate thematic components of this shopping center, and, so this lifestyle center, as indicated by Mr. Price this evening, but certainly thematic references, callbacks to different plants that have been used already, lighting elements that are similar in nature, color, heights, intensity, bulb colors, all those things are going to be, you know, in staff's mind, very important to the overall view of this shopping center. So, certainly those points will be brought up again. Certainly, I think, you know the petitioners, you know, providing photographs of plants, I think, is foreshadowing the thoughts through other instruments that are beyond the Plan Commission's and Town's control, that those elements would be encouraged, and certainly we would encourage the covenants and restrictions to reflect that, you know, future planting plans for other outlots include, at a minimum, X plants, Y plants, and lighting elements, so the shopping center at least has some visual references to one another without also interfering with trademarked, copyright protected, architectural components that you might find on a certain franchise-based architecture and design.

With that in mind, staff is supportive of the petition as I indicated, and certainly, and Mr. Jones is very well-seasoned in the references to The Farm and the other projects. It's very typical for the Plan Commission to see an overall development plan first, and then see your outlots build out from there. Certainly, that's not necessarily the case here. You do have an overall plan, and certainly not to the design of The Farm. The Farm was an approved PUD that jumped through many different hoops, if you will, to get where it was going. But, I do certainly, Mr. Jones points and brings up, certainly they will come up next, or in two weeks at the Plan Commission. But, again, staff is supportive of the petition as it's been filed, and I'd be happy to answer any questions.

Wolff Thank you, Wayne. I'll start with a couple. What happens if we granted a variance and the awning comes down?

DeLong Well, that's where you have your staff report speaking to substantial, I believe the wording is substantial compliance with the elevations submitted. And, so, certainly the awning itself is, as mentioned probably 17 times tonight, is a critical component of this conversation, and certainly if that awning were to come down, it would change dramatically both the relationship of the project with the 421 Overlay, as well as the variance itself, so the project will end up being in violation of the variance. But, certainly that's why your staff report pulls

together, you know, the building being constructed in substantial compliance with the submitted elevations.

Wolff So, you feel that if there was a natural event 2 years from now, God forbid, and something happened to that, you know storm or something, happened to that awning, the property owners are required to still meet that variance?

DeLong That would be my impression.

Wolff Okay. Along the idea of the information we received from the Town, it references in the recommended motion the proposed commitments. Have we seen proposed commitments? Is there anything we're discussing about proposed commitments, or is that a typo? It would be in the first paragraph, the last sentence of the recommended motion. I don't think that's entered the conversation. I'm wondering if that's - -

DeLong --No, I don't. Yes.

Price I think that's intended to cover what would be committed to tonight.

Wolff If there was something. Okay. Thank you. And, again, I guess I'll lead with my last question, or I'll finish my last question for staff. Wayne, the 6-foot buffer, is designed, it wasn't specific to the Michigan Road Overlay?

DeLong I don't have that in front of me, but I would say that all properties in Zionsville have some, commercially-zoned properties, have some buffer, some minimum strip that's required. From 6 to 10 based upon, but if the Michigan Road specifically requires the 6-foot, I don't remember off-hand. I can certainly pull the ordinance out.

Wolff I guess my concern there, or question there, would be that we have a 30-foot buffer. Then, if the Michigan Overlay specifies a 6-foot, I would be curious about that.

DeLong Well, the Michigan Road Overlay is what specifies the 30-foot buffer.

Wolff Right. So, okay.

Price Mr. President. If I may.

Wolff Yes, sir.

Price What the ordinance, the overlay zone ordinance, has a little bit of ambiguity as to whether that 6-foot strip is to be included in the 30-foot buffer, or whether it's in addition. And, so it's a highly technical variance that we're requesting, because what the interpretation that has been forwarded is that it's in addition, and it's that that seemed excessive, particularly given the nature of this proposal where the parking rows have been limited to only 2, and we do have the 30-foot buffer, and we've limited the number and types of uses by a set of detailed commitments that were approved during the zoning process. And, so those kind of factors all

go together to suggest that, wow, that seems like a lot, particularly given you're going to have the 4-sided architecture and the landscaping added on the east side.

Wolff Okay. Thank you, Mr. Price.

Evinger I've got a question. When we're talking about, we're limiting to the 2 parking rows, I did not count the number of spaces, and I don't know what your users are, but as far as our ordinance goes for parking ratio for retail properties, are we going to be short? You know, and it's not so much even for the city, or the Town, you know, it's more like when you're trying to attract tenants and they want a certain commitment of spaces, are we kind of shooting ourselves in the foot here?

Price It's the front parking that's limited to 2 rows. So, there will be ample parking in the rear.

Evinger Okay. Just wanted to make sure, just for marketability.

Jones I guess I still want to stay along, I understand, Matt, you're hinging a lot of the 6-foot buffer, or the request for it, on the fact you've only got 2 rows of parking in front, but that's kind of standard for most of the outlots coming up and down Michigan. Once again, the overall site plan you have shown us has outlots along 421 and some sort of larger use behind it. And, typically all the smaller outlot, retail, whatever development coming up 421 will have a limited 2-car parking space out front. Very few of them have more than that. So, I just don't, to me it's about continuity. You know, the overlay was created and it's been adhered to for the last, I don't know, how old is it? Ten, fifteen years? Twenty?

DeLong 2006.

Price But it's not been adhered to. I mean, the reality of it is, is you're referencing The Farm. The Farm has relief, specific relief exemption from the overlay, 100% exemption from it. Which was granted as part of the PUD approval process.

Jones Which was granted as part of the overall master plan for the entire development.

Price But, they didn't have a master plan at the time. They had a conceptual plan.

Jones But the conceptual plan defined the roads, the pathways, the connectivity, the signage.

Price And, we're at a stage where we have engineered drawings that have all of that on it being presented in 2 weeks, and we're simply here seeking these two discreet variances for this particular lot. We're much more evolved than any other project from 116th Street to 146th that's ever gone through the development plan approval process. There is no question about that.

[inaudible] 1:08:43

Price Exempt from the overlay.

[Inaudible]

Wolff Mr. Price, do you think, I'm looking for the exhibit. What happens to the property to the south? Not this parcel, but the property to the south. What happens there? Will we be seeing another 6-foot, or another variance request for, you're actually putting them on the spot, yes, I'm going to put you on the spot. But I think Mr. Jones's concern was we're creating an exception, we're going to end up creating it all the way down that proposed development. Is that what you anticipate?

Price Well, each variance request stands on its own merits.

Wolff Absolutely.

Price And, so, you would have a fresh look at that. Certainly I will tell you that our intention is to have the robust landscaping we show along 421, which maintains the 30-foot buffer, which The Farm for example, is exempt from, and adds that landscaping to the east so that we have the 4-sided presentation of this project and the lifestyle center that we're seeking to create. So, if that were proposed on that lot south, it would have to equally make the same commitment, at a minimum it seems to me, to the same landscaping treatment.

Wolff I agree. And, I think what I heard you say, or what I'm inferring from that is, that request may come to us.

Price Right.

Wolff And, the intent would be to keep the property developed consistently.

Price Correct. Absolutely.

Wolff Any questions. I'm not sure, we ever had an opportunity to ask Wayne questions if you have any for the staff, or any questions for the petitioner. We didn't have any remonstrators.

Evinger I know Matt is talking about having the, you know, actual engineered drawings at the Planning Commission meeting in 2 weeks, but is there some kind of commitment we could have tonight that it would be consistent along, at least, Michigan Road? For this variance, or for plantings?

Wolff What are you suggesting? Consistent for the other properties going south?

Evinger Right. Just so we have some kind of standards set for that. I know each one is going to come before us, but just like we've had, like with, you know, if it's a different user then they may want to be exempt from it, and then we don't have any landscaping, so here you have almost like a self-enclosed parcel, and then you might have something else that's more open down here. Just if we have some kind of consistency along 421 for the development, just a commitment for the development. And I know this may be like a chicken and the egg kind of thing, because this might come up in 2 weeks when you have it before the Planning Commission, and that commitment may be made then.

- Price I have an idea. Mr. DeLong mentioned it, which is we could certainly commit to maintaining the consistent landscaping treatment in our declaration, and we've submitted that declaration as part of our Plan Commission submittal.
- Evinger Okay. And, that's already included?
- Price It is.
- Evinger Okay.
- DeLong Ms. Evinger, I think I also maybe heard your question a little differently that you are looking for is the, Mr. Price, I think answered it by adding the covenants, which reach beyond the legal descriptions' limits of tonight's filing, but certainly that would be the instrument to then speak to what you're getting at.
- Evinger Right. I just, you know, like we were talking about with different developments happening. Especially when they're happening, you know, kind of like piece by piece. The intent is good when you begin, but the end project does not necessarily match the initial intent, and so that's why I'm just saying if there is some kind of commitment, and maybe it's already covered in the covenants. That's what I'm saying, I don't have the benefit of having those in front of me, so that's the reason I'm just asking for something that would just show some kind of continuity and consistency between the different parcels.
- Wolff Mr. Price, does your client, Mr. Harris, own this entire parcel that we're looking at?
- Price He does. Yes, 100%. And his intention is to continue to own this project that we're speaking of tonight.
- Wolff Any other discussion amongst the group?
- Papa Just minor clarification. So, when asked what was in the 30 feet, maybe I mis-heard. I thought you said grass and the sidewalk. Is this landscaping within the 30 feet?
- Price Well, it's on the eastern edge of it, yes.
- Papa But, it's in 30 feet, it's within 30 feet of the road, right?
- Price Yes.
- Papa It's in that?
- Price Yes. It's in that same area.
- Papa Okay. Yes.
- Jones So where exactly is the property line then along 421 on your site plan?
- Price My eyes aren't very good here but.

- Evinger You're asking where the right-of-way is basically, aren't' you?
- Price I believe it shows the right-of-way line just on this side of the grass.
- Jones I guess I was assuming that the 12-foot path is the 8th-inch parallel lines just on the other side of the trees. And, is the edge of path then the property line?
- Price No. I believe the path is inside the property line.
- Jones Is the property line all the way out there where it's marked? Well, it says right-of-way, top-center, dead-center of your drawing there is a right-of-way line, and then a dashed line ahead of that. North of that, or planned north.
- Price And, I apologize, my prescription apparently is not strong enough. I can't, I'm not reading what is immediately south of that dashed line.
- Jones Well, it gives the bearing and degrees, and then it's 512 feet, 517. So, is that the right-of-way? What is that?
- Price I don't know that I can speak to that. I know we show grass all the way further north, so I have been reading this document as the property line is this hard line at the very top, inside the box, that is the drawing. It's the next furthest north line.
- Evinger They're saying that's the property line. He is saying the dark line is the property line.
- Jones Oh. Just wondering if that isn't the property line all the way out there.
- Evinger I can't tell.
- Jones That one's got the dimensions on it. Do you know, guys? This line to me has the kind of markings I would say would be the property line, but it's something marked right-of-way. So, then does the 30 feet start from here back?
- DeLong Yes, it's going to start from the edge of the proposed right-of-way, which most likely what we're having here is the difference between this line is the existing line, this line is the proposed right-of-way, and then you would not find the Town building a pathway inside of this existing or proposed right-of-way of the State of Indiana. It's not an action that is supported.
- Price Yes. So, we're required, when we go through the plat, and will be required to dedicate 75 feet for the new right-of-way, and then the buffer then is in addition to that beyond that 75 feet.
- Jones That is in the right of way.
- [Inaudible discussion] 1:17:17
- Jones And the patch is back here. So, the property line is out - -

- Evinger From the middle of the center.
- DeLong Well, the property line is actually right here at the edge of the right-of-way. At the edge of the proposed right-of-way. So, this dimension should be 30 feet from this point, at the edge of the proposed right of way to this, wherever their basically leading edge of the parking lot.
- Jones The leading edge.
- DeLong So, you would always find the pathway itself within that 30-foot buffer.
- Jones Okay. So, the pathway would, okay. So, the pathway is in the 30-foot buffer?
- DeLong That's correct.
- Jones So, outside of the right-of-way.
- DeLong Outside of the right-of-way.
- Jones Inside the 30-foot buffer.
- DeLong Correct.
- Jones And, then what we are asking for is another 6 feet for whatever?
- DeLong Correct.
- Papa Is this parking lot going to be curved?
- Wolff I have couple for you. Sorry, Matt. I want to go back to Mr. Papa's question, can you narrate for me, I'm on Michigan Road, going north, immediately to my right is a 12-foot path, or a piece of grass maybe?
- Price Yes. So, you have the current roadway, and you're going to have an additional 75 feet that we're required to dedicate for future expansion.
- Wolff Yes.
- Price And, then to the east of that 75 feet, you'll have a 30-foot buffer.
- Wolff And, inside the 30-foot buffer, will you describe to me what's happening there?
- Price So, you're going to have grass, a sidewalk, and then to the east of the sidewalk and the grass is where you'll have this additional landscaping that you see here along the edge of our parking lot.
- Wolff Thank you. And, then on, what we have in our packet, Exhibit #5 and what you have behind Tab #4, that is the proposed landscaping plan that you're committing to?
- Price Yes, sir.

- Wolff Okay. Those two are consistent and that's what you, okay. Mr. Jones, did you, you were asking reasonable questions there, and I'm not sure I followed all that conversation. Do you have an understanding of the property line and any concerns or comments about that?
- Jones Maybe still a little bit. I mean, it would be, we're still going sort of bouncing around a little bit as to where the right-of-way and property line is, and the 30-foot portion starts, plus the 6.
- Wolff I think the right-of-way is, you have to be 75 feet off of the current right-of-way on Michigan Road.
- Price Correct.
- Wolff And, then the 30 feet, which, right now that 75 feet puts you into a field right now.
- Price. Correct.
- Wolff There is no pavement there, it's just part of the property that's, and then the 30 feet that we're discussing is after that.
- Price That's right.
- Wolff Okay. So, if we were to go today and stand in the middle of Michigan Road, I would have to look 105 feet away, and that would be where the middle of the parking lot would start.
- Price You would be 105 feet away from the existing right-of-way. So, if you stood in the middle, it'd be the additional lane width, as well.
- Wolff Right.
- Jones No, not the existing right-of-way. Center line of the road. Center line of Michigan.
- Price Well, we're talking about, we have to dedicate an additional 75 feet from the existing right-of-way. Not the center line.
- Evinger Michigan is going to be expanded, and so they're already accommodating the expansion of the road.
- Jones Yes. But - -
- Wolff --I think Wayne's looking.
- DeLong Yes. I don't have all the answers, but that sounds pretty intensive. I mean, typically what we see with right-of-way dedications along, it's typically maybe 20 more feet, so that 75-foot dedication might be the re-dedication of all pieces for, I don't, you need 75 additional feet beyond?

- Wolff We're not allowed to prove that.
- Price That's been one of the very material ramifications of developing along Michigan Road. That's been the case for Holliday Farms. It's been the case for all the, any new projects since the new requirements for the expansion of Michigan Road.
- Jones I guess I'm used to thinking of right-of-way in terms of they would pick the central line of the existing 421 Michigan Road, and then the right-of-way is usually, in this case, now they're requesting 75 feet both ways, which gives them a gross 150 feet for Michigan Road and its potential expansion. Does that sound? Because if it's another 75 feet on top of that, and they're doing the same on the other, you're a football field wide. I think that's - -
- Price --Think about it though, if you drive down 146th Street today, that is pretty much what you have. Got a football field across those two lanes on each side.
- Wolff I suppose if you put a grass median in the middle of it, I'm not sure. I couldn't speak to that.
- Jones I don't know. And, collectively all this discussion we're having is getting around to the fact that we don't really have an overall development plan that's gone through the Plan Commission first, and then we're dropping in and doing these variances. And, that's my core concern is we're backing into this project over and over and over again. We backed into removing water features. We backed into approving the gas station and liquor store. We backed into this instead of the Town, the Plan Commission, having an overall plan in front of us that would have those right-of-ways, and have that information in it, and then we all have consistent information.
- Price But the forum for granting that, and addressing the right-of-way dedication is the Plan Commission. That is where that takes place. We're not saying that we're not seeking a variance from the requirement to dedicate the required right-of-way under Zionsville's subdivision control ordinance. So, whatever the right-of-way dedication is, we're complying with that, and we're complying with the buffer yard, and we've complied with the commitments, and we've limited the parking rows, and we've added the landscaping. It's as detailed a proposal as any proposal at this stage.
- Wolff It think it's a matter of perspective. I think Mr. Price sees this as a parcel, and that's what we have in front of us, variance for these two parcels. And, I think you're thinking more holistically. And, I'm not sure at this point if Mr. Harris or Mr. Price has that information.
- Evinger Saying they'll have it in 2 weeks. So, what I'm thinking is do we need to, would it make everybody feel more comfortable if it went before the Planning Commission first, and then came back to us for a variance the following meeting.
- Jones I think that's the more appropriate way to go around this kind of stuff. At least that way the Plan Commission has - -

Zionsville Board of Zoning Appeals
February 5, 2020

- Price --That's striking new ground, because that's not the process that has been followed in Zionsville for decades.
- Jones You're asking for a variance.
- Price But, the variance process is to have a plan in front of the Plan Commission that has been approved. This is flipping the order around.
- Jones Can I make a motion then?
- Wolff One second. Wayne, can you address Mr. Price's comment?
- DeLong Well, that's, I mean, this goes back I would say nearly a decade where, I mean, it was specifically designed to have the Plan Commission's meeting after the Board of Zoning Appeals, so the Board of Zoning Appeals could opine, come to a decision on a variance request before the matter then went to the Plan Commission. So, the process, I mean, that's how it was set up a decade ago, to make, to enable that process.
- Jones Which works fine on individual lots, but what I kind of keep after is this is not so much an individual lot but part of a larger development that we don't really know what the larger development looks like. Which, I would say that typically the Plan Commission would render thought and decision on an overall project prior to then selective variances being granted.
- Chadd I guess I would weigh just a little bit to say I have seen places try it that way. Some do, but you get into trouble either way. It could go to the Plan Commission first, presented with this design, and the Plan Commission might say yes, we can approve that subject to the BZA approving those variances.
- Jones I guess the point I'm making is that typically the Plan Commission will have passed on an overall plan for the entire development. Then you go back and you do the individual lots.
- Chadd The trouble you get in there is that if they approve, if the Plan Commission approves the entire development, a specific plan for that development, that's what the developer, that's what they have. That's what they have to work with. It's not necessarily as simple as then go get variances to do something different than what the Plan Commission approved for the overall development.
- Wolff And, we don't have a PUD in front of us. I mean like this isn't - -
- Jones --Correct.
- Wolff This is a parcel. And, I'm not sure we can go down the path you're going because we have one parcel in front of us with two variance requests, or one, two pieces to it.
- Jones Which we can deny if we want to.
- Wolff Certainly. We have that privilege.

- Jones And, I'm saying for the status, you know, it's, understand this is not a PUD. Like I said, the Town of Zionsville's hands have been tied back in 2007 with this kind of overall zoning that was granted. But since 2007, and all the time I've been on the Plan Commission and BZA, I have not seen any other overall plan than what I currently have here in front of me. I mean, have I seen anything different.
- Wolff Are they obligated to do that?
- Jones No, I don't think so. Matt, you're not obligated to give me anything more than what you've already done. Correct?
- Price No. And, we haven't. And, don't get me wrong, Mr. Jones. I understand your questions and the thoughtfulness behind your deliberations. I do. What brought us here this evening in this order, though, was trying to follow the precedent for how you do this, and the discreet relief that's being sought for an individual lot. Knowing that the overall plan has a venue for those type of issues and those issues take place in front of the Plan Commission. And, that's coming up.
- Jones The discreet relief sets the precedent for the entire project. Then it's not really all that discreet.
- Wolff I hate the word precedent in this case. I don't think it does. If we wanted to be consistent, we don't have to though. He is going to have to bring that back to us for the property then immediately to the south. And that's a unique property, and maybe we'll get smarter by then and say that this is a bad choice, or maybe we'll say that was a great choice and we made the right choice. I mean, I don't know that.
- Papa We're asking the Plan Commission to give us a plan, isn't that where we are now? I mean, don't we have this that you're saying our hands are tied because we already have it?
- Jones The overall site plan that we've been shown, where they - -
- Wolff --Pause right there. The overall site plan you're referring to is the entire property.
- Jones The entire parcel.
- Wolff Not the parcel we're talking about.
- Jones Correct. Here. That's what I'm calling the overall plan. And, to date, we've not seen anything with any more detail than this, correct?
- DeLong Correct. What you have is a series of outlots. There is the shape of a main anchor and the B shops that go with that. There has been different variations of that curvature, that shape. The last site plan you saw actually kind of ghosted that out and said mixed-use development, which I think is the ultimate goal is to have a lifestyle center in the core of this development, and then wrapping the development with outlots here.

- Jones And currently we've approved a gas station on the corner. Correct?
- Price For the land use, yes. Not a development plan or anything like that. Just the land use.
- Jones The land use, and then the liquor store is on which side of the entry drive?
- Price It's at the south end, on the south lot, on the south entry along 421.
- Jones Okay.
- Price And, that's just been approved by land use, not development plan or anything like that.
- Jones So, then you're saying you're going to bring something in front of the Plan Commission here in 2 weeks. Is that going to have any kind of connectivity of information on these 3 parcels?
- Price No, it only covers the shops that you're seeing in front of you. It's a master plan. Does not have the individual development plan for these lots. We're referencing The Farm. When The Farm got their approval for the Kroger, they did not have the rest of that development shown on their plans. It was just the Kroger.
- Jones No, they had the outlots, the roads, the uses.
- Price Yes. We'll have that. They did not have uses, but they had Kroger.
- Jones Yes. They had uses. Yes, Matt, they had uses.
- Price Conceptually like we do. They didn't have a specific building plan.
- DeLong They didn't have tenants.
- Price The architecture or anything like that.
- Jones No, but they had defined uses of what would be medical office, what would be retail, what would be apartment.
- Price Yes, and we do that.
- Jones What would be residence over commercial. They had the street layouts. They had overall landscaping plans for the entire, and that's what I'm saying.
- Price We do, as well, for our. That was in front of the Plan Commission for development plan approval. That's where that conversation takes place.
- Jones But I, okay. Am I mistaken? I have not seen that level of detail.
- DeLong No, you're reflecting on The Farm's PUD ordinance where it provided PUD level amount of information for the Plan Commission's process, and that is not

something that's been generated as a part of this particular development. It's a different - -

Jones --Well, okay. The level of information provided for The Farm in the PUD, they can provide for this parcel. What the PUD does is allows for then specific tweaking of zoning, building, whatever, in an overall package. You're not proposing to do that. We're not asking for that. But what we're ending up doing is we're doing the individual tweaking without seeing the master plan of all the tweak. Does that make sense? And, that's my concern. It's this, this backward approach to it. I understand you saying it's not a backward approach. That it's the single lot, that blah, blah, blah.

Wolff I mean, I don't know if I would agree that it's a backward approach. I think the difference is that it's, one path would be to go down the PUD route and do that, and another path would be to do it individually, and seek the individual variances.

Jones Okay.

Wolff There's merits to both.

Jones The PUD route isn't necessary.

Wolff I agree.

Jones They can put together whatever level of fit and finish for this project. I mean, what's kind of interesting is, as I'm thinking about it, have you set up the civil engineering to actually designate the roads and the parcels?

Price I heard the first part of what you said.

Jones To designate where the roads and parcels and sewers.

Price Yes. Absolutely.

Evinger You have civil engineering plans drawn?

Price Absolutely. Yes, we have construction plans on file.

DeLong Correct. They are pending with the Plan Commission.

Price We're following the procedure in Zionsville for doing this. But here's where Mr. Harris and I have talked about this. Our intention tonight was not to plow new ground. If you would like it to go to the Plan Commission first, and get our plat and development plan approval and come back here, and you'll have the assurances that there is a full-blown plan that's been approved, we're happy to do that. We would like to see that precedent followed for all other petitioners, because that's a different way of approaching these projects than what's been followed today, but we're prepared to do that. We want your full confidence in what we think is a beautiful project that has received nearly unanimous approval

throughout the last decade or more, but we're happy to do that if you would grant us a continuance, and we'll come back in March.

Wolff You know, thank you, Mr. Price and Mr. Harris for being amenable. I guess, I'm concerned here, though, that we are going to have a different path, right? We're not looking at, you are thinking about this wholistically, and I don't have wholistic information in front of me. I have a very specific, traditional.

Jones Let me put it, maybe, differently. Typically, whenever we look for a variance for a house, we have sitting in front of us where the lot has been created and recorded and defined. That there sits that lot, with street access here and with this there, and the utility there. We ain't got none of that. We don't have a defined lot. Are these defined recorded lots?

Price No, because we have not gone through the plat and development plan stage, which is subsequent to having approved variances to go through that process.

Jones That's the difference.

Price If what we're saying is, we're going to invert that process, and have the Plan Commission approve projects that have yet to receive development standards variances, we can try to follow that process. It will give a broader picture, but it will be a different approach to what's been done here before.

Evinger Name one development that we've had in the last 10 years that's been a complete plan, that's only come before us in a patchwork fashion where it's just been parcel by parcel.

Wolff I can't think of something similar to this.

Price I can. I mean, the Kite development on Oak Street was done that way.

Jones What are you talking about? Kite?

Price The Anytime Fitness and those restaurants was done that way. It still has an undeveloped lot in the project now.

Jones It has an undeveloped lot, but the lot is defined because St. Vincent owns it.

Price Yes. Absolutely. No, I'm not disputing that the lot has been defined. What I'm saying is, though, they didn't come in and get every single development plan approved at the same time.

Jones But, they defined the parcels.

Price Okay.

Jones Correct?

Price I don't know whether that's true or not. It was certainly done in phases. They could change the lot lines today on it. Right?

Evinger My main concern, I don't really care what's happening behind it. All I was concerned about is just from corner to corner here along 421, if we eliminate the 6-foot variance here, right? Or 6-foot easement here, it should be eliminated I think all the way down, just for aesthetics purposes, otherwise it's going to look odd having it kind of zigzag potentially. I mean, maybe that could be covered with landscaping. And, then also if we were going to just, as far as plantings, and that's what I was asking, as far as density, because if this one ends up, especially with retail. It's important for sight, right? And, if you end up with a lot of trees here, and then later on we decide, okay we're not going to have trees there, this one is still going to end up looking like a forest. So, that's why I'm just saying if we could just have some kind of consistency at least from edge to edge on 421, everything else developed behind it.

Price And, what I was committing to was saying in our declaration, which is on file now, we can commit that the landscaping would be no less than as shown on that plan. The detailed plan you have in front of you now for consistency.

Evinger Okay.

DeLong But, no, I'd have to give your question additional thought. I mean, when you think about Creekside corporate park PUD, Dow PUD, Town Hall PUD. I mean, those are three specific projects I don't believe had the details that you're specifically speaking to tonight. So, there are projects out there that have been, the division of the land has been supported, and then you would see individual development plans coming in for that, for following that process, but I would tell you that typically we see projects pursue their variances first because that is a lower cost of entry. The cost of creating those drawings are less, often folks will choose to pursue the variances first because of the heavy lifting that goes into, the much heavier lifting that goes into creating the development plans and drawings.

Price I'll give you one. Hopwood Winery, would be an example of that.

Evinger Again, you're talking about 3 parcels. I think when you're talking about heavy lifting, and having even the time commitment for our body, right? If you do 3 at once, instead of 1 at a time, you'd have it all knocked out at once. And, I'm talking about the 6-foot variance. You know, as far as having that, and also just the density of plantings. And if density of plantings are covered in the covenants, then all we're really talking about is that 6-foot difference and then doing for all 3 parcels and just commit to it and be done.

Jones And, just to clarify, the Hopwood Winery, it was an existing parcel that the individual asked for, you know, basically the approval of a plan that he was going to develop over several years. It was an established parcel. It was a single individual, and our situation here is while we have a single project, it's all part of a larger, multiple outlot, something development. That, to me, is the difference. If this was just this one piece of land, and it had been carved out along 421, one, they would have to be providing a curb cutoff of 421 to access this piece. Correct? And, they would have to bring utilities to this parcel, and it could be treated as a standalone parcel. Even if they were going to just buy it. Correct?

Because even in the purchase, you would have a purchase offer saying, hey, I can buy this chunk of land from Mr. Harris for X. We have defined what it's going to be. Now he needs variances to see if he can go ahead with the project. And, the rest of it could be farm field. But, that's not what we're being shown, and told.

Price I'm not following you at the very end. I mean, we're showing the depiction of a lot. That lot is the subject of a plat, which is on file today, with a detailed development plan. That is no different. All we're really talking about it changing the order of things to what we've historically done. That's all we're talking about.

Jones That none of us has seen.

Price Well, there's certainly, what you're saying is, is that the fact that many petitioners have come in here, I've been in here many times, and seen petitioners get variances prior to the time of platting their property. The Hopwood example is one of those. You don't know what his ultimate plat or development plan looks like. You just know what variances were granted. And, it's no different than what we're submitting here tonight. In fact, we have a detailed plan that shows the landscaping treatments, the lot lines, the buffer area, etc. It's far more evolved than any of those other proposals. As was done with Lids.

Jones Matt, if you come in here next month and ask for some different variances and a different lot and we say no, and you point over and say well you just granted them last week, you'll come out of your shoes.

Price Say that again.

Jones I said, if you come in with a development plan for an adjoining piece, you know, across the street. I can guarantee you are going to say, hey look, you approved this over there, and if we sit there and look at you and say, well, we don't want to do it this month, you'll sue us in a heartbeat.

Price I see what you're saying. No, no.

Jones Oh, Matt, we've been down this road.

Price Not with me.

Jones Yes, you have.

Price I've never sued anybody.

Jones Ah, no, no, no.

Price I did sue Mr. Chadd's client once. That was a mistake.

Evinger But if the variance is important for this parcel, I'm just saying, for the two that you're coming in with, and you're saying it's discreet, why not apply it to all three parcels and just be done?

- Price And, what I'm saying is - -
- Evinger Wouldn't it be more expedient? Well, I'm talking about the 421 Overlay. Just getting, just knocking out the 421 Overlay, as far as the 6-foot buffer and the planting commitment. If you did that, they you'd be done. You wouldn't have to come before us again, and you'd have, you'd be able to go on about your business. The variances would already be in place for all three parcels.
- Price Right. We could apply for a blanket variance.
- Jones What about the plantings along the front of the - -
- Price --What I can tell my concern for doing that is, is then we would be asked, well, what the use? What's the, I mean, because it could vary, right? How many parking rows? What's the access? What's the signage? All of those things that, what's the rent? What's the building look like? Could be a big factor in that variance.
- Evinger So, then what about just the 6-foot buffer. I mean, at least you'd be able, I think, I'm thinking just visually, consistent.
- Price No, we're all for consistency. We'll commit to that.
- Wolff I think what's Matt point, though, is if it's a 6-foot buffer, I think what I heard earlier was, it's not, the 6-foot buffer isn't that much of an ask, because we only have two rows of parking. But, if it's a 6-foot buffer and it's a football field of parking afterwards, does it look less aesthetically pleasing, and we don't have that.
- Evinger Well, you'd still have a jagged line going down Michigan Road though. That's the reason, I'm just saying, just for consistency just to have - -
- Wolff --Yes, no, I agree that it would look better, but like, would we, does that 6-foot matter if it's parking lot or two rows of parking. I don't know. I want to pause this for one quick moment. Wayne, are we going down a bad path by, are we upsetting the apple cart here?
- DeLong Well, it's certainly, you know, staff would not encourage changing paths mid-walk, so to speak. I mean, certainly the Town, I think, very thoughtfully set a certain procedure in place by positioning certain meetings, certain places, and encouraging those groups to start meeting once a month. Eight years ago, this group only met every other month, so thank you for your service. And, so I think, I mean, if there is a, if there is to be a policy change, then I would encourage a conversation about that, about our processes so we can re-align our processes so we can advise constituents, clients, customers accordingly that if this is the route you're going and this is a one-off, one lot project, here is the swim lane. If this is a one lot and a project that's X and it's going this, we have a different way to advise, and then there is different metrics we can set up so you would not have to have this type of dialogue this evening. We appreciate the dialogue, but I know it's also pretty complicated.

Wolff Wayne, in your eyes and in the staff's eyes, do you see the view that Mr. Jones, or do you share the view of Mr. Jones, this property is unique. Do you agree with that, and where do you?

DeLong No, staff would always encourage a larger master plan understanding of what a project would look like. I mean, in that same breath, different master plans that are turned in show different levels of detail. The master plan that is associated with this project has a certain level of detail, and that's where the staff is working from. The Farm had a radically different level of detail because it was a \$90 million PUD that was going through that very particular process in July of 2013. So, certainly it is, it's a complicated conversation as we're experiencing, but I mean, while Mr. Jones makes great points, and that's, I would say, typically a Plan Commission is seeing a master plan, there has been a master plan drawn that shows the level of detail that's been provided.

Wolff Mr. Chadd. Do you have any concerns at this point that we may be going down a path that we shouldn't be?

Chadd I think your path is just a policy issue.

Wolff Okay.

Chadd I mean, you could do it either way. It sounds like the strongly established policy is go to the BZA first and try and get your variances so you know what you're submitting to the Plan Commission.

Evinger It will be interesting when Holliday Farms comes before us. I haven't seen that one yet, but if they are going to be also coming through with just one particular parcel at a time, that's also fronting 421, or if they are going to come through and have the whole thing.

Wolff Well, they should be - -

DeLong --Well, I mean, I don't recall exactly how all the wording is in their PUD. Often times it will say it has a lot of relief, but there are certain avenues that would generate a variance filing and, very specifically, much like the Creekside PUD, it actually says the relief agency would be the Board of Zoning Appeals. That's not the case in all PUDs, but certainly anything, and certainly straight-zoned, would enter into the BZA if that happens.

Wolff Mr. Papa, I have not heard from you. Any comment you would like to add?

Papa Maybe a question for Mr. DeLong. On, this is the way, some of the wording is 6-foot wide parking lot perimeter planting area. So that is always landscaped to, I think you said something about to shield headlights.

DeLong Generally speaking, you see that 6-foot wide buffer area providing improved with deciduous or evergreen plantings that have a certain density of the plant material itself. They are planted in 24 to 36 inches on center. Certain gallon-sized per planting, just to build that hedge wall to reduce light spillage from headlights.

But that could be accomplished with just different styles of plantings that just have a very dense twig.

Papa So, one of the follow-up questions then is, to the question here is, is that in addition to the 30-foot setback, or can it be included in the 30-foot setback. So, are there other areas in Town where that is clear? Where there is an analogy? Because, to me, if you're, the 75 feet they are giving up, and another 30 feet, and you have the plantings, but they're just within the 30 feet, I'm not really seeing what the advantage is to the additional 6 feet.

DeLong Right, and much like, I mean, the law is written in that static moment, and it's not anticipating all of the, necessarily, all of the variations that are going to happen, such as the State of Indiana increasing their proposed right-of-way from 55 to 75, and then telling the Town, well, you cannot put your pathway in our right-of-way, so the Town has to go out and get a 20-foot easement on top of that, and then each utility that is along a particular roadway saying, we all want exclusive easements along this roadway. Nobody is allowed to intertwine or co-mingle, and the next thing you know you've got, you know, 150 feet from the center line before you can build something, and then you've got, the public is somewhat confused whereas that edge of that where is my public space, where is my pathway and why does it take, you know, 20 minutes to get from the sidewalk to this business, because they've had to site it so many feet back. So, I would offer that the Michigan Road Overlay wasn't necessarily written in, you know, entertaining the thoughts of exclusive easements, pathways and separate easements and larger right-of-way dedications than were originally created. That's where staff then comes in and talks about, wait a minute, just like you're getting at, the benefit of this 6-foot buffer was to mitigate parking lot, or driveway, or lights that are created from cars, but that was when those cars were 70 feet from the edge of the, or 70 feet from the center-line, but because of all these different takes, the cars are now 140 feet, and where is my benefit? That 6-foot, the benefit of that 6 feet has been eroded by the additional span that's been created by all these other regulatory and governmental agencies that have done their takings. So, a very long-winded answer, I hope. I hope an answer.

Evinger That gets back to my point, though. If we were saying that it's not necessary for this particular parcel, why would it be necessary for the two adjoining parcels? Could we not just eliminate across the board, or because it's not before us we can't?

DeLong Well, it's not within your legal description. It's not been advertised.

Evinger Okay.

Papa That's where I was ultimately going was, is that something the, I don't know exactly the procedures, isn't that something that maybe the Plan Commission is to look at and say, well, this 6 feet can be within the 30, but it still has to have whatever the requirements are now for the plantings.

DeLong Yes. And ultimately this would be a zoning ordinance amendment if, along the Michigan Road Overlay, if you're within so many feet of the center line, you're providing the 6-foot, no questions asked. But, if you're more than X dimension

from the center line, this 6 feet can be a part of the 30 because the benefit of that distance has been mitigated, or eroded by, the extra - -

Jones --You actually bring up a pretty valid point. So, if the State increased the right-of-way from 55 feet to 75 feet here in the last umpteen years. So now, where you have a situation where from the center line you went 50 feet, then you had 30, and then they wanted this 6, well now all of a sudden, it's not 50 feet, it's 75 feet. Well, okay, so basically what the property owners are asking for is relief of the burden of giving up the extra 25 feet of right-of-way, which was kind of a taking, which they had no say in. That sound legit? Very reluctant to agree to anything I say. I guess, then again, you're an attorney. That's all right. That's the nature of the beast. But anyways, that's a different way to present it. Does that make any sense, what I just said? That it's a, okay. Which one in fact came before the Plan Commission, as far as there was an overall plan. If the story was told that we've, you know, in 2007 when we started this, we were here, and in 2020, we have now been moved back 25 feet because the state's come through and said you've got to change. That's much better reasoning behind granting a variance. That's the burden. That is the unique, what is unique to this property piece of any variance. And, what's unique is that prior to my original ownership, I owned this much land, and now for no other reason existing alongside 421, I now own or have control of less than. It's a right-of-way, you still have to cut it and keep it clean. But you no longer have the, does that make any sense?

Wolff Certainly. I think you demonstrated the hardship.

Jones And, if we had an overall project plan that kind of laid out that story, then we wouldn't be sitting here right now. Sorry, did I say that out loud?

Wolff You did.

Jones Sorry. On the record again.

Wolff Red light's on. Let's more forward. Any further comments, discussion?

Jones Do you have any interest in requesting a continuance so we can get in front of the Plan Commission? I can fill them in on all this hopefully in less than - -

Price --Yes, here's what we'd like to do is, request a continuance, and I think also thank you for grappling with this issue with us. We appreciate that. We do. We appreciate it. We want, we're proud of this project. We want everybody to be proud of it. So, we would be happy to come back here at the next month and look forward to Mr. Jones's assistance from the Plan Commission. So, yes, we'll request a continuance.

Jones And, one item, too, I'd like to point out about the relief from the foundation plantings. Is just to clearly state that really what you're doing is you're moving it out to the planting bins that are part of the parking lot.

Price That's correct.

Zionsville Board of Zoning Appeals
February 5, 2020

- Jones And, that affect of the planting along the façade of a building is to soften it, so you just, you know, the preference would be, like any developer. You build it here, you put 5 feet of sidewalk, you put a door in, you put parking in, and you charge rent. You know, grass is nothing but overhead. So, you know, but if you can show that you are taking that and moving it to other spots on the façade, provide some relief, then, once again, the trade. And, it's committed to and then everybody moves on down the road. So, is this officially ask for continuance?
- Wolff No, we have not. The March meeting is the 4th. Is there a motion to continue?
- Jones I move that we continue Project # 2020-03-DSV to the March 4 BZA meeting.
- Wolff Thank you. Is there a second?
- Papa Second.
- Wolff Thank you. All those in favor, please say aye.
- All Aye.
- Wolff Those opposed, please say nay.
- [No response.]
- Wolff Motion carries.
- Price Thank you. We appreciate your time.
- Wolff Thank you, Mr. Price. Next item is other matters to be considered. Wayne, do you have any updates?
- DeLong No, nothing more than what's indicated in front of you, and we still work to get additional information on the bottom two items, DSV-19-2018 and #2017-11-DSV.
- Wolff Thank you, Wayne. I would turn to my fellow Board members for a quick comment. We mentioned earlier the March meeting I think we're square. The April meeting is April 1. It's currently scheduled for April 1, and for those of you with students in the Zionsville Community School district, that is spring break. Is anyone planning on traveling?
- Papa I'm not here.
- Wolff I am not here, as well.
- Evinger I'm an empty-nester, so.
- Wolff Mr. Jones. Do you have any plans? We need to talk with Mr. Mundy when he gets back. It would just allow the Town to, you know, handle petitioners if we need them. We are going to lack a quorum.

Zionsville Board of Zoning Appeals
February 5, 2020

Jones I should be here.

Wolff Okay. So, we'll confirm with Mr. Mundy, and we will adjust accordingly if we need to. Thank you. Any other matters to discuss? Seeing none, this meeting is adjourned.