



ZIONSVILLE
ZIONSVILLE PLAN COMMISSION RESULTS

Monday, March 20, 2023
 6:30 PM (Local Time)

THIS PUBLIC MEETING WAS CONDUCTED ONSITE AT THE ZIONSVILLE TOWN HALL, 1100 WEST OAK STREET, ROOM 105 (COUNCIL CHAMBERS), LOCATED AT 1100 WEST OAK STREET AND ELECTRONICALLY VIA ZOOM

The following items are scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance: Dave Franz, Mary Grabianoski, Chris Lake, Larry Jones, Sharon Walker, Cindy Madrick, and Jim Hurst attended in person.
- III. Community & Economic Development [February Monthly Report](#) (Informational Only – no action required)
- IV. Approval of the [February 21, 2023, Regular Meeting Minutes](#): Approved with one revision
- V. Continuance or Withdrawal Requests

Docket Number & Links	Name	Address of Project	Item to be Considered
			None

VI. Continued Business

Docket Number & Links	Petitioner / Project Name	Address of Project	Item to be Considered
2023-01-Z	Block A, LLC (formerly Ophthalmology Practice) / Rezoning	11695 E 550 South, Zionsville	Provided a Favorable recommendation to the Town Council 7 In Favor 0 Opposed Petition for the Rezoning of 1.288+/- acres from the R-SF-2 Zoning District to the Urban Neighborhood Business (B-1) District, also being in the Michigan Road Overlay.

VII. New Business

Docket Number & Links	Petitioner/ Project Name	Address of Project	Item to be Considered
			None

VIII. Other Matters to be considered

Docket Number & Links	Petitioner/ Project Name	Address of Project	Item to be Considered
			2023 Contractual Plan Commission Legal Services: Plan Commission executed the contract

Respectfully Submitted: Mike Dale, AICP
 Director - Department of Community & Economic Development
 Town of Zionsville

Zionsville Plan Commission
March 20, 2023

In Attendance: David Franz, Sharon Walker, Jim, Hurst, Mary Grabianowski, Chris Lake, Cindy Madrick, Larry Jones

Staff attending: Mike Dale, Janice Stevanovic, Bob Clutter, Attorney

A quorum is present.

Franz Call to order the Plan Commission meeting of Monday, March 20, 2023. Start with the Pledge of Allegiance please.

All Pledge of Allegiance.

Franz Secretary, please take roll.

Dale Sharon Walker?

Walker Present.

Dale Jim Hurst?

Hurst Present.

Dale Mary Grabianowski?

Grabianowski Present.

Dale Chris Lake?

Lake Present.

Dale Dave Franz?

Franz Present.

Dale Cindy Madrick?

Madrick Present.

Dale Larry Jones?

Jones Present.

Franz All members are in attendance. In your packet was a set of minutes from the February meeting. Is there any comments, additions, deletions to those minutes? If not, is there a –

Hurst Yes sir, I'd –

Franz Okay.

Zionsville Plan Commission
March 20, 2023

Hurst If I could make an amendment.

Franz All right.

Hurst I'd move that on page 17 of 46 the spelling of my last name be corrected from Hurt H-U-R-T to Hurst H-U-R-S-T to avoid confusion with a petitioner named Hurt who testified at the February 21, 2023 Zionsville Plan Commission meeting.

Franz All right. So noted. Anything else?

Dale Sorry about that.

Franz If not is there a motion to approve the minutes with the changes noted?

Lake So moved.

Franz Is there a second?

Walker Second.

Franz All in favor signify by aye.

All Aye.

Franz Opposed by nay.
[No response]

Those minutes are approved.

This month we've got a rather light schedule. It's continued business from last month. Docket Number 2023-01-Z, Block A, LLC, 11695 East 550 South, Zionsville. Petition for the Rezoning of 1.288+/- acres from the R-SF-2 Zoning District to the Urban Neighborhood Business (B-1) District, also being in the Michigan Road Overlay. Petitioner present?

Cross Yes.

Franz Please begin. State your name and address and begin please.

Stevanovic Mr. Chairman, I'm –

Franz Oh, hold on. We've changed the process, sorry. I keep, we do staff report first now so staff report.

Stevanovic Thank you, sir.

Franz Sorry about that.

Stevanovic This is a petition for the rezoning of 1.28 acres from the R-SF-2 Zoning District to the Urban Neighborhood Business (B-1) District, also being in the Urban Michigan Road Overlay District. This is, the parcel is at the intersection of U.S.

421 and County Road 550 South or Templin Road. The Plan Commission should know that there is no development currently proposed. The petition is solely to rezone the involved property. A zoning map has been submitted within the staff report that reflects that most parcels south of this parcel along 421 almost to Sycamore Street are presently B-1. Of note is that the subject site is within the Michigan Road Overlay District which requires a minimum lot area of 2 acres for development. Future development of the 1.28-acre subject site will require either the addition of adjacent parcels to achieve the minimum lot area or a development standards variance from the Board of Zoning Appeals. The B-1 Ordinance states that the Neighborhood Business Districts are established to promote development of areas for convenience uses which tend to meet the daily needs of the residents of the immediate residential districts. Uses within the B-1 Districts are regulated in intensity and character to ensure harmonious development with the residential districts served and are limited in size and scale to promote pedestrian access and ensure compatibility of this district with adjacent residential development. Staff offers a favorable recommendation of the Petition for Zone Map Change of 1.28 acres from the R-SF-2 Zoning District to the B-1 Zoning District.

Franz All right.

Stevanovic I'm happy to answer any questions.

Franz All right, thank you. Please proceed now. Thank you.

Cross Thank you and good evening members of the Commission. My name is John Cross and my address is 13 North State Street, Suite 241, Greenfield, Indiana 46140. I am here tonight representing Block A, LLC who is the petitioner and also the owner of the property. As stated, originally this petition was brought by a potential seller of the property who intended to use it for a medical use practice. He is no longer purchasing the property and so now because this process had begun, the owner and current petitioner figured that they would go ahead and move forward with the request to rezone the property as originally petitioned.

As stated, the intention here will be to sell it for future development, future use of the property for a B-1 permitted use so there are not, and to my understanding, will not be any sort of plans to develop the property by the current owners but just so the fact that they can market it for sale as a commercial use. We do understand that because the Michigan Road Overlay requires parcels be 2 acres that, as stated, will require future variances or acquisition of southern parcels in order to develop on so I believe that this is really just a phase 1 of any type of development on the property. So really this is just looking at the rezoning and potential future use as opposed to developmental standards or requests for variances. Those haven't been considered so there are no plans with regarding to how it will be developed.

With, so really this is just a request to rezone a property to B-1 which I know the staff report indicates that the property's recommended use is residential. When I looked at the comprehensive land use map online, I, I thought I saw that the proposed land use was the commercial neighborhood use. So I don't know if that was a question for follow-up that I could've had beforehand and, and I wish I did

but really what we're trying to do here is make the current lot more harmonious to the parcels to the south and to the east on Michigan Road which are all already zoned B-1 District which, again, is a district well suited to be abutted and adjacent to residential neighborhoods. So we believe that this will make it, the rezoning will make this property more consistent with its surrounding area, that it'll have a better and more desirable use of this having the potential to be future commercial use as opposed to more of a, a random residential corner lot that is on the north side of a bunch of commercial properties which it abuts. So we don't believe that there will be any impacts.

Again, the, the B-1 Zoning District and the Michigan Road Overlay have specific standards of what must be met, what must be met developmentally wise in order to ensure that there are no negative impacts on the residences and other properties that surround it. That is one of the intents, intentions of the B-1 Zoning District so as long as those are complied with I don't believe that there will be any sort of negative impact on the abutting parcels. If there will need to be any deviations then, of course, variances will need to be sought which I anticipate a variance will need to be sought regardless before improvement is done since the property is, is lower than the required acreage. So this is really a straightforward request just to change the use from the current residential to what we believe is a more desirable commercial use and with that I would be happy to answer any questions.

Franz All right, thank you. Is there anybody in, from the public who'd like to comment on this matter?

Kiell Good evening. My name is Charles Kiell. I'm a resident of Lost Run Farms and have been for the last 7 years. I'm also one of the past presidents of the homeowner association and I'd like to bring a couple of things from the neighborhood perspective about the proposed change. The, keeping with the business development as it exists and stating that it is harmonious with the present businesses I think is somewhat of a misstatement. The parcel A is really much more isolated than the other businesses. The other businesses are, for the most part, former residential structures that have been converted to businesses. We do not have a plan, nothing's been planned about what the development would be and, thus, one would say that it is kind of premature to grant this change at this point. The parcel is not separated by trees from the residential property. All the other property, all the other commercial properties right now have a tree barrier between the residential properties and where they are so there's no visual line of sight. The proposed structure on lot, on, on A would have direct visual continuity into the development and would impact the privacy and, and property values of at least four of the homes that are right in visual line with where this proposed building would be. We feel that this would impact the, the property values of at least those four homeowners if not more of, of there. This also would imply change to a commercial use would have obvious impact in terms of noise, light, vehicle traffic through the area, so for many of these reasons we are not in favor right now. We feel it is premature without a proposed plan of how this would be used nor has there been an agreement that the variance would be required to get up to 2 acres has been obtained or if it ever can be obtained. So, for all those reasons, we feel that granting this without a more

mature and derived plan would be premature and would, and, and if it were to be, would impact on the property values. Thank you for your time.

Franz All right, thank you. Is there anybody else who would like to comment on this? Would you like to respond?

Cross Thank you. Again, as stated, the B-1 Zoning District does have specific ordinances for how any sort of commercial property that abuts residential neighborhoods must be developed. Those entail parking lot standards, lighting standards, buffering standards, landscaping standards, so all of those were designed originally by the Town of Zionsville and those ordinances are designed in order for commercial properties being able to coexist next to residences. So I do understand the concerns for privacy in, in those buffering but I was looking at the GIS records and I did show that the nearest resident, residence to this, the property line of Block A is 195 feet away from it. It does have a pool that is about 170 feet away from it so I do believe that, of course, that's not a reason to grant the rezoning but I believe that there is a lot of opportunity here in order to create the landscaping both on the Block A any future development that would be required at that time as well as the owners of the residences have in order to install what they would deem to be necessary for privacy. So I, I don't think it's only up to them. I think it's up to any future development and approvals for it but I, I also do think it is a little premature at this time to consider what would be necessary when the B-1 Zoning District has its specific standards that I do feel would adequately address what is and what, what cannot be built there. We know that, I mean, the ordinances state lighting-wise that no illumination shall, shall be created. When you're abutting a residence then you have to provide a certain type of lighting that does not impact their property. So, again, understanding their concerns. This rezoning to the commercial use will just make the border along Michigan Road consistent and any future development, we believe, will be done pursuant to developmental standards. If not, then variances will have to be obtained and approved in order to ensure that any development there is, is responsible but we believe that it can be done as is so. Thank you.

Franz All right, thank you. At this point is there anybody on the Plan Commission with any questions/comments on this?

Lake Quick question – there's a gravel, what used to be access drive, that came off of that lot into Lost Run Farms. There's still a little bit of a, a pavement turnoff to that. That's not any sort of required access for Fire, correct? Because there's a solid fence at the other end.

Stevanovic . 16:07 inaudible

Lake Okay, all right.

Jones I've got a question for, I think, Mr. Cross. Did you guys ever explore any kind of higher density residential to see if there's a chance you could get maybe a, maybe a 3 or 4-story apartment across the back side of that lot? I'm trying to see what the depth of it is. Is it 218 feet?

- Cross To my knowledge that was never done. The, the prior own or the prior buyer and petitioner was going to use the property and develop it for a medical use only so once that sale fell through, the owner decided to move forward with the petition which had already been filed so there never had been, it had never been examined whether it could hold any sort of high residential use.
- Lake With right-of-ways and buffers you only get about 130 feet.
- Jones Well that's, I mean, typically apartment with a little underground parking is 68 feet depth –
- Lake Yeah.
- Jones You could push it against the back property line and I think that'd give you enough access around the front wouldn't it? So there's the opportunity to do something like that, correct?
- Madrick In the current zone?
- Jones Well, the zoning would have to be redone.
- Lake Yeah, I'd say the zoning's going to have to be redone either way.
- Jones Correct.
- Lake So.
- Jones Would that be more agreeable, more of a residential use?
- Mandelbaum May I?
- Franz Sure, come on up.
- Mandelbaum My name is Art Mandelbaum with Mandelbaum Law Offices. I represent the Lost Run Farm Homeowners Association, 60 Florence Street, Carmel, Indiana is my address. Councilman Jones' question is the exact reason why this petition is premature. The purpose of the, the ultimate purpose of the development of this property is in question so it could be residential, it could be commercial, it could be something that, that doesn't need to have a change in the, in the zoning at this time. What it also does by making this decision today is it takes away some of the leverage, if you will, of the homeowners association to negotiate with the prospective developer to make some concessions that might not otherwise be provided for in the ordinance. For example, the prior owner, the prior petitioner had met with and agreed on certain concessions with respect to his medical office development which was going to lead to the homeowners association's support of his petition then he changed. We're in a position now where that, that ability to negotiate and, and offer the opportunity to support both the plan and the change in zoning are taken away from the homeowners association. There doesn't seem to me to be any need for this decision to be made now other than perhaps the, the ability for the, the owner to try and raise the price of his property which if the zoning is going to be appropriate later, it'll be appropriate later just

like it is today. I think it's, it's premature and you're taking away an opportunity from the homeowners association which is most affected by this to engage in the democratic process. Thank you.

Franz All right, thank you.

Cross Can I respond to this?

Franz Sure.

Cross I did represent the prior owner throughout the process or the prior buyer and he did attend a meeting at the HOA. There were concessions requested. To my knowledge, none, none of those were ever agreed to. He never informed me that he would agree to them. He did back out prior to any sort of formal agreement was made. The current petitioner would not be against any reasonable commitments that the Commission would require if it sees fit. We understand that we want to make the best use of the property down the road but denying this now just so the HOA has an opportunity to negotiate with any future use we don't believe is really a, a consideration for today but if there would be any reasonable commitments, those would be agreed to so if, you know, high implementations and specific types of uses that would want to be excluded but, again, we do feel the, the position is that we believe that the zoning district and the overlay provide the necessary developmental standards that address all the concerns of the HOA and those here today but with that said, if there would be any additional commitments requested, then they would be agreed to. Thank you.

Franz All right, thank you.

Mandelbaum Mr. President, may I just 20:49 – inaudible off microphone

Franz Nope, nope.

Mandelbaum That I did attend that meeting and –

Franz Okay, just –

Mandelbaum 20:53 inaudible off microphone

Franz If you're going to set your – time out. Stop.

Mandelbaum I understand –

Franz You have to go up to the mic to be heard. Sure.

Mandelbaum Thank you. So I apologize. I, I just want to be of record that I was at the meeting with the doctor who was going to do the, the development and I understand my ethical obligations and that my law license depends on not being anything but truthful before bodies like this and that there were verbal agreements to concessions that were made at that meeting and I just wanted to make sure because Mr. Cross suggested maybe that I was not being forthright. Thank you.

Franz All right, thank you. On, on the, would the MRO on this property, Janice, do you, you have the document that shows the uses, correct?

Stevanovic I have the B-1, yes. It shows all the uses. I also have the MRO.

Franz I mean, can you just read through those uses and then strike the ones that the MRO would, would exclude?

Stevanovic Well, off the top of my head that's, that's a fairly tall order.

Franz All right, well do your best.

Stevanovic But –

Franz And –

Stevanovic I, I can throw out a few ideas for you for the B-1. There's quite a few. Personal service, barber, beauty shop, clothing service, dress making, community center, retail. Under retail we're looking at antique shop, apparel shop, art gallery, computer store, fabric store, frame shop, bed and breakfast, office any type, professional services, photographic studio, pet shop, shoe store. There's quite a few special exception uses. In order for these uses to be allowed in that district they would have to go to the Board of Zoning Appeals first and be heard. Miscellaneous print shop, freestanding ATM, food sales and service, road food sales stand, governmental use, Post Office, recreation, lodge or private club recreation. It's quite a long list. I could read every single one of them if you like –

Franz No, that's fine.

Stevanovic But these are available on our website American Legal.

Franz The multi, multi-family is not, correct?

Stevanovic There is not residential in there, no.

Franz All right. Looking at this, able to pull it up, on Templin Road to, to the Lost Run subdivision there's a solid fence, correct, if I'm not mistaken. So and then looking at this there's the tree, the tree cover or the berm, it seems to run all the way up to what appeared to be more of a construction entrance –

Lake Yeah –

Franz When this was being built. Is that solid fence there continues to, to the tree line or is that like a cattle fence?

Kiell It's a, it's a masonry structure.

Lake It goes back into the tree line.

Franz Okay. So you've got the street view?

- Lake Yeah.
- Kiell It, it's masonry structure. It's pretty substantial. It goes from right where Lot A is almost going south along paralleling Michigan Road probably 200, 250 yards.
- Franz Okay.
- Kiell And, but I also would say that the Lot A is at a higher elevation than anything there. It, it's probably about 15 feet higher which would give a superior vantage point looking down into it. So, while a physical barrier it would not be any, anything of a visual barrier to anything on there.
- Kiell All right, thanks.
- Franz Sure.
- Mandelbaum With all due respect to Dr. Kiell, the masonry wall goes maybe 25 or 30 yards around that corner and then it's just a berm and we have not seen a survey to know for sure because the GIS doesn't really show it clearly whether that berm is on the west end of Block A or whether it's behind the property line that would be property for the homeowners association but the actual masonry stone wall doesn't go all the way down to the tree line. It becomes a berm and then it goes to the tree line.
- Franz Okay.
- Mandelbaum Thank you.
- Franz All right, thanks.
- Jones Mr. Cross, I have a question for you. So did your client, my understanding is that this parcel was always owned by the developer of Lost Run Farms. Is that who your client purchased this parcel from?
- Cross So the current petitioner, Block A, LLC, yes was involved at the development. So they've always owned it. So originally the petitioner was a, was going to be the buyer of that lot and then once that sale fell through, the still and always current owner from the development decided to move forward with the rezone.
- Jones Is the current owner then part of the development team that did Lost Run Farms?
- Cross I believe so, yes.
- Jones And so this parcel ended up with the residential zoning as part of the zoning for Lost Run Farms?
- Cross Yes, that is correct. And I, and I know that originally in the plat it stated that this Block A had a very limited use. It would not be subject to the plat's covenants and restrictions. So I believe it was used mainly as an access for construction purposes so that's not really a desirable use of the property for long-term future

uses now that the development is nearly done and it's been a long time since the development started back in 2003 so that is why they're trying to seek and, you know, to sell the property in a more desirable use for it in the future.

Madrick I have a question.

Franz Sure.

Madrick I'm still learning about all the different parts of this but is there a possibility, maybe we don't do this this evening, but is there a possibility if enough of us agree that B-1 was okay but to never have certain uses, right, so really focus more on like a, because the like uses are not a food, 24-hour, I mean, get rid of lights and lots of traffic and all that and truly limit it to those quieter like uses like a dentist office or something that's just not going to bother anybody. I mean is that even a possibility?

Stevanovic I would turn to legal to –

Madrick Yeah, that's what I figured.

Stevanovic To give you a better idea of what restrictions you could put on the rezone but to the latter part of your conversation, I just want to reiterate that lighting, landscaping, buffer yards, those are all things that come into play at development plan.

Franz Right.

Stevanovic This is strictly a rezone.

Madrick Right, right. I gotcha.

Clutter Yeah, so in terms of commitments, if the petitioner is willing to restrict certain uses that you think are particularly offensive to the homeowners association or the adjoining property owners, if you're willing to agree to those, you could make those commitments but as Janice mentioned, most of the things that they might find offensive – lighting and those types of things all come through during the development plan stage, the next stage of it.

Hurst I, I'd like to note the petitioner volunteered that they are, are were willing to, and I don't want to put words in your mouth Mr. Conner, so I'm sure you'll correct me as necessary, willing to accept some reasonable restrictions. It to me seems the homeowners had a previous conversation with the previous intended buyer and at, at least in some areas there may have been agreement on what restrictions might be. Perhaps the petitioner might want to ask for a continuance to meet with the homeowners and see if they could suggest some restrictions that may just make it easier for this body to make a determination.

Cross We have been emailing back and forth and, unfortunately, I believe I was out of the country so he emailed, he did email me today asking if we would want another continuance. My clients didn't agree to it because we were so close. My owners didn't or the current petitioner didn't agree to all of the concessions and,

and the requests for commitments that had been previously requested of the, the prior petitioner. Again, the position is we feel that the zoning district and the overlay provide adequate protections but if there'd be any required, because we don't believe it's really our decision. We understand that that would be helpful if we can agree and if there are specific ones requested tonight, I know we did discuss no gas stations. That was a request but B-1 doesn't even permit those in the first place so there was no need to agree to no gas stations when it's not even permitted so we felt that the Commission, if it felt necessary, could restrict the use of the property but the seller's perspective is they are not wanting to limit the potential use of it to a future seller for sales purposes but with that said, in order to get the rezoning if there would be reasonable commitments required to rezone, they would be agreeable to them.

- Franz So, let me ask about the MRO 2-acre requirement. So, to do anything right now absent, unless they can acquire it looks like they're going to have to acquire some, some lot or parcels south –
- Dale Or obtain a variance.
- Franz Or obtain a variance. So, I guess it would be up to the BZA to determine – not, can't do that here, I'm not asking, not asking – so there's a couple steps that still need to be taken and the 2-acre limitation, I mean, that, that could be treated as our limitation, I mean, I'm guessing so, so. And I'm going to ask the attorney over here, sorry forgot your name, if you want to come up I do have a question. Relative to what you understood to be agreed to, I'm going to make an assumption that was probably related to landscaping, berming, those sorts of things on the property.
- Mandelbaum The, the general topics were building height, lighting, drainage, location of waste receptacles, dumpsters, that sort of thing and they were the same things that were proposed to Mr. Cross's current petitioner.
- Franz I, I can assure you those are all things that we are strongly concerned about during the development plan process so the, those would all be addressed in some form or fashion when this came before us for a development plan. All right, thank you.
- Mandelbaum Thank you.
- Franz I was just curious, I mean, what's the just for having, I have nothing against the 2-acre minimally, what is the justification of that just so they wouldn't get like just different development in general.
- Clutter Generally speaking, I mean I don't want to speak to the drafters of the overlay but when it was originally the 2-acre justification as well as some of the other limitations were to ensure that the properties were not too closely aligned for road cut purposes along 421 as well as clustering of businesses.
- Franz Okay. So, anything else?

- Jones Does anybody know the adjoining parcels there's, appears to be 3 or 4 or 8 depending on how we're looking at it. Are those all owned by a single individual and are they also all zoned B-1 and do they have any restrictions?
- Lake To the south?
- Jones To the south.
- Lake They appear to be zoned B-1 based on the zoning map that was included in the packet.
- Jones Yeah.
- Lake I don't know about parcel ownership though.
- Stevanovic I don't have ownership for you, I do, can tell you that all of that that you're seeing in the staff report that's orange that's all B-1. Down to Sycamore Street there are two parcels closer to Sycamore Street that remain R-SF-2.
- Jones Okay.
- Franz Any other questions/comments? So how, how do we wish to proceed on this matter?
- Madrick I will just say I'm tending to lean toward what Jim's saying. I mean, successful development will always be being neighborly. That's what you'd want I would presume if, if you lived there so I guess I like the idea of continuing it and going back and talking and poss, and probably come up with a restricted use of B-1 that would make more sense though could be a successful endeavor for your owner but prevent a, nothing I have against KFC, but prevent a fast-food restaurant going there.
- Jones I don't think B-1 allows that does it?
- Madrick I thought she said food –
- Lake No restaurant.
- Stevanovic Would it benefit if I allow the B-1? There's just quite a few.
- Lake So I think –
- Franz So let me ask a question about the commitments. Can the commitments get so specific as to landscape, berming requirements, heights, I mean all that or is that –
- Clutter Yeah, they can.
- Franz They can? Okay.

- Clutter They can but, again, those matters under your particular zoning ordinance goes to the development plan –
- Franz Right.
- Clutter Process where they would typically be addressed. Some zoning ordinances there's not a development plan process with it and that's more of the opportunity for the Plan Commission –
- Franz Okay.
- Clutter To make those types of commitments.
- Lake Yeah, and that can all be addressed there –
- Franz Yeah.
- Lake Because at the same time if they're not making those commitments during the development plan process, there's going to be remonstrance.
- Franz Yeah.
- Lake And then that's going to be on us to say okay, did you go and have this conversation and work this out and if the answer is no, then we have the chance to stop it there if at the same time that not zoning this B-1 allows the community a chance to try and get concessions later it also then hamstring the owner on the other side –
- Franz Right.
- Lake That they're basically at the mercy of the, of the neighborhood association which isn't fair either. So it kind of goes both ways, at least with the development plan process and potential for BZA, it'll be heard likely multiple times in multiple –
- Franz Right.
- Lake Forums where the, the neighborhood residents will have the opportunity to meet with the developer and/or the developer then faces that remonstrance which we'd vote –
- Franz And especially if they're coming back for a variance –
- Lake Then obviously you'd want to see.
- Clutter And back to your point, Mr. Franz, that typically at this level the Commissions would focus on the restrictions and uses –
- Franz Right.
- Clutter And here you have not only your relatively restrictive B-1 zoning classification but you've also got the Michigan Overlay on top of it –

- Franz Right.
- Clutter Which restricts things even further.
- Franz Yeah.
- Grabianowski Well and it strikes me that that isn't the current owner who is trying to sell it making concessions that it ought to be coming from the developer or the person who buys it and wants to develop it because that, that's the person of, of good interest, of real interest.
- Lake Yeah, no drive-thru facilities –
- Clutter Yeah.
- Franz Yeah.
- Lake On the Michigan Road Overlay.
- Clutter No, yeah, those are prohibited in the overlay.
- Lake No go cart track. I know that that would be appealing to the neighbors but no go cart track.
- Jones No go cart track?
- Lake No go cart track.
- Clutter No go cart track, no outdoor storage, yada, yada. There's a lot –
- Lake No waterslides. All the fun stuff gone.
- Jones Keep 'em out of my backyard.
- Lake . 38:23 inaudible.
- Jones So this parcel's been sitting there as long as I've been in Zionsville. The adjoining parcels are already zoned the B-1 –
- Lake To the south.
- Jones To the south with no restrictions and the goal is to create something that someone can move forward with. There's still plenty of opportunity that whatever development plan is going to probably need some sort of variance.
- Lake Yeah.
- Jones It's going to come back through this process which means the neighborhood group will have a chance to actually hear something. But, nobody's going to buy and want to get involved and spend any money on doing anything with two

adjoining parcels differently zoned that are already facing an uphill battle to get something done. Moving it forward to having the zoning matching the zoning adjoining it as well as the zoning that matches the entirety of the corridor, again, if you look through the aerials, you'll see that other developments have seemed to be successful with multi-story height, parking back up to the adjoining property line of Lost Run Farms, it doesn't seem that granting this rezone is causing any hardship. There is still plenty of opportunity and there's still plenty of stuff that will need to be done to move this forward and find a way to make a project that's acceptable to all. So with that I'll go ahead and make a motion unless somebody wants to have some say. I move that Docket 2023-01-Z, a Petition for the Rezoning of 1.288+/- acres from the R-SF-2 Zoning District to the Urban Neighborhood Business (B-1) District also being in the Urban Michigan Road Overlay receive a favorable recommendation based on the Findings in the staff report as presented with the recommendation being certified to the Town Council for adoption or rejection.

Franz Is there a second?

Grabianowski Second.

Franz Any further discussion? Secretary, please take roll.

Dale Larry Jones?

Jones Aye.

Dale Cindy Madrick?

Madrick Aye.

Dale Chris Lake?

Lake Aye.

Dale Mary Grabianowski?

Grabianowski Aye.

Dale David Franz?

Franz Aye.

Dale Jim Hurst?

Hurst Aye.

Dale Sharon Walker?

Walker Aye.

- Franz All right, we will forward this to the Town Council with a favorable recommendation. At that point in time you can discuss, I mean comment for them also. All right, thank you. Any other business?
- Dale Yeah, one other thing. You received a, a letter of agreement from our attorney, Dan Taylor, with Taylor, Minnette, Schneider & Clutter dated December 16, 2022 wherein they asked you for your signature from the President and Secretary of the Plan Commission to sign within the document. They indicate their hourly rate of \$225 per hour which is a significant discount from their normal billing rate of \$325. They also indicate that all invoices would be itemized with a detailed description of the work performed and time spent on each legal service, the date on which the work is performed and the name of the attorney performing the work. Also mentioned that Bob Clutter, who we've had the great pleasure of having here this evening, will also serve as substitute from time to time when Dan Taylor is not available. They note they will not charge for two attorneys at one time if two happen to be here on an evening only one would be billed and they emphasized the fact that you are their client, the Board is their client not any individual on the Board, of the Board but as, as a body, they represent you and the Board of Zoning Appeals.
- Franz All right. I mean I'm, I'll say this – I've been very satisfied with the work and working with you since, I believe, it was 2019 so I'm very supportive of this. Anybody else have any other comments?
- Lake I would agree.
- Walker I support.
- Grabianowski Yeah.
- Franz And so, hence, we'd take a motion?
- Clutter Yes.
- Franz So is there a motion to agree to the I guess engagement letter?
- Lake So moved.
- Franz Is there a second?
- Hurst Second.
- Franz All right, all in favor signify by aye.
- All Aye.
- Franz Opposed by nay.
[No response]
- All right, I'll sign it and maybe change the January to March?

Clutter Yes please.

Hurst Mike, could we get an update on the Form Based Code process?

Dale Yes. The staff has been meeting with McKenna Associates about every other week, every week or week or so. We are in Article 6 of 14 Articles, I believe. There's been a lot of work reviewing the draft code. Staff has had separate meetings from the consultant to go over various aspects and elements of the plan that, the zoning ordinance that are unfamiliar to us. Nobody in the office including myself really has any familiarity with a Form Based Code so it's a learning process for all of us to understand how a Form Based Code works and how to administer a Form Based Code so there's a lot of internal discussion about how to interpret the new Form Based Code and, and what needs to be adjusted or changed to meet the unique environment for the Town of Zionsville. McKenna continues to send us invoices and we're still within budget. We will not go above, over budget. We've had three addendums to the budget since the inception of the project so we're not going to be entertaining anymore revisions to the budget. We anticipate bringing the draft to you. I'm not sure if it's April or May now thinking about it, Janice, but within the next month or two presenting the draft code to you first as a non-business, non-hearing item just to give to you, having you review it, respond to questions. It would still be a public meeting but not a hearing item at the first meeting on, on the Form Based Code and at that point you would determine whether or not you would be ready to advertise the Form Based Code for the next month's meeting and then, of course, then you would vote on a recommendation to the Town Council thereafter. Any other questions?

Hurst That was a heck of an update.

Dale Okay, all right.

Hurst Thank you.

Franz Is there anything else? Is there a motion to adjourn?

Grabianowski So moved.

Franz Second?

Lake Second.

Franz All in favor?

All Aye.

Franz We're adjourned.

Dale Thank you everybody.