



**MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS**

**Wednesday, July 7, 2021**

**6:30 PM (Local Time)**

THIS PUBLIC MEETING WILL BE CONDUCTED ONSITE AND ELECTRONICALLY AS ALLOWED BY VARIOUS EXECUTIVE ORDERS OF THE GOVERNOR OF INDIANA AND GOVERNOR HOLCOMB’S EXERCISE OF HIS POWERS UNDER INDIANA’S EMERGENCY MANAGEMENT AND DISASTER LAW, IND. CODE 10-14-3, *et seq.* ADDITIONAL INFORMATION REGARDING THE MEETING IS PROVIDED IN THE ANNEX PUBLISHED WITH THIS NOTICE.

**The following items are scheduled for consideration:**

- I. Pledge of Allegiance
- II. Attendance - **5 of 5 members attended. (All in-person L. Jones, S. Mundy, J. Wolff, C. Lake, L. Campins)**
- III. Approval of the June 2, 2021 Meeting Minutes - **Approved 5-0**
- IV. Continuance or Withdrawal Requests
- V. Continued Business

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be considered</b>
2021-13-SE	Brickyard Solar LLC	Refer to Site Plan (Union Township)	<b>Continuance requested by BZA Members from July 7, 2021 to August 4, 2021 Meeting</b> <b>Approved by Board – 5 in Favor, 0 Opposed</b> Petition for a Special Exception to permit a Solar Power Generation Facility on multiple sites within Union Township; all parcels being zoned Agricultural (AG).
2021-17-SE	Chandler- Hickory Hall Polo Club	7551 E 100 N	<b>Approved as presented &amp; filed w/exhibits, per staff report &amp; revised commitments.</b> <b>5 in Favor, 0 Opposed</b> Petition for a Special Exception to permit an outdoor recreation facility (polo field) in the Rural General Agricultural District (AG).
2021-18-DSV	Chandler- Hickory Hall Polo Club	7551 E 100 N	<b>Approved as presented &amp; filed w/exhibits, per staff report &amp; revised commitments.</b> <b>5 in Favor, 0 Opposed</b> Petition for a Development Standards Variance for a reduction of the rear bufferyard setback line in the Rural General Agricultural District (AG).

VI. New Business

Docket Number	Name	Address of Project	Item to be considered
2021-19-DSV	Nicholson Orthodontics	95 E Oak Street	<p><b>Continuance requested by Petitioner from July 7, 2021 to August 4, 2021 Meeting</b>  <b>Approved by Board – 5 in Favor, 0 Opposed</b>                      Petition for a Development Standards Variance to reduce the required amount of off-street parking in the Village Business District (VBD).</p>
2021-20-SE	P. Keller	6634 E 100 S	<p><b>Approved as presented &amp; filed w/exhibits &amp; per staff report 5 in Favor, 0 Opposed</b>                      Petition for a Special Exception to permit a Single-Family Dwelling and related accessories on a parcel in the Rural General Agricultural District (AG).</p>
2021-21-DSV	M. Lohmeyer	880 Starkey Rd	<p><b>Approved as presented &amp; filed w/exhibits &amp; per staff report 5 in Favor, 0 Opposed</b>                      Petition for a Development Standard Variances to accommodate for a new patio area and pool in Urban Open Land (O-1):                      1) for an increased lot coverage;                      2) side setback variance; and                      3) aggregate side setback variance.</p>
2021-22-SE	C. Parker	450 S 800 E & 550 S 800 E	<p><b>Approved as presented &amp; filed w/exhibits, per staff report &amp; revised commitments.</b>  <b>5 in Favor, 0 Opposed</b>                      Petition for a Special Exception to permit a Single-Family Dwelling and related accessories on a parcel in the Rural General Agricultural District (AG).</p>
2021-23-DSV	C. Parker	450 S 800 E & 550 S 800 E	<p><b>Approved as presented &amp; filed w/exhibits, per staff report &amp; revised commitments.</b>  <b>5 in Favor, 0 Opposed</b>                      Petition for a Development Standards Variances to permit:                      1) two primary structures (Single-family Residences - one being temporary) on a single lot; and                      2) the temporary Single-family residence with less than the required minimum ground floor area in the Rural General Agricultural District (AG).</p>
2021-24-DSV	G. Thoe	3842 Olde Well Run	<p><b>Approved as presented &amp; filed w/exhibits &amp; per staff report 5 in Favor, 0 Opposed</b>                      Petition for a Development Standards Variance to decrease the rear setback.</p>

Respectfully Submitted:  
 Department of Planning & Economic Development Representative  
 Town of Zionsville

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In Attendance: John Wolff, Laura Campins, Steve Mundy, Larry Jones, Chris Lake (all in person).

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

Wolff --of the 2021 Board of Zoning Appeals Meeting. Prior to us getting started, I see that several people are here tonight. Welcome. I would invite you that if you're standing or if you're sitting close to someone you don't like, you are welcome to go straight upstairs to Room 207 where this is broadcast and you can participate in our conversation up there. So, there's more seating above us if you're interested in getting more comfortable in Room 207. With that, we will jump into our agenda. The first item on our agenda is the Pledge of Allegiance. Please stand.

All Pledge of Allegiance.

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

DeLong Happy to do that. Mr. Jones?

Jones Present.

DeLong Mrs. Campins?

Campins Present.

DeLong Mr. Lake?

Lake Present.

DeLong Mr. Mundy?

Mundy Present.

DeLong Mr. Wolff?

Wolff Present. Full house, very good. The next item on our agenda is the approval of the June 2, 2021 meeting minutes. Any discussion amongst the group? If not, I will entertain a motion to approve the meeting minutes as filed.

Lake So moved.

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

Mundy Second.

Wolff Thank you, Mr. Mundy. Ah, we can probably just do a voice vote. All those in favor, please say aye.

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- All Aye.
- Wolff Those opposed, please say nay. [No response.] Motion passes. Thank you. Fellow board members, traditionally at this point in our—actually, a couple more pieces of admin. One is, is there a motion to waive our rules on the appropriate notice? Through COVID, we have no longer required first class mail to limit the amount of exposure to our public as well as our postal carriers and things like that and so we have allowed for traditional, regular mail. Is there a motion to allow that tonight as well?
- Jones So moved.
- Wolff Thank you, Mr. Jones. Is there a second to that motion?
- Lake Second.
- Wolff Thank you, Mr. Lake. All those in favor, please say aye?
- All Aye.
- Wolff Those opposed, please say nay. Motion carries. As we look forward to our agenda, I would note that there is probably one particular item, in fact, I'll just ask out bluntly. If you would, I would ask if you please raise your hand if you're interested in the solar project. Seems about right. So, I'm going to call that 95%. If I could turn to my fellow of Board of Zoning Appeals members, how many of you are solar experts? Please raise your hand. Okay. That's what I thought. I'm certainly not one either. I think that petition is going to require a robust conversation. As you guys understand, our rules and procedures allow for 15 minutes of conversation, 15 minutes rebuttal, 5 more minutes of conversation, 5 more minutes rebuttal. I'm not sure we can understand and process that petition in that amount of time. So, we have the ability to amend or to change our agenda and move to the back of our agenda and process the remaining requests in front of us, before us. Consequence of that decision is that we have some people who are waiting and are excited about that topic. If we don't do that, then we may have to cut the conversation short and not get to hear all the information we need to make the right decision. So any discussion amongst the group about moving the polo to the end of our agenda tonight?
- Mundy You mean solar?
- Wolff I'm sorry. Solar, I'm sorry. Polo, that's number 2. Anybody here for that?
- Lake I think that's wise.
- Mundy I agree.
- Campins I agree.
- Wolff Okay, so is there a motion, let me very specific, is there a motion to move Docket #2021-13-SE for the Brickyard Solar, LLC to the end of our agenda tonight?

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- Lake So moved.
- Wolff I'm going to call Mr. Lake on that one. Thank you, Mr. Lake. Is there a second on that motion?
- Mundy Second.
- Wolff Thank you, Mr. Mundy. All those in favor, please say aye?
- All Aye.
- Wolff Those opposed, please say nay? [No response.] Motion carries. Now, with that, we've got some time here. So, we're going to do some regular business and we're going to work our way through our agenda as published with the solar moving to the end of our agenda. So, if you want to go get a cup of coffee, we're not going to lock the doors on you. We'll let you participate in our conversation. If you want to stay and hang out, you're welcome to do that. In addition, Room 207, there's more space up there. With that, the next item on our agenda is—oh, I apologize. Are any of our petitioners here tonight who wish to seek a continuance or withdrawal? Please come forward at this time. Seeing none, that moves us to Docket#--, of course, the Brickyard Solar Project to the end of our agenda which brings us to Docket #2021-17-SE for the property located at 7551 East 100 North. Would the petitioner please come forward?
- Andreoli Thank you, Mr. President. For the record, my name is Mike Andreoli, 1393 W. Oak Street. A little bit of housekeeping before I move along. I left in front of most of the members—I may have run short—so hopefully, Mr. Lake and Ms. Campins can share one if she didn't receive one or Mr. Jones and Ms. Campins can share one, a list of our commitments with regard to this particular project which I will go forward with you shortly. I represent Greg and Mrs. Chandler. They own 31 acres on 100 North. Ironically, it's across from the proposed solar farm.
- Wolff We moved that to the end of the agenda, Mr. Adreoli.
- Andreoli Which will be discussed later tonight. We are requesting a Special Exception for an outdoor recreation area and a variance from the 20-foot setback. For the past 20 years, and I'll have Mr. Chandler share with you what he's been doing out there and the charity work that he has been involved in with regard to these polo matches to give you at least a briefing on what has been transpiring out there for the past 20 years. But, he has been doing this for a period of time and he's in the Ag area and he does not need to have a Special Exception to conduct polo matches out there with family or friends every day of the week, every weekend, those types of things. Barns and his horse barns are all permitted as uses in that, in that Ag District, so he has the ability to go ahead and utilize that. The problem has become as he had a neighbor that raised a complaint about a year ago and the Town of Zionsville had indicated that perhaps a Special Exception or some approval might be necessary given the fact that he is charging members of the general public to come in and watch the polo matches albeit money is going to charity, but he is charging members of the general public to come in so it's not just his own personal use of the fields. He is actually having individuals from the

public come into the fields, watch the matches, spend time there on Friday evenings during the season and, in essence, that triggers your requirements that he come in and seek approval. The appropriate classification for this would be an outdoor recreation area which he is seeking. In addition to that, he has located some horse stalls. It's really not a barn; these are open-ended on the sides, horse stalls where the horses in polo matches go to keep cooled, they are ventilated. It's not a barn but there is a series of stalls and they are part of the pictures that have been provided to you in your particular packet. Those were installed by Mr. Chandler. He didn't get a building permit; he didn't think he needed one. It's in the Ag area. He installed those but they are pretty close to the property line. I know at the last meeting--

**Wolff** Please continue.

Andreoli We are in progress. At the last meeting, Mr. Jones had wanted that a survey be done and a survey has been done. That has been sent to you. Hopefully it was blown up enough. What that particular survey shows by Jonathan Hause is that the actual stalls themselves vary from 2 feet off our property line on our side to 5.1. So they're very, very close. They do impede on a 20-foot rear yard setback. So we have asked for a variance with regard to that, two separate requests. I'm going to have Mr. Chandler come up and give a very brief summary of what he does out there so that you understand it then I want to go through with you, in particular, the commitments. Greg, would you come on up, please? State your name and address.

Chandler Sure. Good evening. My name is Greg Chandler. I live at 7551 East 100 North, Whitestown, 46075. My wife, Donna, and I own Hickory Hall Polo Club. We have for 20 years had this property. For 18 years of that 20, we have done charitable events out there in excess of about 16 events a year, 16-17 events. It depends on whether or not we have a rain date. The season is from June 11. As Mike said, it's on Friday nights. If it's a rain date, we might possibly move it to a Saturday night. Again, we won't typically go over 18 events in a season. Season is June 11 to October 1, as I mentioned, only on Friday nights. Just as an example of some of the charities that we've helped fund, Zionsville Education Foundation, Zionsville Boys and Girls Clubs, Boone County 4-H, Special Olympics, Folds of Honor amongst a host of hundreds of others in the years we've been doing it. We've raised in excess of five million dollars in the time that we've been doing it and keeping track of the moneys that we've earned for these charities. As he said, we do charge money but the money is taken by the charities at the gate controlled by the charities. We want nothing to do with that. So we don't touch that, those dollars for the charities. Are there any questions?

Wolff I have a couple.

Chandler Sure.

Wolff Before we get back to Mr. Andreoli. I'm sorry, did you just say that you do charge a gate fee but you don't collect that, the charity that you're representing that weekend collects that?

Chandler That is correct.

Wolff Okay. What about security or traffic? How do you address those types of issues?

Chandler We have Boone County Sheriff's Department, now two officers, at every event. That recently changed in the last few weeks requiring one versus now two because that benefit happened with the sheriff's department. So, we'll have two on hand at most of the match. Once people are in and settled, we don't necessarily keep sheriffs around more than, you know, an hour after it gets started.

Wolff The polo crowd's not too rough?

Chandler Not too rough, not at all.

Wolff That's good. Mr. Chandler, you mentioned it at the very beginning. I'm sorry I was processing some other information. We've got a lot today. How long have you been doing this?

Chandler We've been doing it there, actual charitable events 18 years. We've owned the property for 20.

Wolff Okay, thank you.

Chandler I think all—if I may say one more thing.

Wolff Certainly.

Chandler I want to thank my neighbors who are surrounding me and border me, have sent letters of support on behalf of what we do and have done for the community in the last 18 years. So, I thank all those neighbors that have done that.

Wolff Mr. Chandler, I would add that we have received several letters in support for this particular petition from all sorts of entities, so thank you for being a steward of our community.

Andreoli Let me go through the—go ahead. Let me go through briefly the commitments with you because I think that's the crux of what we're trying to do. Since our last meeting, we've had some discussion with John Tousley who represents one of the neighbors who's concerned and John appeared at the last meeting and got a continuance to this meeting in order to propose so most of the commitments he did that. We responded to that. That's been sent to staff. Let me tell you what importantly, we are willing to commit to because I think it goes a long way to show that Mr. Chandler wants to run the events, wants to run them in an appropriate manner, wants to not bother the neighbors with this, and wants to make sure that this runs smoothly without incident.

We have agreed that as part of our list of commitments that the events be limited to outdoor recreation use for charitable polo matches only. We are not seeking an outdoor recreation area for other forms of outdoor recreation, only charitable polo matches. Any and all music, piped or live, ending not later than 10:30 p.m. We're making a commitment it will not be later. Frequently, it's much earlier

than that. I attended last Friday, it ended much earlier than that. They had some limited music. They do have a PA announcer talking about the match itself. I don't understand the rules. Even after the announcer was discussing them, I still don't understand the rules. The bottom line is, that's part of the PA system that will be, uh, that will be happening no later than the 10:30. In the last year or two, Greg has had two live musical events that went a little later than when the normal polo matches would end and people would start to disperse. He would limit it to two per year, and not do any more than two per year. They will also end at 10:30. There won't be anything going past 10:30. In addition to the piped, there will be live music only event twice a year and they will be in conjunction with the polo matches. They will not be independent of the polo matches. This will be in conjunction with the matches themselves. No parking will be allowed along County Road 100 and the Boone County Sheriff's Deputies will oversee the traffic in the area including entering the facility. All parking will be on the polo field or around the polo field, not on the polo field but around the polo field. All on Mr. and Mrs. Chandler's property, no offsite parking will be permitted.

He'll have no Chinese lanterns or incendiary devices that will be set off or migrate outside of the property. He did that a couple years ago and received a complaint because it went fairly far off the property, so he stopped that from an insurance standpoint and otherwise. That hasn't been for several years, but in response to one of John's concerns we agreed that we would make that part of the commitments. That an entrance and exit sign will be placed where people enter the facility. Although it will be clearly marked, there's deputies that will be there directing traffic into the facility. Sign will be removed immediately after each event.

Mr. and Mrs. Chandler will remove any diesel or gas tanks or containers not closer than 20 foot from the property line. That was a concern that Mr. Tousley's client had that we had diesel---it's a farm, you know, it's a farm but had diesel gas tanks and other gas tanks within that 20-foot buffer. We agreed to move them off that property line. There's a propane tank that has been there for years that's piped. We want to leave the propane tank there but we don't—we'll move the gas tanks and the diesel tanks away from the property line. Mr. Chandler agreed that if they ever sell this property to another individual or an unrelated entity, unrelated to them or their family, that the outdoor recreation area could be rescinded and terminated. They're not operating this as a business folks. Mr. and Mrs. Chandler, in particular Mr. Chandler, has had two passions in life. Other than his family, one is horses, particularly polo ponies, and giving back to the community. He doesn't want to do anything that would jeopardize that and wants these things to continue. So unless his son would take it over and do it subject to all of these commitments that will run with the land or he would continue to maintain it if it's ever sold. The particular classification would be rescinded.

Mr. and Mrs. Chandler will make application to the Town of Zionsville. There is an event requirement that the town has. I think it's a little revenue raiser for the town. At an event, you've got to go in and pay a fee and have them approve and give you a license to go ahead and conduct events. He's done that and already has that for this year but he will commit to continue to do that with the Town of Zionsville. I think it's a requirement anyway but he will continue to go ahead and



do that and make that part of the commitment that he will apply for that event license and permission from the Town of Zionsville in order to move forward.

With regard to the variance itself, these stalls, although they're open-aired stalls and they have roofs on them. The reason they were installed so close to the property line and the reason they were installed within the 20 feet is there is a large tree line back there. Very, very large. Most of it's in probably wetlands because it's wet. A lot of it comes on Mr. Chandler's property but it's a very large tree line back there and forested area. Having the stalls there gave the horses some additional shade, too. Essentially what happens is, those horses are put in those stalls because they use many horses throughout the polo matches for the safety of the animals, the riders, and just for the fact that it's hot during this time of year and they will you know, expend a lot of energy. So they put them in the stalls until they get to cool them down and until they either need to use them again and replace them with other horses. They're not used most of the year. Seven months of the year they're not even used. They couldn't be used in the winter because they don't have sides to them as you can see from the pictures. We'll leave it up to your good judgement as to whether that variance should be granted. We would suggest to you that it's not harming anybody back there. It's on our property for the survey and legitimately, it can't be seen or can't be seen very easily from the house of Mr. Tousley's client that's farther to the east and much farther to the south. While, I think, his mother-in-law owns the property adjacent where the woods are, Mr. Tousley's client—his client is also mom who owns the ground right behind us. In terms of the nearest house on their property, it's fairly far down the road to the south and to the east of this and therefore hidden somewhat by this treeline. I will be happy to answer any questions that you have—

Wolff            Mr. Andreoli?

Andreoli        Pardon me?

Wolff            I do have a couple, if you don't mind.

Andreoli        Yes.

Wolff            I think I wanted to seek clarity on the position of these stalls. It is—they're located in such a way to allow for additional shade. Do the horses—are they only used during polo matches or are there horses that spend the night there? I don't know anything about horses.

Andreoli        There are not. Mr—that's a fair question and a good question. Mr. Chandler has a very large barn facility there that houses his horses and others.

Wolff            So this is a locker room for horses?

Andreoli        This is all just for the polo horses to cool the off during the matches. None of them spend the night there and again, they're only used for five months of the year. We would suggest that the season—Mr. Chandler said that June 11 but I looked at some years. We would suggest the season as part of our commitments be June 1 to October 1, not any longer than that. They're on Friday nights. That

would be the length of our season, June 1 through October 1. I think we've limited ourselves in terms of our discussion with Mr. Tousley to 18 events during that period of time. That just gives us a little bit of flexibility depending on when a Friday falls.

Wolff Understood.

Andreoli June 1 through October 1 but only 18 events.

Wolff Understood. Mr. Andreoli, would you also review the findings of fact you have proposed?

Andreoli Yes.

Wolff Would you review the three finding—you have three things you have to meet with the findings of fact. Would you please walk us through those?

Andreoli Yes. We believe—in terms of the findings, we believe the staff report actually does a pretty good job of pointing these out. We don't think it's causing any harm or detriment to the community. The use which is in conjunction with an agricultural use up there with horses and animals and those types of things follows the master plan, we think, particularly well. When you limit what we're suggesting here in terms of how we're using the property, we're only using it for polo matches not other unrelated agricultural uses that might fall into a category of outdoor recreational use. It's all connected with horses and polo and those particular events. We think we comply well with the master plan and do not violate the master plan in any regard. So there's not any need for any essential services. Water and everything else is already on the site with regard to well and those things so we're not taxing any of those particular services or anything of that nature. So we think pursuant through the proposed findings that we submitted that that essentially complies with the findings that would have to be made.

Wolff Thank you, Mr. Andreoli. Any other questions for the petitioner's representative at this time?

Campins How many horses are brought in on a weekly basis?

Andreoli I'm going to have Mr. Chandler answer that.

Chandler Good question. There are—it's a fluctuating number but it depends on if a team is local or a team is visiting from out of town. It could be as many as 12 or 14 that will come in on a visiting team because each player will need to use more than one horse for an event.

Campins Is that how many players there are at a time?

Chandler There's four on four. There's eight players on the field at a time.

Campins Okay. I'm not familiar, thank you.

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- Andreoli            It will be interesting. When I was out last Friday and watched, there were a number of girls who ride and I think they had two all-female teams competing against each other. I hadn't seen that before but it was really nice to see that as well.
- Wolff                Any other questions for petitioner?
- Jones                Is there a barn on the property?
- Chandler            There's two barns on the property. There's two barns. There's one larger barn. There's a smaller barn behind that barn. Then as we spoke about these shade rows, if you will, for the horses. These are not overnight stalls for the horses. They're not built and constructed for that purpose.
- Jones                I guess, I'm not finding them on the survey. Is that correct?
- Chandler            The barns themselves or the shade row barns? I'm not sure what you're asking.
- Jones                What I'm asking about is like a regular permanent structure for the horses. I see the stalls behind the house. I see the stalls out in the middle of the field. Am I missing something?
- Wolff                So as we look at Exhibit 5 which is an aerial photo.
- Andreoli            Yes.
- Wolff                I think that's a house. I understand where locker rooms are. Sorry for my—make sense?
- Chandler            Good point, Larry, that you noticed. The house, the garage, and the barn are all connected. It's one structure. So that's why you didn't recognize the separate barn. Although behind the house is a separate barn that also can house horses, more of a square building versus a long building.
- Wolff                Any other questions for the petitioner's representative or the petitioner at this time? Thank you.
- Andreoli            Thank you.
- Wolff                Are there any remonstrators here tonight?
- Tousley             Can you give me a moment to set up my laptop?
- Wolff                Of course.
- Tousley             Commission, do I understand that there has been a survey filed?
- Wolff                I defer to our staff.
- Tousley             Those were not among the materials that were released to the public.

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- Baker Yes. They were submitted after the packets went out. They were given to the BZA members at least in that additional information.
- Tousley I'd like to have an opportunity to look at the survey.
- Wolff Sure.
- Tousley Frankly, I preserved my presentation on the basis that we were where we were. Allow me a moment.
- Wolff Of course. Thank you, sir.
- Mundy I've seen the 8 ½ x 11. You want to see a bigger one?
- Lake I'm fine, but do any of you want to see the larger survey?
- Mundy Do you want to see a big one?
- Jones Sure.
- Tousley I thought I had at least three hours before [inaudible, 19:29].
- Wolff We should also note while we're giving you a moment, our rules and procedure do suggest that it is our prerogative to not hear a case that begins after 10 p.m. So hopefully we don't have to run into that scenario.
- Tousley I'm sorry, would you repeat that please?
- Wolff It's not relative to you. Our rules and procedures say that we do not have to start a hearing after 10 p.m. Unless you take longer than that to prepare, you're going to have to deal with this mob of people.
- Tousley I promise, I will not keep you here until 10. My bedtime is earlier. I do not have an assistant like Mr. Price. You are looking at the audio tech department at Tousley Law Office. In addition, I'll be speaking to both petitions since they've been combined. I'll trust that the board will recognize that I am speaking to two petitions and will need that amount of time.
- Wolff I will encourage you to be as concise as possible as we having full agenda.
- Tousley I always conduct to be concise.
- Wolff Thank you.
- Tousley I will admit that my presentation is going to be disjointed. As I said before, I was unaware that there was a survey that had been submitted. My presentation was in part based upon that. By the way, is there a closer extension I can plug into? You can see my cord extends there.
- Wolff I believe we have IT.

Tousley            There used to be something up here. Oh, I do. Great! There is still something up here. Thank you. Now let's hope this turns on. This will take me just a moment to get to the PowerPoint. My client unfortunately witnessed Mr. Price and saw his PowerPoint and wanted to know if I could do one. Can we have the monitors on, please?

Wolff              At risk of getting too technical, you may need to change your resolution.

Tousley            Okay. Actually, there may be one other thing I need to do.

Wolff              Or hit Function F7.

Tousley            Or ALT Delete. Okay. That works on my TV.

Wolff              So if you look ahead, I think we can see it on the large. I think we're okay.

Tousley            There it is. We're good. I'll switch into show mode in a moment.

Wolff              I don't believe we've heard your name or address at this point.

Tousley            Oh, I'll get that to you.

Wolff              Wonderful.

Tousley            I just wanted to have the official screen up. There we go. All right. My name is John Tousley. I'm an attorney. My office is located at 410 West Oak Street, Suite 8, Zionsville, Indiana 46077-1600. My telephone number is area code 317-636-2900. My email is [jTousley@Tousleylaw.com](mailto:jTousley@Tousleylaw.com). I am here tonight on behalf of the Hart Family and the Parks Family. As you can see from the presentation, you can view the Parks property. Colleen Parks lives here. Rene Hart and Deanna Hart, his wife, live here. Deanna is Colleen's daughter. Further north, you can see the Hickory Hall Polo Club. You can see the woods that's adjoining the southern periphery. What you can't see are the stables and the other buildings, lean-to buildings that are located across that southern border. We'll have close-ups of those momentarily. The Parks family has lived and farmed in this area since the 1930s. They own approximately 240 acres, part of which abuts to the petitioner's property on the south as I've indicated. I also represent the Hart Family. They live approximate—they live within earshot of the petitioner's property, 907 feet away. Both families have farming background. Dan Parks and Paul Hart won the prestigious Boone County Farmer of the Year award. For many years, their family contributed to the well-being of Union Township. They have a number of reasons for choosing to live in the county, in the country, the utmost importance is peace, quiet, and space typically associated with an agricultural setting. I sat on the back deck back in June on the Hart property. I live in The Village so I don't get to do things like this too often. I came to appreciate what it takes, what it's like to look over open fields and woods while watching the deer come out and feed. It's quite an experience, great experience. It was restful, it was pastoral, then the music and the PA system came on. I've lived in The Village since 1978, lived in my present house at 3<sup>rd</sup> and Pine since 1982. I'm a short distance to Lincoln Park, Lions Park, Main Street. You get a lot of noise that way. I've got to tell you, since 1978 I cannot recall hearing as loud a noise at 3<sup>rd</sup> and Pine as I did

that night at the Hart home. Peace and quiet is important, admittedly more to some than to others. From prior comments by board members at other hearings that I've attended, the people associated, seen some of the letters on the solar project. It's apparent that some of those qualities are important to them and shared by many.

Let's talk about the noise. As I stated, the Parks and the Harts have enjoyed a peaceful and quiet rural life for a long time. Subject property is located in the AG Rural Zoning District. This district was designed to preserve the agricultural way of life while allowing limited residential development. Their families enjoyed approximately 80 years of peace and quiet normal for a rural area, until the Hickory Hall Polo Club was established, I understand approximately 18 years ago perhaps 19. How noisy is it? Well as you can see from the slide up there, starts off—we have a decibel meter we've used. Starts off at about 30-35 decibels on average in mornings. Now, they deal with live and recorded music as well as a loud PA system. Announcements in a traditionally quiet rural setting on Fridays, Saturdays sometimes in the past, from approximately 5 p.m. until Midnight on some nights. By the way, I'm very pleased the petitioner has offered to limit that. I would point out though that he wants to limit it to 10:30 and I believe the special event permit says 10:00. The Harts now have to plan their Friday evenings based upon the activities of their neighbors. They move inside when the noise gets too loud. The windows and the walls facing the petitioner's property vibrate and shake. It's so loud that Mr. Hart now knows lyrics to the Candyman by Sammy Davis, Jr. It's a very popular song out there. It's played every time the airplane drops candy. Imagine what that's like having that run through your head.

Now, you may say, "Well, 65 decibels is only what, about half more than 35, the baseline?" Not true. If you're not familiar with decibels, about every 10 decibels—every time it goes up 10 decibels, the volume doubles. So, 45 decibels is twice as loud as a 35-decibel baseline. 55 decibels is twice as loud as 45, over 400% over the base. 65 decibels is twice as loud as 55 over 800% over the base. You may also say—I think there is one letter perhaps more in the file that would say there's no noise, not a problem. I would suggest to you though that the neighbors moved in after the polo club was established. They knew what they were buying into just like I did when I chose to live in The Village. Others letters, well perhaps they were there for the entertainment. They don't have to live with it, they can leave.

What's the remedy? Our favorite would be deny the special exception but we recognize that under the circumstances it may be difficult and you may disagree with us. We would ask first, that should there be music, it should not be amplified. If it is, let's at least try to limit the volume so that the decibel level is not significantly greater than what they've come to enjoy over the years, say 40 decibels as a baseline. Let's limit the hours the music can be played, 5:00 p.m. until the end of the polo match or 9:00 whichever is earliest. Let's limit the use to no more than 18 Fridays between June 1 and October 1. Now you may notice the highlights that are on the screen. Those are things that which I think we have agreement on per today and during my discussions with Mr. Andreoli. Those things that don't have highlights I don't think there is any agreement concerning.

The Chandlers also ask for a development standards variance reducing the rear buffer yard setback line for the existing horse stalls allegedly between two to five feet from the property line when a minimum setback of 40 feet is required from the property line due to the required buffer. So we shouldn't be talking about 20. We should be talking about 40. If you look at what has been submitted before assuming I don't go beyond it, I believe that's based on 20. If you take a look at the slide, double that and that is the area that I believe we should be talking about. Dealing within the 20 does not deal with the problem. How many times do you want to have to deal with the problem? These are the stables that we were talking about. I walked the line when I was there in June. You can see the farm fence leaning over. Interesting thing to me is how they lean. Normally, you would want things to stand up straight. This could indicate several things. Perhaps the 4x4 posts are failing. Another interesting thing though about this is those posts that support the roof, they're actually in two pieces. This is another picture. You can kind of see it better. See how odd that looks. It would appear this could have been an oops moment for somebody as the stalls were originally built to a lower level. Maybe they thought that polo pony meant the same thing as Shetland pony, I don't know. What they did was they added on another piece to the top, put it together. That's not structural. In addition, you can see the waviness of those roof supports. Now, there's a letter from Mr. Hart, who's a construction manager, that we've submitted in the files that outlines a number of different construction defects that exists with those stables. At the end of the stables, we have the junk. That's what it looks like. That needs to be moved out of the 40-foot buffer yard. If we're going to do this, do it right.

So what are the problems? Well, now that we have an accurate survey, kick out the first point and the second point and the third point. If I'd only known, gentleman, I could have made this so much shorter. The requested variance, also, as I pointed out does include other structures that are located within the buffer yard although they've offered commitments about moving the diesel tanks but not the propane tank. They also talked about moving them, not outside the 40 but at 20. I guess halfway compromise. It doesn't remedy the sub-standard construction that we see there now. Frankly, the horse stalls aren't necessary. As you've heard, they're used basically so horses rest between matches. There's a farm fence right next to a woods for shade. There's water. You can tie the horses up. They're not going to be there very long. They're just resting between matches. This is what our assessor thinks of the construction, Ds and Fs. So what's the remedy? Oh, wait a minute. Let's go back for a moment. I thought this is interesting, construction type earth. That doesn't really speak very well to how those structures are built. What's the remedy? Well, our favorite would be to deny the development standards variance or if you grant this, require the removal of all existing buildings and structures to 20 feet from the boundary line. We'll agree with that. Require that any moved buildings pass a code inspection, frankly I doubt that the lean-tos would. If they do, great. Do not allow any new permanent or temporary buildings and structures to be erected or placed within the 40-foot required yard. That's what our ordinance provides for and that's what should be complied with. Require that all fuel, liquid containers, refuse, and debris be properly removed from the 40-foot required buffer. I understand the petitioner is okay as far as the diesel storage but he wants to leave the propane. It should be moved. We can skip this one now since we have a survey. I was really looking forward to talking about this.

What I'd like to talk about now is the traffic. This is a slide from the town council meeting. I've got to say to you that YouTube is great. I went on it, pulled up the council meeting, and I pulled off this slide. This was a presentation by the Chandlers. Mr. Chandler, Greg Chandler who is with us tonight was there. Son, Austin, was there. Austin, I think, did most of the presentation. Did a good job, you should be proud of your son. What does this show? On average, 476 cars and 1,428 spectators attend each Hickory Polo Club event. Most cars show up after the gates open at 5:00. Matches start at 6:00. There are 18 events planned for this year resulting in an estimated 8,568 trips over a little more than 4 months attended by a total of 25,704 spectators. Business has increased 72% since 2019 according to Austin. Crowds and traffic obviously are going to increase as well. John and Amanda Artman recorded June 24, 2020 in a letter to the BZA members filed on July 2 in the Brickyard Solar Project, that as recently as 2020, we are unable to get trucks and equipment in and out of our adjacent farm field due to an event at the facility, referring to Hickory Hall. Cars lined the country road in all evenings as we tried to work. That's what it produces. Mr. Hart did his own little survey. Went out to the corner of the nearest intersection. He lives close by. From this, what's interesting to see is the impact on traffic. For instance, at 5:15, there were 42 vehicles entering Hickory Hall. There were 15 vehicles that were cuing on that road, back up of 15 vehicles. A truck and a small trailer had to wait 8 minutes in a cue in order to pass by. This obviously is a problem with both normal vehicular traffic, people just trying to get home on a Friday afternoon. What's going to be done about emergency vehicles? What's the remedy? I also want to talk about East County Road 100. That is actually the road that's in front.

What's the remedy? You can deny the special exception request or speed up the cue by the requiring—the cars right now basically cue on the road in order to be allowed entry where they take the tickets through the entrance. This causes a backup. What you could do, is allow the cars to go ahead and enter and park, and then collect the revenue at that point. Now, I agree this is going to take time, more time than just simply making everybody wait and come in at a nice, narrow line but it's going to allow people to get home faster. It's going to allow emergency vehicles access. It's going to protect the public safety which is one of your duties. We also want to require law enforcement to direct traffic. Now, that's highlighted because that's an agreed upon commitment although I think, law enforcement right now is basically located just at the entrance. We think it should be elsewhere. This is a photo off the website from Hickory Golf. I saw it and liked it because at that age, I'd like to do that. A young man holding up what I assume is libation. This is at Hickory Hall. That's one of the reasons, I suppose, people go out there to celebrate or have a good time. The Harts live on County Road 800 East. It's a gravel road. They've experience the same exponential growth in traffic coming and going to the Hickory Hall Polo Club. They've also experienced the road dust and the roadside debris increase and the traffic generated. The Harts spend approximately \$800 per year to have a dust control product sprayed on their road. Boone County also requires that if they do that, they get to maintain the road. They're responsible for it. They also get to spend their weekends picking up trash. That's why the photo is there. That's the sort of stuff that he finds in front of his house and elsewhere. Now, can I trace it back to



Hickory Hall? No, I mean, they don't write their names on it but it doesn't seem to be coincidence, or maybe they do.

What's the remedy? Deny this special exception request or require a large sign to be posted acceptable to the Harts and a law officer at the intersection of West Baseline Road and County Road 800 East that would be to the south of The Harts and at the intersection of County Road East 100 North urging people entering or leaving HHPC to not use County Road North 800 to enter or leaving. I highlighted that because my client said, "You know, we really don't care about the sign. What we want is traffic control. We want to keep the traffic down. The best way to do that is a law enforcement officer." So we think as a part of the responsibility, as part of the commitments, the petitioner should be required to control the traffic that goes not only on the street that's in front of them but also on the street that intersects them.

Another picture from the website and to look at it, it's a really great picture. It looks like it's going to land on you. An airplane flies over the event crowd at half time, throttles back and drops candy. A few years ago, and I know that they're going to commit never to send up another Chinese lantern, but I just couldn't avoid this, Chinese lanterns were set up as part of an event. What could go wrong? Well, to begin with the airplane flies over gathering children and adults, under 1,000 minimum set by the FAA while losing air speed disregarding potential mechanical failures. I listened to that engine, it needs a tune up. An unexpected down draft, which you cannot anticipate - imagine a plane caught in a downdraft. Imagine a plane that cannot throttle back up. Imagine at that height as it's coming in. Where's it going? This is what the FAA says, basically except for take-off or landing, you don't operate a plane over an open-air assembly of persons at an altitude less than 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft. Now, the highest obstacle within 2,000 feet are probably the trees that are in the woods that we've talked about anywhere from 80-100 feet. So you're probably talking about keeping the plane level of somewhere over 1,100 feet above that crowd in order to keep them safe.

Wolff                    Mr. Tousley I would remind you that I don't know anything about the FAA nor do I have any jurisdiction over them nor do I have any jurisdiction over the building codes and how to enforce them. So I would ask that you keep us pointed in the right direction on the SE and the setbacks, please.

Tousley                I think—no, I understand. I understand the argument. I think the same thing. I think you're here for public health and safety. It would really not be hard to take care of this. My client also—one of the things that you're responsible for, you have to make a determination, is the impact of the use upon adjacent properties. The parks property is adjacent. I'm certain you wouldn't argue that Chinese lanterns are a good idea.

Wolff                    I think the Chinese lanterns, we agree, are off the table.

Tousley                We do. That's good. I'm not disagreeing with you. By the same token, let me finish my thought. I'm sure we can agree that a plane that is flying below the FAA regulations at the height that you saw on that picture throttling back as it's going over the Parks Property is a potential danger to that property.

- Wolff We can probably agree to that, yes. Again, I'm not the FAA.
- Tousley Okay. I just provide that to you as a baseline, something for you to look at and make your determination. I don't know the FAA. You've just exhausted my knowledge by the way.
- Wolff You've increased mine on it, so let's keep to the SE as well as the setbacks, please.
- Tousley Okay. These are the lanterns. That's what happens to them. So what's the remedy? Again, you can deny the request. I think you can require the petitioners to monitor any overflights to take any necessary action to assure they don't descend below that 1,000-foot level or violate other relevant FAA regulations. You can end—you know, it's not hard. You tell your pilot to get in the plane and fly at a level of 1,100 feet of thereabouts. You look at them and you can determine how high he is. Then if he ever comes back and he gets below that level, you can say, "you're fired" because you're endangering people that are down there. You could also get a helicopter. Helicopters can go below because of their special landing propensity as opposed to an airplane.
- Jones Seriously, is this going anywhere?
- Wolff Yeah. I'm suspicious that the sound would be worse with a helicopter.
- Tousley Okay. We'll proceed.
- Wolff You were talking about the sound earlier.
- Jones Where are we at on time?
- ? (48:21) Over time.
- Jones Are we keeping, John?
- ? Do you have any idea?
- Chadd 23 minutes since he started.
- Wolff 23 minutes.
- Jones What's our limits?
- Tousley I will endeavor again, it's somewhat difficult given the way the presentation was originally prepared.
- Wolff I understand you had an adverse condition. I agree with that statement.
- Tousley Okay. There's been a lot of talk about charities. I think that's great that they're giving so much money to the charity, but this is a business not a charity. The petitions are submitted by individuals not a charity. It's a business that sells so

that basically sells the charity to get to keep the money on the admission fee. It sells to for profit businesses who advertise on it. In fact, you look at their website, it does that heavily. It charges \$40 for general admission. It has various revenue streams, business has been good up 72% since 2019. 18 events planned for this year would produce an income of \$327,000 at least. That excludes whatever collected for the corporate sponsorships, polo club memberships, lessons. I don't offer any criticism of that at all. Making a profit is the main reason for most businesses in general but they can take these steps to make it safer. We ask that you deny the special exception request or if you don't, require that the variance granted by the Town of Zionsville not be expanded. I think we're in agreement upon that with the petitioner. He's in agreement after we made that request. We require that the special use granted cease at some point in the future if it goes out of the hands of the Chandler Family. They've agreed to that. We asked that the commitments be recorded. They've agreed to that. We've asked that the commitments be enforceable by the Town of Zionsville Board of Zoning Appeals. We've also asked that they allow us to enforce them but they wouldn't agree to that. My clients will concede to not being on that. I think they should be because it just gives them that authority but if that helps, just take them off. Your responsibilities: protect the public health, safety, comfort, and general welfare; protect adjacent property owners from injury to or adverse impact on their properties. I discussed the many ways the petitions harm the public and hurt the adjacent properties. I've also submitted 2 suggested findings of fact on both petitions outlining the reasons why each petition should be denied in order to carry out your duties. We respectfully urge you adopt. While we strongly believe that both petitions should be denied, we also submitted proposed commitments along with the summary of responses by the petitioners and staff. I hope you have that.

Wolff            We do.

Tousley        These commitments have made could lessen their impact if you approve one or both petitions. Thank you.

Wolff            Mr. Tousley, are you available for a couple questions?

Tousley        Yes.

Wolff            Thank you. I would note that you represent two families kind of through marriage but two groups there. One of them has an adjoining property, one of them is in close proximity. Is that correct?

Tousley        That's correct.

Wolff            Okay. As I count, this is—I'm working off of Exhibit 2 which is the aerial map. I count one, two, three, four, five, depending on if you count a corner, six other adjoining properties. Have you heard from any of those neighbors?

Tousley        I'm familiar that they have neighbors. I was unaware there was six of them. I do not know any of them.

Wolff            It may be five. If you count a corner, it's so—

- Tousley Sure. I realize this is approximate.
- Wolff You haven't heard from—okay. In addition, I would also note that I counted six homes in closer proximity if you measure from the center of the polo field than you representative. Again, I'm going to ask the same question. You haven't heard from them as well?
- Tousley They have not contacted me, no.
- Wolff Now, it's not their obligation to. I understand you represent your client and that's fine. Okay. Are there any other question for the remonstrator's representative?
- Lake So, why now? It's been going on for 18 years. Why now? Wasn't a problem for 17 at least not enough to try and stop this or force a special exception.
- Tousley I think my clients were unaware that they could do anything about it until recently.
- Lake Okay.
- Towlsey They turned in a complaint in 2020 which resulted in the petitioner waiting until 2021 to come before you.
- Lake Okay. What's the decibel level of farm equipment?
- Tousley Pardon?
- Lake What's the decibel level of farm equipment, combine—
- Tousley I'm sorry. I don't know off my head.
- Lake I'm just curious. There are other things out there that make noise, so I'm just—
- Jones Chris, I can help with that. I found a little site, yale.edu. I'm assuming that's a fairly viable group. Let's see. A whisper is 25 dba. A household refrigerator is 55 dba, vacuum cleaner 75, and a lawnmower is 107. I don't think the music is getting louder than a lawnmower which probably isn't getting any louder than a tractor. Is that about where you want to go?
- Lake I'm not saying that it's not a, that it couldn't be perceived as a nuisance. I completely believe that it could be. I just feel like if you're in rural farmland, there are other things that happen as frequently or more frequently, maybe not, well probably for at least that duration if not more that are as loud or louder.
- Tousley I wouldn't discriminate. There are occasions when people go out and farm. When they're done, you wait. There are times when activities are much louder but let's focus on the Fridays when the activities are. You come home in the evening. You work all week or perhaps under COVID you were stuck at home but at least in the future and in the past, you come home and find a clock. You've lived in this area for a long time. You remember the times when you could come home sit on

your porch, you could look out over those crops. It was quiet, and you could see those things that go on in a rural setting. Then it all changes. You would have been better off if you'd been like me, somebody who's lived in The Village. Who's lived close to activities that are loud and noisy, and is used to it. I'm saying that when you have a rural way of life that people have been able to enjoy, it's important to preserve.

Lake Combines, do they not farm on Friday evenings?

Tousley I don't know if they use a combine but if your point is that occasionally there are things that come out and are much noisier than this, that's fine. I don't disagree with you.

Lake Okay. I'm just trying to give some context to what happens on those Fridays versus any other Friday where the farmer may—

Tousley Normally they don't have combines out at what 5-9:00.

Lake I think you're going to lose that argument. They start up before you're up and they finish once you're—

Wolff Mr. Tousley, I have no idea. I wouldn't have known.

Tousley I'm getting educated.

Lake If your bed time is 9:00, they're not done farming yet.

Wolff Any other questions for Mr. Tousley at this point? Thank you, Mr. Tousley.

Tousley Thank you.

Wolff Mr. Andreoli? As you know, we have a large agenda, so. Thank you, sir.

Tousley I'll just put this aside rather than try to figure out how to turn it off. You won't? You can use it.

Andreoli Just some brief comments. I know there are a number of people in the audience that live immediately adjacent to this that would love to talk to you tonight. I'm going to leave that up to your judgment, Mr. Wolff, given the lateness of how long this has taken and given what else we have on the agenda tonight. I know I had to hold Mr. Williams back there, given Mr. Tousley's comments. Let me offer this, this is an event that's enjoyed by the entire family. There's a lot of kids that are out there. Believe me, Mr. Chandler does not want to sacrifice the hard work that he has committed to over the years by not having appropriate insurance and those types of things to try to make sure that he is appropriately protected from an insurance standpoint. He has that but nobody is going to allow him and certainly not me allow him to place Mr. Hart or anybody else unnamed as a named insured on his policy. There's no way that that's going to happen. In fact, it's an unreasonable request and we rejected it out of hand when Mr. Tousley asked it. It's just not something that can be done and should be done quite frankly.

As far as the plane flying over, that's been done the entire time he's been there. Mr. Chandler had a discussion with Mr. Hart about that. They—it was a comment made or a complaint made to the FAA. The FAA came out, talked to Mr. Chandler, talked to the pilot. We've not heard any more about that from the FAA or anything of that nature because that issue was resolved as far as we were concerned. So these planes fly slow. You saw the type of plane that it was that they drop candy for the kids and this, that, and the other and it makes it a real family event. If I had raised some of the concerns, and I'm saying this respectfully, that Mr. Tousley had raised regarding this particular project, my wife would have accused me of being a—how does she phrase it, a fun sucker? You suck all the fun out of it. I understand his client has concerns.

Mr. Wolff, you asked a question about whether they had been contacted by the adjacent neighbors. He has not but this board has been contacted because we submitted letters from the adjacent neighbors in glowing terms about the activities out there for the past eighteen years. We did that because we wanted the board to understand that while Mr. Hart may have a complaint, it's not a complaint that is generally associated with the rest of the neighborhood—quite to the contrary. Mr. Chandler had checked and I had checked previously with regards to the sheriff's department if there are any complaints about people having to wait on County Road 100 as people are entering the facility at 6:00. There have been no complaints with the Boone County Sheriff's Department with regards to that. So, I'm not suggesting that there aren't some minor inconveniences. We'd be willing to go ahead and reduce our music to 10:00 and give another half an hour break with regard to that. The music is not loud. Mr. Williams lives next door. He can tell you about that if you choose to hear from him. So, I would respectfully request that this special exception meets all of the criteria. I'm not going to tell you what your responsibilities are. You know what your responsibilities are and you know how to weed those out. So, I'm not going to be here to dictate to you what you should or should not do. You'll make that judgment. I'm suggesting, we think we've met our burden of proof in that regard with regard to this particular application. Thank you.

Wolff                    Thank you, Mr. Andreoli. Before you step down, I just want to review the list of commitments that you provided us.

Andreoli                Yes.

Wolff                    You just corrected one which is commitment #2 which is 10:30 to 10. Then in addition, I think there is a couple that we have not documented. We discussed tonight was limiting the season from June 1 to October 1.

Andreoli                Yeah, we need that amended from June 1 to October 1 but still only 18 events.

Wolff                    Yeah. So, I don't see those listed on this list of commitments. Would you be amendable to us adding that?

Andreoli                Yes, absolutely. That is a major part of it that was not listed on that. It was listed in my narrative but I did not get that on the list. It would be from June 1 to

October 1 but only 18 events and they conduct on Friday unless there's a rain delay as Mr. Chandler had mentioned.

Wolff Thank you. Any other follow-up questions?

Lake Yeah. Mr. Wolff, if I could. On number 2, where we talk about cutting music off at 10:00 p.m., would you be amendable to having that say 10:00 p.m. or as allowed by the special event permit? 10:00 p.m. or as allowed by the special event permit, because if the event permit dictates that I don't think that we should.

Andreoli I don't know that there's a requirement on the permit itself. So I think from our standpoint, we'll keep it at 10:00. If there's something that appears on the permit from the mayor's office, we're going to abide by that.

Wolff You're obligated to adhere to it.

Lake I just don't—yeah, I just don't want us to be putting something in here that goes in contradiction to another—

Andreoli I really don't want to change that to 10:00 but if the result—if something appears on a permit or something like that, that we're required to meet, Mr. Chandler is happy to talk with the mayor about this. She's been supportive, so we'll be happy to go ahead and work that out with the administration to make sure we're doing it the way they want done as well.

Lake All right.

Mundy Mr. Andreoli, maybe one last question. The one element that I think does deserve some consideration and that is avoiding the cuing up of cars getting in. I don't know if having the flow in and collect later works but I can see that that could be a safety concern. It also could be a concern with the farmers that are wanting to get through with big equipment. So if it avoided a line of cars out on the public road, get them off that road more quickly, is that something that could be considered?

Andreoli Are you talking about County Road 100, or the gravel road?

Mundy No, no, no, the road in which they enter into the polo—

Wolff Yeah, which is 100, I think.

Andreoli 100 North? Sorry.

Wolff 100.

Andreoli Yes.

Mundy The road from which they turn to enter into the polo fields.

- Wolff Mr. Tousley was suggesting that perhaps the one way to eliminate some of the traffic would be to collect the money inside of the facility as opposed to allowing people to cue up on 100 and they just do it one-by-one.
- Andreoli I don't know that that's going to be permissible because some of the people go straight because there's parking for sponsors and those types of things. Some of them are directed left to go around the polo field. So you're going to have to at least thinking maybe what we should—
- Wolff Mr. Andreoli, we're not getting any of your comments.
- Andreoli Maybe what we should do is agree to try to take it as far as into the facility on Mr. Chandler's property as possible and we will commit to you that we will work on that and try to get that under, you know, 50 or 100 volunteers generally on a Friday night. It would seem to me that we might be able to move that into the, into his property a little bit most of—we're going to have some back up with the number of cars and that we've had in the last 18 years and the activity level there. There's going to be some cars, we just have never heard, other than from Mr. Hart, we've never heard any complaints from any of the neighbors, sheriff's department, or any other single complaint that we're aware of. So I want to be responsive but I don't want to have to create a solution for something that's not really a problem. We're going to get some back up, Mr. Mundy, no matter what we do because we can't go too far in because those people have to turn back to go to the polo field as opposed to go straight—
- Mundy I've been there for an event. It is possible to solve that problem, it just won't be as easy for the charity who is collecting money. I agree. The example that Mr. Tousley gave was that a truck waited 8½ minutes in order to be able to pass through there. That is excessive, I would say. I think it does create a potential safety hazard. I'm asking for a commitment that you would look at another way you might be able to find and move traffic quickly off of the street into the polo grounds.
- Andreoli We don't—personally, I don't think that's a difficult request or an unreasonable request and I think we can. Anything we can do from a public health and safety standpoint would make sense. So yes, we will make a commitment to try to work to ease that burden so there's not as much stacking on County Road 100 turning into the facility.
- Wolff Any other questions for Mr. Andreoli? Mr. Tousley, our rules and procedures allow you a few moments.
- Tousley Pardon?
- Wolff Our rules and procedures allow you a few moments of—
- Tousley Yes. We've asked for insurance. There's an easy solution. When you apply for a special permit event, your supposed to certify that you have insurance. At the time they do that, have them provide a copy of the policy. Have them do that by—



- Wolff I'm sorry. Could you repeat that?
- Tousley When you get a special event permit, you're to certify that you have insurance. I've asked for the file that was produced. It does have a question, "Do you have insurance?" Logical. Why not say, "Okay. At the time you're doing that, you're only going to do that once a year, submit your insurance policy." Do it by May 1 that gives people like the Harts and everybody around there the ability to look at the policy and determine whether it offers coverage to people who live in the area. It's something really that should be—you know, it's certifying that you have insurance. It doesn't necessarily mean that you got insurance.
- Jones Yes, it does. No, you're not going to provide insurance to adjoining property owners. Drop it.
- Towlsey I'm not asking that.
- Jones Yes, you are.
- Tousley Well, I'm tacking on—let me put it this way.
- Jones Move on.
- Tousley As an attorney—
- Jones Okay, of the property owner.
- Tousley Whether you have a liability policy, it typically flows to people who are injured.
- Jones Covers the property that the event is on. It does not cover adjoining neighbors or other people.
- Tousley I would respectfully disagree with you on that.
- Jones I get them every weekend. They are provided to me.
- Tousley You and I have obviously worked in different insurances.
- Jones They are provided to me by the people using my property for their events to cover me and them and the people visiting and participating in the event.
- Tousley Okay.
- Jones It doesn't cover the people across the street.
- Tousley I was just trying to make a suggestion that would make this easier.
- Wolff Thank you, Mr. Tousley.
- Tousley All right.

- Wolff Thank you. So for those of you who are new to our home game, this is an opportunity where we have for public comment. We have officially used our allotted time for this but if someone feels really passionately and wants to be super short winded I'd be willing to listen to it. You've got to be super quick. Okay. I'm sorry. Let me be very clear. If you feel for or against this particular petition, you have the right to speak on it. We are out of time so I want to keep this super concise.
- Kellum Do you need my name and address?
- Wolff I do, yeah.
- Kellum Phone number, social security number?
- Wolff No, I don't want that stuff. Nope, hard pass. Just your name and address, please.
- Kellum Okay. My name is Lisa Kellum, K-e-l-l-u-m. My address is 7501 East 100 North, Whitestown, Indiana 46075. I live two properties to the west of the polo fields and I just want to comment on a few things that were mentioned tonight. First of all, it is beautiful country out there. It is beautiful agriculture. It's part of what makes it so appealing to come out there. It's a wonderful wholesome family event. Many friends, people that I network with, bring their teams. It becomes an engagement for multiple people to come out there. In addition to the beverages, there's also fruit pouches, sodas, and waters. It's really truly a family event. \$40 to pay for a car load, my car holds 8. We fill it and that's \$5 a head. It's really quite a wonderful event to come and watch polo ponies, learn the game, listen to some music, and have a good time. Since I live two properties to the left of that, on the night where I know that people are coming or going, it's very quickly. It's never been a bother to me. If I really need to get somewhere, I may go left instead of right out of my driveway. Noise, as a matter of fact, if I sit on the east side of the polo field, I prefer to sit on the west side of the field because if I'm on the east side, I can't hear the announcer. It's very hard to hear. Many people have commented on that. If I'm on the west side of the field, I can actually hear the announcer speak. My house is on the west side of the field. If I open my back door and sit outside, sometimes I do that just to hear the event because I think it's a beautiful event. It's a family-friendly. Kids love it. They run out on the fields. They can't wait for the Candyman to play. Brings back memories for the older folks too. It's a lot of fun. When I shut my back door, I don't hear any sound at all. I would not know that there's a polo match going on at all. Traffic has never been an issue. I've lived there for three years, my family. My in-laws lived there for 7 prior to that, never once complained. They are hard people to please, very easy people to irritate. I never heard one complaint in that entire time.
- Wolff I would, Miss Kellum, I would remind you you just said that on the record.
- Kellum She may be watching and she would absolutely agree. I have no doubt about that. She would laugh at me right now and appreciate what I'm saying because she also felt like it was a wonderful event to be supported by as many people as possible. So I just think it's a wonderful thing. Again, being a neighbor and also someone who frequently attends, I'm happy to give the \$40 for a charitable event. I always look at the charities. I have picked friends and folks that I work

with. I have people that come from out of state to come and participate in this because it's such a unique event. So, I appreciate the Chandlers and what you have done to make this available to the community and I recommend everyone who has not been there to attend and we will tailgate next to you. So, you know where I live.

Wolff Thank you, Mrs. Kellum for another neighbor's perspective. You may. I'm going to say after this, I've got one more. I'm out of time. I've got a long agenda tonight.

Williams My name's Jimmy Williams and I live at 7829 East 100 North which is right next door the polo field. I'm within 1,200 feet of the stand where they announce. When I'm sitting in my family room at night, I don't even hear it. I don't even hear the airplane come over sometimes. So the bull hockey that I've heard tonight is just crazy. This is not the first time that the person that is complaining has complained about other things. For instance, I'm going to give you a little instance here.

Wolff Please be short.

Williams I'll be short. I have a fence row in the back of my property. I had it cleared out. I had Kevin Miller come in, clear it out. I needed to put new fence in. So before they put the fence in, I wanted to go back and grade the ground out. So I had my bucket down there grading it back toward me. All the sudden, this person comes up flailing his arms and raising all kinds of hell, "Don't put that dirt on my property." You know, I wasn't putting it on his property. So this gives you an idea of what this individual is. There are people that—when I was a kid, I had a lady. If you hit the ball in her yard, she grabbed it and ran and put it in the house. She wouldn't let you play.

Wolff Mr. Williams, for clarity's sake, are you to the east or the west of the polo fields?

Williams I'm east to the polo field.

Wolff Okay. Thank you, sir.

Williams I'm the very next property to them.

Wolff Right next door to the east.

Williams Yes, sir.

Wolff Thank you for participating in our conversation. I'm going to allow one more. If no one jumps up in the next 30 seconds, we're out of time. 5 seconds? Okay, time's up. May we have the staff report, please.

DeLong Certainly. For the purpose of discussion, I will combine the special exception and the variance into one presentation. Staff is supportive of the special exception as filed. Certainly, as this board knows, the zoning ordinance speaks to the test that a special exception needs to adhere to at a minimum to be considered by this group. Certainly, this special exception process for special type uses is designed

around the concept of a special uses locating where it is needed, where the mission thrives it to be. In this particular case, you do have an agricultural area that is being utilized for an agricultural purpose as described this evening. Specific to the setback for the structures related to temporary housing of animals, that is a very common feature in the agricultural district where you would place an out building or some sort of three-sided shelter for an animal such as a horse to take a break and throw hay to simply provide shelter that is not commonly found in the barn where they would be residing otherwise. Certainly, the structure's agricultural district does mandate a setback, a zoning ordinance for other buildings that are actually used for habitation of humans. There is actually relief from that 40-foot setback based upon the installation of vegetation. So it's unique that our zoning ordinance does not provide that same test for an outbuilding for an animal but it does provide that for a human. Be all that said, in agricultural use it's very common to find out structures in the pastures in the fields that are designed primarily to provide for care of the animals. Certainly, staff is recognizing that as part of this petition this evening. Again, staff is supportive of the petitions as they've been filed. Certainly is open to considering the commitments as proposed and happy to answer any questions.

Wolff Thank you, Mr. DeLong. Any questions for staff?

Lake Yes. Wayne, those shelters for the horses, would those have to be permitted if they were being built new and inspected as such?

DeLong They would receive building permits. Because it's an agricultural structure, there's only a two-step process, footing and final. There is no review in between. Simply again, it's an agricultural building. Certainly, these buildings were constructed well before my tenure with the town or probably almost all building inspectors that are in this area. It was rural prior to all this but certainly, there'd be inspections of the structure, footing and final.

Lake The only reason I ask is, as an architect, I'm not a structural engineer but I do believe that some of the comments noted about the structural integrity of those buildings do raise some concerns for me and hopefully anybody that does put horses under them. It would be worthwhile to have some sort of inspection done. I don't know if we can require a post-permit be filed and then an inspection be done. Those top plates are sagging where the joists are and that's concerning. So, I don't know what purview you have at this point over that.

DeLong Certainly, as if mandated by the Board of Zoning Appeals, there could be a requirement for a permit, a final inspection, a code compliance inspection related to the structures. Certainly, there's mechanical facts there as you're touching upon that could be utilized related to assist here. There's any number of things that we could provide.

Lake That's not suggesting they be moved, just somebody say, hey, that's safe for not only people that will be under them caring for the horses but for the animals themselves.

Wolff Any other questions for staff? Any discussion amongst the group? I would note that the petitioner has submitted a list of commitments that we've discussed

tonight. I think we added some specific—we've made some recommendations on the dates, June 1 to October 1 as well as limited to 18 events. I think that was an additional commitment.

Lake Yeah, music to 10:00 on Item #3.

Wolff Music to ten—correct. So, if you were to use that list of commitments in your recommended, or in your motion, I think we would say as discussed tonight.

DeLong I would offer for the board in their consideration, I would not focus on relying on the special exception or I'm sorry, relying on the special event permitting process. That is a process that can ebb or flow or change, be deleted or added to. That's simply a policy of the town. So, I would be hesitant to rely on an administrative process be whatever rule it may have. If the board is leaning towards a specific time such as 10:00 p.m. then let's articulate that as a part of the decision making this evening.

Wolff I think I'm treating the list of commitments as proposed by the petitioner's representative as number 2 as 10:00 p.m. shut off of music. That's what we discussed.

Lake Yes.

Wolff Any other discussion amongst the group? I would note that we have two petitions in front of us. We need to treat them individually.

Mundy You looking for a motion?

Wolff I am looking for a motion. Thank you, Mr. Mundy.

Mundy I move that Docket #2021-17-SE special exception to permit an outdoor recreational facility at polo field in the Rural General Agricultural District for the property located at 7551 East 100 North be approved as presented with a list of commitments that have been provided by the petitioner and altered to dates between June 1 and October 1 no more than 18 events and a change in the time that live music would end making that 10:00 p.m. be approved.

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

Lake Second.

Wolff Thank you, Mr. Lake. Mr. DeLong, I think we should do a roll call vote, please.

DeLong Certainly. Mr. Jones?

Jones Aye.

DeLong Mrs. Campins?

Campins Aye.

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- DeLong Mr. Lake?
- Lake Aye.
- DeLong Mr. Mundy?
- Mundy Aye.
- DeLong Mr. Wolff?
- Wolff Aye. Motion passes. I would note that we have another petition in front of us.
- Lake So I would move that Docket #2021-18-DSV a development standard variance for reduction of the rear buffer yard in the Rural General Agricultural District AG for the property located at 7551 East 100 North be approved based on the findings of fact, the staff report, and presentation with the exception that a permit be filed for these structures with a final inspection and incorporating a list of commitments previously referenced.
- Wolff Thank you. Mr. Jones, did you have discussion about that particular motion?
- Jones Yeah, I would disagree with the requirement for them to go back and provide a permit.
- Wolff I think that Mr. Lake is not concerned necessarily about the permit, more about the safety. Is there a way that we can address the safety issue?
- Jones I am familiar with in Indianapolis, when situations arise where someone has not pulled a permit for something in two years, it's expired. The city actually cannot go back and request a permit. When it comes to the general safety, that becomes an issue for the property owner, his insurers, other groups operating in the facility. Everybody has the right to go look at it and if they disagree with the safety of the structure, they don't have to use it. I don't want to get in this habit of requesting someone go back to a structure that's existed for 'x' number of years and get a permit. That would then apply to every barn we drive by every day.
- Lake I think the exception here is we're allowing—we are being asked to allow something that is non-conforming right now. If we're going to allow it to exist in its current position, then it also should be safe. That's my concern. Looking at those images, as an architect, I do feel there is some level of concern—
- Wolff Mr. Lake, would you be amendable to not requiring the permit but adding the commitment that the petitioner have the structure inspected by a qualified individual?
- Lake I would be amendable to that.
- Wolff Mr. Jones, does that seem reasonable?
- Jones Sure.

Lake Thank you.

Wolff Okay. So we have a motion. Is there a second to that motion?

Campins I second.

Wolff Thank you, Miss Campins. Mr. DeLong, let's do a roll call vote again as well.

DeLong Sure. Mrs. Campins?

Campins Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Mundy?

Mundy Aye.

DeLong Mr. Wolff?

Wolff Aye.

DeLong Mr. Jones?

Jones Aye.

Wolff Thank you. Motion carries. All right. We made it through one.

Jones That was two.

Wolff Next item on our agenda—

Jones That is two actually.

Wolff Correct. Correct. Yeah, let's give ourselves credit. At this rate, we'll be done by Memorial Day. Next item on our agenda is Item #6 which is new business which brings us to Docket #2021-19-DSV for the property located at 95 East Oak Street. Will the petitioner's representative please come forward or the petitioner?

Kite My name is Paul Kite with Strongbox Commercial 65 East Cedar Street Zionsville, Indiana. I represent Nicholson Orthodontics, and Jim and Margie Nicholson.

Wolff Thank you, Mr. Kite. What is in front of us tonight?

Kite We're asking for a variance of nine parking spaces to allow for the construction of an addition to the existing business that would provide a new location for Dr. Nicholson to operate immediately west of the current house that he's been in for

several decades now. What he is proposing is a new structure and leaving the existing structure in place which is what caused the need for the variance.

Wolff How many parking spaces are available today?

Kite There's a gravel strip that isn't officially a parking area since it's not paved. There are six or seven depending on how many cars are squeezing in there since it's not lined.

Wolff How many parking spaces are required?

Kite There are fifteen required and we're providing six. Six new spaces including a handicap space with a ramp.

Wolff Mr. Kite, have you—I'm sorry, go ahead.

Lake Is the use of the addition solely for the orthodontics clinic?

Kite Correct. Then the plan would be to once Dr. Nicholson is moved out of the existing house into the new house that he would lease that to another professional business who's committing to not allowing a restaurant or retail use in that business on the property itself.

Lake How many treatment bays and exam rooms will be in the new?

Kite Six to seven chairs in the new space.

Lake Then any other exam or other private treatment spaces outside of those chairs?

Kite Consultation is the rest of it, yeah.

Lake Okay.

Kite Consultation, lab, and breakrooms.

Lake How many staff does he employ?

Kite Generally five, four or five at the most, that including Dr. Nicholson.

Wolff What are the hours of operation?

Kite The hours of operation are 8:00 a.m. until 4-4:30 p.m., Monday through Thursday for patients. He's open Friday but just he and his staff are there on Friday unless there's an emergency. Then at lunch in the lunch hour, he does not see patients during the lunch hour and his staff either eats there in the facility or goes to local restaurants.

Wolff Mr. Kite, have you made an attempt to secure parking from another location?

Kite We have made an attempt to secure parking from another location. There's actually another variance out there that's competing for the same spaces. So we



thought that it would be more beneficial to offer these private spaces to the public after 6 p.m. Everybody's out of there by 5:00 so realistically it's available after 5:00 for the public. So we thought that would be more beneficial than to have leasing off-street parking from another private business.

Wolff Yeah. So in lieu of finding additional spaces potentially up to nine, you have offered or committed to providing those existing six spaces as public parking after 6:00 p.m.?

Kite That's correct. He's only open until noon on Friday.

Wolff Good to be a dentist.

Kite Good to be a dentist.

Lake So is it safe to say while he's only required to have 15 spaces, he'd probably need 17 because you'll have—well, more than that because you'll have at least 6 patients in chairs, 6 patients waiting to go into chairs, and 5 staff? So you'd be at a minimum of 17 needed even though calculated you're only at 15.

Kite I don't know how many people are waiting. I mean, every time I've been in there there's only been one or two people waiting even as a client, so not me personally but my kids. Usually there's only one or two people waiting to go at any one time.

Wolff Mr. Lake, I would add that we may be adding to the problem if we lease the property next door when this new facility is—

Lake Yeah. That's my concern is that just because there is a tabulated number we may, I mean, I don't know why you'd have six chairs plus consultation rooms if you only have two patients in there at a time. That seems like a gross waste of a facility. That's his choice but if you calculate the max impact just based on occupancy you would expect to be there, you exceed the 15. If you lease out that space on the side, you add more to it. So, I think we're grossly short, so on spaces.

Wolff Mr. Kite, can you review with me. You found potentially offsite parking but there's another variance that we have seen or haven't seen? You don't need to name it, I don't—

Kite You have seen it, yes.

Wolff We have seen it? Oh, and they secured that parking?

Kite It's not—I don't know that it's official yet but it's being discussed, yeah.

Wolff Okay. Maybe we'll hear from some remonstrators today. I do not know. We often times face parking problems as you know in The Village. So this is a challenging situation.

- Kite I don't disagree but I feel like contributing that space to public use after hours was more beneficial than having space reserved.
- Wolff Yeah, I agree that six additional spaces after 6:00 p.m. is a welcome I think many of our business owners in The Village might agree with that. Consuming additional spaces up to nine potentially in the village during business hours may not be welcome. Any other questions for the petitioner right now?
- Campins What is across the street from his office where the new office is going to be?
- Kite Oh, the Lion's Club. You're talking about on Oak or Cedar?
- Campins On Oak. No, no, no. I'm sorry, on Elm.
- Kite On Elm, the Lion's Club office is immediately east, yep.
- Campins Okay.
- Kite Say that if the additional spaces are needed in lieu of doing the public spaces that we would be willing to commit to seek nine additional off-street spaces in lieu of offering those six to the public.
- Mundy What about both? In the off hours, what use will they be to his office?
- Kite I don't disagree but there is a price to pay and clean up and things that, you know, when you allow the public to use your parking lot as we all know. I mean, I would have to consult with Dr. Nicholson on that one.
- Wolff Mr. Kite, as I drove by the facility and I do often, and I'm not—not my area of expertise and I haven't seen what you're proposing for the new structure. Could you get—you've looked at adding more parking to the actual lot?
- Kite Yes. When we originally considered the project, we talked to Dr. Nicholson about taking the existing building down and just building a new building to the west and using that for his parking. He felt like that existing building was important to the fabric of the town and was part of its identity and would like to keep it. so that's the—we thought that that was a benefit to keep that building rather than taking it down and just building another building. Obviously, we have to meet all the ZARC requirements and all that. We still have to do that with the addition.
- Lake Can we shrink his addition and backfill himself into a new, you know, that original building as it's renovated?
- Kite We looked at that and played around with it and did several drawings. Every time we did it, it sort of looked like an abomination adding that onto that existing building, so.
- Lake It doesn't look stellar now.

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- Kite            Yeah, well its—this is a—don't, uh—that's not the by any means, that's just the representation of what the size and scope would be so please don't take that as what's coming before you. Put that on the future.
- Wolff           Any other questions for Mr. Kite at this time?
- Jones           I've just got to make sure I heard what I heard. So the drawings that you provided us, really aren't what you're intending to build. Is that what you just said?
- Kite            That's—we're actually working on several different concepts. This was our initial drawing.
- Jones           I have no tolerance for it. I've spoken about this repeatedly. If the petitioners can't come forward with their proposed plan, don't come forward. We're being asked to grant variances on parking but we don't really know what we're approving. We bent over backwards to make sure The Sanctuary could function but that was a structure that's existed since the 1800s, was built at a time that there wasn't any parking needs. We can't keep infilling every piece of vacant land with structure and we're backing ourselves into a bigger and bigger problem. Until the town addresses the overall parking issue, I see no reason we should keep approving these types of projects.
- Kite            I'd say given the less than consistent message that obviously we're not being able to deliver to you tonight that we'd like to continue our request and come back to you next month.
- Wolff           Mr. Kite, we're generally amendable to continuance requests especially if it brings us a more thorough petition that we can make a more educated decision on, but I think we need to be specific if we do grant a continuance on what we would like to see, otherwise you may be chasing your tail. So I turn to my fellow board members, if we were to grant a continuance, Mr. Jones would like to see what?
- Jones           A set of drawings for what they intend to build. Now that I'm actually looking at it, the site plan that we have versus the elevations don't match up at all. So, once again, the project down there with Sycamore Flats was, the prior, the 200, same thing. Fishing is what's going on here and I don't like being fished.
- Kite            So is this—so are you saying that we should go through ZARC first before we come back to you?
- Jones           The issue is that there is not enough parking being provided for the additional structure being built. This is a continual issue we hear coming before us on the BZA. We can't keep bending because we're already past the point. The parking in Zionsville is broken. So somebody's got to work on getting a plan together. This little incremental, you know, keep giving, it just doesn't work.
- Kite            I don't disagree with you that there are parking issues in Zionsville but I think the commitment to not operate it as a retail use goes a long way to solving long-term at least the issue that this particular project would create in the town especially

given that it will be business and there won't be any lunch traffic. There's no clients during the lunch hour. So I mean, the lunch hour and the evenings, as we all know, is where the issue lies. We're not contributing to that problem. We're trying to help it. So, I'm happy to come back with a plan that is more complete so there's that for consideration.

Wolff            So Mr. Kite, let me put that more concisely. I think Mr. Jones is suggesting that the site plan and the building renderings are not accurate with what may be built. I understand that things change. So what we're asking for is something that's very close to what you hope, intend the project to look like. Things happen and things change, so we're not going to hold you to that account. We want a rendering and a site plan that is accurate that we can make good decisions on that will largely represent what the finished product will look like. Additionally, I think I would like—I appreciate the offer to allow the community to use the parking at 6:00 p.m. or whatever the case may be. Will there be a sign that says available parking?

Kite             It will be like the Wine Guy where it says he's available after 7.

Wolff            I would, you know, your ask—you need, I think we decided 15. If you could find a few, I think it would help the cause. That's my opinion. I don't represent all the board members but that's my opinion.

Kite             Understood.

Wolff            Any other comments for the petitioner? Again, for those of you who are new to this process, normally we would have remonstrators right now and then we would have more discussion. At this point, the petitioner's asked for a continuance. Mr. Kite, is it appropriate to go to the next month or do you need more time than that?

Kite             Next month should be fine.

Wolff            Okay.

Kite             What day is that?

Campins        August 4.

Wolff            August, August 4.

Kite             August 4, okay.

Wolff            I would entertain a motion to continue this petition.

Lake            So moved.

Jones            Second.

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- Wolff Thank you, Mr. Jones. Thank you, Mr. Lake. Petition August—oh, I’m sorry. Petition #2021-19-DSV has been—no, we need to vote on that. All that’s in favor, please say “aye”.
- All Aye.
- Wolff Those opposed, please say “nay”. [No response.] Motion carries. Mr. Kite, this petition has been continued to August 4.
- Kite Thank you.
- Wolff Thank you, sir. Next item on our agenda is Docket #2021-20-SE for the property located at 6634 East 100 South. Will the petitioner please come forward and state your name and address for the record?
- Keller Good evening. My name is Pat Keller, my wife, Vicki. We reside at 4930 South 575 East, Whitestown, Indiana. We are here tonight looking for a special exception to build a home on acreage on 100 South.
- Wolff Why do you need this special exception?
- Keller This is farm ground that has been in my wife’s family since the 60s. There’s no homestead there now. We are moving from the Whitestown area where we’re being swallowed up by some larger buildings, and wanting to get back on the farm. Her mother lives just to the south of this area. Her brother lives very close to this area also. So we’re looking to turn this from Ag into a residence.
- Wolff I have it in our records that the property is approximately 5 acres?
- Keller Correct.
- Wolff You don’t intend to farm any of that?
- Keller We may farm some of the back of it. We don’t know if we’ll need all of the property for our yard, if you will. So our family farms the rest of that ground. There’s 71 acres there so we may let them plant two more acres there if need be.
- Wolff Mr. Keller, are you familiar with the Right-to-Farm Act?
- Keller Yes.
- Wolff Okay. Seems like a silly question when you know what you’re getting into but it is something we require. Would you be amendable—
- V. Keller We have it signed and ready.
- Wolff Okay, very good. Thank you. Any questions for the petitioner?
- Campins What is the square footage of the home that you’re going to build?
- V. Keller It’s around 2,800.

- Campins 2,800?
- Wolff Do you have—I'm just curious. Do you have any timeline on when this project is going to get started if we can move forward tonight?
- Keller We're probably about another six weeks or so out from shovel to the ground or so. We're moving forward with permitting after we get through here tonight and hoping lumber prices go down, right.
- Wolff Good luck. I would also note that in our staff report which you should have received a copy of, you are aware that you are near an airport, correct?
- Keller Correct.
- Wolff Good.
- V. Keller Are they going to throw candy down?
- Jones Last question, the plans that you submitted, do those actually represent what you intend to build?
- Keller Yes.
- Jones That's amazing.
- Wolff Okay. Sarcasms run rampant. All right. Is there any other questions for the petitioner at this time? Thank you.
- Keller Thank you.
- Wolff Is there anyone here present tonight that would like to speak for or against this particular petition? Please come forward, state your name and address for the record. Seeing none, may we have the staff report?
- Baker Yes. So this is petition #2021-20-SE and it's as you know, we get these a few times to permit a single-family residence in an Ag District. The staff has done its thorough review and we are recommending approval. I'm happy to answer any questions.
- Wolff Thank you. As I looked at the property, it looked like—I mean, I could see homesteads within, you know, eyeball distance of this and it looked like this would be consistent with the rest of the area.
- Baker Correct.
- Wolff Any additional questions for staff? If not, I would entertain a motion.
- Jones I can do the motion. I move that Docket #2021-20-SE special exception petition in the Agricultural District for the property located at 6634 East County Road 100 South be approved based on the staff report and the proposed findings as

presented. If approved, this will be required that the petitioner executes Right-to-Farm acknowledgment documentation.

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

Lake Second.

Wolff Thank you, Mr. Lake. Mr. DeLong, let's do a roll call vote.

DeLong Certainly. Mr. Lake?

Lake Aye.

DeLong Mr. Mundy?

Mundy Aye.

DeLong Mr. Wolff?

Wolff Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Campins?

Campins Aye.

Wolff Motion passes. Good luck with your project. Next item on our agenda is Docket #2021-21-DSV for the property located at 80 Starkey Road. Will the petitioner please come forward and state your name and address for the record? Are you online?

Lohmeyer Yes.

Wolff Well, then don't come forward. We can sort of see you. Would you please state—actually, can you hear us?

Lohmeyer I can hear you, yes.

Wolff We can hear you loud and clear, great. Would you please state your name and address for the record, please?

Lohmeyer Matt Lohmeyer at 880 Starkey Road, Zionsville Indiana.

Wolff Thank you, Mr. Lohmeyer. What's in front of us?

Lohmeyer I'm here this evening seeking a petition request for variance of development standard actually two different or three different development standards. Two of them or three of them are with regard to the side yard setbacks that are in

existence in the Urban Open Land Zoning that I exist on. Then the other variances for an increase in the lot coverage allowance which currently allows for 10% and I'm just under that. With my proposed patio and pool area that I'm wanting to build to kind of finish up my project here, I'm going to be about 12 or 13%.

Wolff Thank you, Mr. Lohmeyer. So I think you're accurate and we'll certainly have the staff confirm us but I believe that Urban Open Land allows for 10% lot coverage which is significantly small to your neighbors in The Village and things like that, significantly less than to your neighbors in The Village like that. In addition, could you—your property is unusually shaped. Could you please describe it and kind of give us the lay of the land as to who your neighbors are?

Lohmeyer Yes. The property itself is a triangle but it's also on a hill. So it is very unique and presents a number of challengers. So one of—you know, I actually was before the board a little over a year ago before I went in for a permit to do my renovation and addition to the property or to the existing home that was here because again, we encroached into the side yard setback. So, you know, because we sit on a triangle and because we sit on a hill, the house has to be placed in a very certain location in order to be able to fit which you know, nearly automatically encroaches within those side yard set back allowances as they're written.

Wolff Yeah, I would agree. It's an unusual shaped lot and with a triangle, it's difficult not to run into a setback. I also think it's unusual with your neighbors. You share property with the Town of Zionsville?

Lohmeyer Yeah, the Town of Zionsville, Parks Department, and actually the treatment facility. The sewage treatment facility is an adjacent property owner as well. Then, my adjacent property owners are you know, kind of off at a distance. In fact, with the trees and the foliage out here, we really don't see each other, you know, unless it's intentional.

Wolff So as we—as we think about what we need to do tonight, the third of the findings of fact is that the strict application of the terms of the zoning ordinance will result in an unnecessary hardship. So what we're saying is, why do you need a variance. I don't want to put words in your mouth but it would seem that you need the variance because of the shape of the property and the topography on the property. Is that correct?

Lohmeyer That is correct, yes. In order to—you know, there's one item within this that I haven't really shared yet but because this house sits in a hillside and I've gone to great lengths to try to correct this and great expense, there's quite a bit of water and runoff either, you know, through the ground itself or over the ground that comes straight at the house. So part of my design and plan for this back patio area is to actually encourage the water to run around the house over the ground and get into the front yard as opposed to coming straight into the side of the house. So yes, to answer your question specifically, the shape and the configuration of the lot are what present the hardship.



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- Wolff Thank you, Mr. Lohmeyer. Any other questions for the petitioner at this time? Mr. Lohmeyer, remind me, we saw this about a year ago. What did we discuss last time?
- Lohmeyer I asked for a reduction in the side yard setback because the room or the addition that I was putting onto the house encroached, you know, further into I guess I would say at that point, encroached further into the side yard setback than what the existing structure did. As well, we were getting a, I guess if you will, approval to have the deck that had been existing which also encroached on the west side of the property. We are getting an approval for that deck to exist within that setback as well.
- Wolff I'm going to steal Mr. Jones thunder. We were presented a site plan. Is your intent to stick to that site plan? Is this accurate?
- Lohmeyer Yes.
- Wolff Thank you, sir. Any other questions for the petitioner at this time? Thank you, Mr. Lohmeyer. Is anyone here—oh, I should have asked online. Anyone here present who would like to speak for or against this particular petition? Seeing none, do we have someone online who would like to speak on behalf of this petition? Could you please promote them? Mr. Burris, are you there? It looks like you're muted on my screen or someone—
- Burris Yeah, I'm not sure why I was unmuted. I'm not planning to speak at this time.
- Wolff Oh, good. Well, thanks for joining our conversation tonight.
- Burris Thank you.
- Wolff Any other comments from the public? Seeing none, could we have the staff report, please?
- Baker Yes. This is for 2021-21-DSV a petition for development standards variance. I can kind of run through the lot coverage, the minimum lot coverage is 10%. With Mr. Lohmeyer's proposal, he's wanting—with his pool and patio, it will be up to 12% but he's requesting 20% so in the future, if he wants to do something else, he may not have to come back. The side setback variance will be 11 feet with the pool and patio addition. The required setback is 50 feet. With that, the aggregate setback would be 22 feet. The aggregate required is 100 feet. Staff's done a thorough review and recommends approval of the request.
- Wolff Thank you. Could staff provide some context on the Urban Open Land Zoning District.
- Baker I do have the definition somewhere in the staff report, I think.
- Wolff It's unusual. We don't see it very often.
- Baker Okay.

DeLong I'm happy to jump in. I mean, this district was created by the town for a number of reasons. Certainly, there's many parcels throughout the urban portion of Zionsville that have been zoned Open Land predominately to prepare that area for a future transition of that parcel to a more intense use. Until such time, the parcel was zoned Open Land. It is unusual to have residential homesteads within this district as they are not treated equally in terms of lot coverage, other types of development standards that are very typical of somebody that is zoned RSF2. Yes, it's a different district but it is the hardship that someone's, you know, dealing with and certainly proposing for consideration this evening. Certainly, as staff—you know, this is as you evaluate your zoning ordinance and you think about the variances that are requested and considered, this type of district might be one that as we work through our form-based code, which will be actions that take place in August, we will actually have a week-long [inaudible, 01:54:49] throughout the community. We'll provide notice and share that information in more detail here soon. This will be a district that we'll think about making some significant modifications to through the public conversations of course to reduce these types of requests for your consideration.

Wolff Thank you, Mr. DeLong. I would note that the petitioner is somewhere near 10% lot coverage. They—what it looks like on our site plan, they're going to get up to 12.5%. They have asked for 20% which gives them some latitude. When we think about The Village—which this is much different than The Village—when we think about The Village, it's significantly more dense. The lot coverage is significantly higher. Again, can I make the assumption that staff is supportive of 20% and feels like it's appropriate for the area?

DeLong Most certainly. I mean, the minimum lot size in the Open Land area is 5 acres. So when you're referencing The Village, The Village has a much smaller lot size that's permitted by right and certainly the lot coverage of somewhere 35-37% depending on what exercise you go through to enjoy what specific lot coverage you look to enjoy. Yes, we are supportive of the petition as it's been filed. Certainly, supportive of the increase in the lot coverage assuming to the number that's been requested, it seems very supportive of what you see in the area generally.

Wolff Okay, thank you. Any questions for staff? So, Mr. Lohmeyer, what are you going to do with that extra 7½%?

Lohmeyer Hopefully, not have to bother you guys anymore.

Wolff I appreciate it. We don't get too many repeat customers but it's nice to see your face again.

Lohmeyer Thank you.

Wolff Any conversation or discussion amongst the group? Otherwise, I would entertain a motion.

Lake I move that Docket #2021-21-DSV development standards variance in order to provide for an increase in lot coverage to 20% in which deviates from the side yard setback to 11% and the Urban Open Land O-1 be approved as filed based on

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the findings of fact and substantial compliance with the submitted plans and concepts.

Wolff One note on that motion, I believe you said setback to 11%. I believe it's 11 feet.

Lake Sorry, 11 feet.

Wolff Are you amendable to that correction?

Lake Yes, I am. Sorry.

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

Jones Second. Got it.

Wolff I got Mr. Jones on that one. I like everyone's speed. Mr. DeLong, let's do a roll call vote.

DeLong Certainly. Mr. Wolff?

Wolff Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Campins?

Campins Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Mundy?

Mundy Aye.

Wolff Motion passes. Mr. Lohmeyer, could luck with your project.

Lohmeyer Thank you guys very much.

Wolff Which brings us to the next petition which is Docket #2021-22 as well as -23 SE and DSV for the property located at 450 Southeast 100 East and 550 South 800 East, 800 East excuse me. Will the petitioner please come forward?

T. Parker Here I am. First, thank you Chairman and the board members for hearing us tonight. Didn't know if we'd get here or not. We are Carey and Tammy Parker. We reside at 10290 Summerlin Way in Fishers, Indiana. We purchased two tracts of land on February 8 of this year. The tracts are 450 and 550 South 800 East in Zionsville. The 450 is approximately sixteen acres and the 550 is approximately

11 acres per our survey which we completed prior to purchase. So in total, it's approximately 17 acres and it's zoned agricultural. The land has a tree forest area but most of it is open land. This spring we planted oats for the first time ever in the fields and we are currently working with the USDA to develop the land and enroll at least 10 acres in the conservation reserve program and approximately two acres in a wind break program. These programs on the land, the way it will be laid out, it will have grasslands that are native to Indiana and include forbs. The wind break will have over 1,000 native tree plantings. We'll also have a wetland area, a wildlife pond, and a tree nursery area. We've enclosed a drawing from the USDA in our filing. To support the farm activity, we are constructing a barn that will store the farm equipment and supplies and a farm office. Our plan is to start construction of the barn this fall. A drawing of the barn is also in the filing. We do plan on constructing that barn.

We are requesting a special exception to build our residential home on the agricultural land. The house will be a single-story around 2500 square feet, three bedrooms, with an attached two-car garage and will have several outdoor areas, patios, and porches. We're just in the preliminary stages of the residential home design. The area around our land includes residential homes, a church, a cemetery, the best neighbors, a dairy farm, and potentially a horse farm. Our proposed residence will be consistent in size and appearance. We also have done adequate soil testing for septic location. In addition, we have a permit for driveway from the Boone County Highway Department. Also as mentioned in the staff report, Exhibit 4, the residential build will have adequate distance from other structures. Our intended use of the land that is not in the USDA program will be to grow organic vegetables, a cherry orchard, and beehives for honey. Of course, as a farm, we fully support the Right-to-Farm Act and we will provide our signatures as support. Our ultimate goal for the land is to have our home and for nature and for wildlife to thrive. We want the land to help the environment with clean air and water. As an example, the grasslands will revitalize the soil. In addition, we want to leave a legacy to our grandchildren where they respect and appreciate nature and wildlife and learn how to eat and grow organic food. Carey and I would be happy to answer any questions you have about our project.

- Wolff Thank you, very much. Can you—it looks like there's two parcels and I think you articulated them earlier. Would you please describe the acreage approximately?
- C. Parker The 450 South property is 16.01 acres, I believe. The 550 South property is 11.3 acres. They are adjacent to each other.
- Wolff Okay, thank you. Have you seen the staff report? Okay. So there was a proposed timeline. I believe it's called Exhibit 5. Can you walk us through that?
- T. Parker Yes, that's for the variance?
- Wolff Yep.
- T. Parker Do you want me to go over the variance as well?
- Wolff Sure.

T. Parker            Okay. All right. So we are requesting two development standard variances. The first variance request is to have two primary single-family residential structures on one parcel. One of the two residentials being temporary. The second variance is to have a temporary single-family residence be less than the required minimum ground floor area in the Rural General Agricultural District. So first, for the temporary structure, it will be in the office area of the barn. I would like to clarify that the structure is not a pole barn. It will be constructed like a residential building and in compliance with residential building code. The reasons that we're requesting this are first, we are general contracting the primary residence ourselves and doing some of the work ourselves. Being on site would expedite the build and allow us to better manage the worksite. Second, we want assurance that our home in Fishers has sold prior to building the primary. Third, finding adequate temporary living would be extremely difficult for us. We have 2 Samoyed dogs that we got when they were feral. They're from a ASPCA closed puppy mill. They require a stable environment and are prone to flight fear. They are large, furry, and leary of strangers. So finding a temporary apartment would be difficult for us. Fourth, investing funds into the accessory building is more economical than leasing suitable house for us and our dogs. Finally, being onsite would be more efficient in getting the property to a more complete stage for both primary build and the farmland. Currently, our commute is about 45-60 minutes from Fishers over to the property. So reducing our commute time, would give us more time to work on the primary residential build as well as the farm. As far as the size of the area of the temporary residence, it's just that, it's just going to be temporary. The requirement for a single-story residence in Rural Ag District is 1200 square feet. The temporary size that we're looking at is 773 square feet. It's only the two of us that will be living in the temporary space and will only live in that temporary space when we are constructing the primary residence. The area will include an enclosed full bath area, a laundry area/mechanical room, and the remaining area is open concept with like a kitchen area in it. The proposed timeline is Exhibit 5 in the staff report. Finally and I can assure you, we will be very motivated to move from the temporary and into the primary and will not want to live too long and as short a time frame as possible in that temporary space.

Wolff                Very good. Do you have any intent of renting out that temporary space?

C. Parker           Absolutely not. Absolutely not. It will be my office and the farm office.

T. Parker           Tool boxes.

C. Parker           We have no intention of renting it as an apartment or anything and willing to remove certain items just so it's not considered a residence.

Wolff                Understood. Any questions for the petitioners at this time regarding either of the petitions? Thank you.

C. Parker           Thank you.

- Wolff Is there anybody in the audience or online who would like to speak for or against this particular petition? Please come forward. A lot of blank stares. Seeing none, may we have the staff report?
- Baker Yes. So as the petitioner stated, they are requesting a special exception for a single-family home in the Ag District and then a development standards variance to permit two primary structures, single-family homes on the property at one time but that will just be temporary until they build a primary structure or primary residence. Then they also need a variance for the size, what the temporary residence will be in the accessory structure. I did make that correction that it stated it was a pole barn in the staff report. Made that note that that's incorrect. Then I discussed with the petitioner today about the timeline. They just wanted to make one correction to #2. So this is Exhibit 5, #2. They want to change that 12 months to 24. #2 and #3 kind of contradict themselves. So staff didn't have a problem with that change. I can answer any questions.
- Wolff Okay. So what I'm thinking about this is, we have one in front of us which is to allow a residence in the General Agricultural District. Then the second one, the DSV is essentially going to go away when they fulfill their timeline which they've committed to?
- Baker Correct.
- Mundy Mr. President, I do have a question for the petitioner. I don't believe it's been mentioned but you do realize you're near an airport?
- C. Parker Yes.
- Mundy All right. Say it just to have it on the record that you know you're going to be—
- Wolff Believe us, we ask for a reason.
- T. Parker Yeah.
- C. Parker It's several miles away. It doesn't bother us.
- T. Parker No.
- Wolff Any other questions for the staff or for the petitioner? Seeing as that we have two petitions in front of us, I would entertain a motion on -22.
- Mundy I move that Docket #2021-22-SE special exception petition in the Agricultural District for the property located at 450 South County Road 800 East and 550 South County Road 800 East be approved based upon the staff report and the proposed findings as presented. If approved, it shall be required that the petitioner execute the Right-to-Farm acknowledgement document and adhere to the proposed timeline which has been modified with this petition given by the petitioner's Exhibit 5.
- Wolff Thank you, Mr. Mundy. Is there a second to that motion?

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Campins I second.

Wolff Thank you, Miss Campins. Mr. DeLong, can we do a roll call vote?

DeLong Certainly. Mr. Jones?

Jones Aye.

DeLong Mrs. Campins?

Campins Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Mundy?

Mundy Aye.

DeLong Mr. Wolff?

Wolff Aye.

DeLong Motion passes. Moving onto Petition #23-DSV.

Lake I move that Docket #2021-23-DSV a development standards variance in the Agricultural District for the property located at 450 South County Road 800 East and 550 South County Road 800 East to permit two-single family dwellings to temporarily exist on the same parcel and permit temporarily a single-family residence with less than the required minimum ground floor area in the Rural General Agricultural District AG be approved based upon the staff report and the proposed findings. Petitioner must execute a Right-to-Farm acknowledgment document as part of this process.

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

Mundy Second.

Wolff Thank you, Mr. Mundy. Mr. DeLong?

DeLong Mrs. Campins?

Campins Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Mundy?

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- Mundy Aye.
- DeLong Mr. Wolff?
- Wolff Aye.
- DeLong Mr. Jones?
- Jones Aye.
- Wolff Motion carries. Mr. and Mrs. Parker you disappeared. Good luck with your project.
- C. Parker Thank you very much.
- Wolff Welcome to Zionsville. Next item on our agenda is Docket #2021-24-DSV for the property located at 3842 Old Well Run. Will the petitioner please come forward and state your name and address for the record?
- McNutt My name is Gary McNutt. I'm at 32 First Street NE Carmel, Indiana. I'm here representing Mary and Gary Theaux who are the property owners of a lot in Holliday Farms. I'm one of the preferred builders there in Holliday Farms. The request before you is to reduce the rear yard setback from 35 feet, I'm sorry from 25 feet to 15 feet. In front of you, you've got a site plan. A couple things I'd like to just mention is on that site plan, if you'd look at the left side of the lot, it's a very unusual configuration. It's only about 73 foot deep. The right side of the lot is about 166 and with a 25-yard front yard setback and a 25-foot rear yard setback with an angle, it really creates some design challenges for us. Most of the homes in Holliday Farms have three or four-car garages. We only have a two-car garage and we're still kind of shoe-horning the house in there. Additionally, if you look at the aerial of the site, to the left of our lot is a cart path and behind us are tee boxes. So our encroachment or our reduction in the rear yard setback, really doesn't affect any contiguous property owners. We're just a little bit closer to the golf course. I have a letter from Henke Development, the developer, in full support of our rear setback reduction request and I believe that may be part of your packet as well.
- Wolff It is, thank you. So as we discussed earlier in the previous petition, the challenge is we look at the strict application in the terms of the zoning ordinance, the challenge is the unusual shape of the lot.
- McNutt Correct.
- Wolff If you are to apply the strict terms of the zoning ordinance, you would really limit yourself to what could be constructed. I mean, it wouldn't be consistent with what is in the neighborhood or in the surrounding area.
- McNutt Agreed.
- Wolff Okay. Any questions for the petitioner at this time? Seeing none, is there anyone in the audience who wishes to speak for or against this particular petition. I



should always ask if there's also anyone online who wants to speak. Again seeing none, I think we're ready for the staff report.

Baker Yeah, so this is #2021-24-DSV a petition to decrease the rear yard setback from 25 to 15 feet and staff is supportive of this variance and happy to answer any questions.

Wolff Thank you. I don't recall seeing anymore of these in Holliday Farms.

Lake Most of the lots are a little more regular shape and large and, yeah.

Wolff Any questions for staff or any discussion amongst the group?

Jones Similar to the right-to-farm act, will we asking for a right-to-slice act for the golfers?

Wolff You couldn't help yourself.

Jones No, I really couldn't.

Wolff I looked at it and if you could hit that house from that tee box then you probably shouldn't be playing there. It's a reasonable request. What kind of windows are you planning on putting in?

McNutt Bulletproof glass.

Wolff That's not a requirement just a suggestion.

Lake You should tell him that county has an airport, too.

Wolff Yeah. If there's no further discussion, I would entertain a motion.

Campins I move that Docket #2021-24-DSV development standards variance in order to provide for a single-family home which deviates from the required rear yard setback in the Holliday Farms PUD to be approved as filed based upon the findings of fact and substantial compliance with the submitted site plans.

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

Jones Second.

Wolff Thank you, Mr. Jones. Mr. DeLong, let's do a roll call vote.

DeLong Certainly. Mr. Lake?

Lake Aye.

DeLong Mr. Mundy?

Mundy Aye.

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DeLong Mr. Wolff?

Wolff Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Campins?

Campins Aye.

Wolff Thank you. Motion passes. Thank you, Mr. McNutt.

McNutt Thank you very much. That should be the end of our agenda, right? Going back to our previous conversation, we are I believe—someone correct me if I go wrong. We're back at Docket #2021-13-SE for the Brickyard Solar Project.

Jones Should we request a restroom break and maybe just stretch your legs since we are going to be here for a minute?

Wolff I am amendable to that. I have the time as 8:55. Let's call it. Let's try to be back at 9:00. Okay. Let's try for it to be 9:05. All right.

Wolff All right. Well, that actually worked out pretty well. Thank you. Next item on our agenda is Docket #2021-13-SE for the Brickyard Solar Project. Will the petitioner's representative please come forward? As we're doing that, I would like to review a couple of our rules and procedure. As we discussed earlier, technically both the petitioner has 15 minutes, any remonstrators have 15 minutes. The petitioner has 5 minutes, the remonstrators have 5 minutes. As a general rule of thumb, I'm supportive of a more robust conversation if it leads to a better decision. With that being said, I would like us to be concise. If there's repetitive testimony, let's please avoid that at all costs because I would, further, go down it says, the presiding officer shall have the authority to cut off any repetitious or relevant testimony and to extend the allotted time to petitioners and remonstrators but shall make reasonable efforts to allow equal time for petitioners and remonstrators. I'm all for robust conversation from our public. I think this is an important project. Let's just try to keep it concise and not repetitive. With that, please state your name and address for the record.

Melda My name is Zack Melda. I live in Juno Beach, Florida.

Wolff You've come a long way.

Melda I did come a long way for this.

Wolff What's in front of us tonight?

Melda We have a petition in front of you for the Brickyard Solar Project. This is a 200-megawatt solar project located here in Zionsville and a portion in Boone County. We'll be focusing on what's in Zionsville this evening. Just an overview of what

we will be presenting. I'll talk about NextEra Energy Resources as a company. A little bit of overview on how solar energy is generated. Hopefully, you will be an expert by the time we get done, Mr. Chairman, and we'll talk about the project itself and then of course, questions and answers. Again, I'm Zack Melda. I'm the project director for renewable energy in Indiana. With me tonight is Ally Sexton who is the Lead Project Manager. Mary Solada is our lead attorney. Hannah Marsico, who's joining us virtually, is our Lead Environmental Specialist. Henry Plange is our Operations and Safety Engineer. Kevin Klein is our Lead Engineer and Construction Expert.

NextEra Energy is one of the nation's largest developers of energy infrastructure and we're working hard to solve America's energy challenges both sustainably and responsibly for the benefit of our customers, the communities that we're meant to serve in, and our shareholders. We've done this by investing over \$90 billion into clean energy which makes us the biggest and largest in the industry. We have two primary subsidiaries in NextEra Energy. The first one is Florida Power and Light which is the largest regulated utility in Florida serving 5 million customers and producing 28,000 megawatts of electricity. This gives us a great knowledge of the utility scale of the project. Then there's the refillable arm, the NextEra Energy Resources. We are the world leader in clean energy generation. Over 149 projects located in 38 states including Canada producing 24,000 megawatts of clean energy. We are American-owned and we are American-operated. We employ just under 15,000 employees. As a company, we're showing that projects like this one is great for our environment and great for our economy. I'll be followed by Ally.

Sexton Thank you. So—

Wolff Could you state your name for me, too?

Sexton Sure. Ally Sexton.

Wolff Thank you, Ally.

Sexton Yes.

Wolff Or Miss Sexton.

Sexton So just to get everybody situated here. The project location and the portion of the project that we're talking about tonight is 132 megawatts that is located within Union Township. This consists of 785 fenced-in acres and this is north of State Road 32, south of East 200 North, west of Michigan Road and east of 600 East. So, on this map here you can see the proposed panel areas in gray. So this project, like I said, is 200 in total, 200 megawatts in total that is in both Marion Township and Union Township but tonight we're focusing on the 132 in Union. The power that is generated from this project will be sold to Nipsco which is a Indiana utility. So all of the energy generated will be powering Indiana homes. The start of construction would be in the fall following all permits. The commercial operation date would be in December of next year. So the tax revenue that would be generated from this project is between 30.5 and 35.3 million. This would be brought without adding any additional students or any

additional burden to local services. This represents a \$210 million dollar capital investment that also involves regional and local procurement of goods and services while not contributing to any air, water, or soil pollution as well as bringing payments to local land owners here. Now, I'm going to introduce our Operations and Safety Engineer, Henry. He'll be joining us virtually. Henry, can you come through on the Zoom? I'm happy to cover this portion. We'll also have our Engineering and Construction Specialist join us for any Q&A that comes up.

So the project here does not present any likelihood of toxic materials, contamination to soil or ground water. Getting into the construction of the panel and the components, it consists of aluminum, tempered glass, copper, silicon, and plastic encapsulant. So the way these panels are manufactured and created is in a way where it's encapsulated. So if there were an issue of some sort, it does not shatter. It does not send glass anywhere. It breaks sort of like a car windshield would upon impact. So, it really does not pose a threat to any type of contamination to the soil or ground. Because of how they're manufactured, these materials can be recovered and recycled at the end of the project life. These are used on residential homes and around the country as we know. So this technology is safe. Not only that, but NextEra does have a proven track record of operating projects of this size.

Solada Thank you, Ally. Good evening, members of the Board. My name is Mary Solada. I live in Indianapolis, 2700 Market Tower is my business address. I've had the pleasure to work with NextEra in a number of projects around the state. I have urged them and we have organized the presentation tonight around the findings of fact. So I'd like to suggest that the testimony you just heard from Ally relates to Finding #1 which is that the proposed use will not be injurious of public health safety or general welfare. Now, we've got subject matter experts on the line, if you will. Zack and Ally have a lot of experience. We will do our best to try to answer your questions about public safety. I do want to point out that we filed very detailed findings of fact. I know you've read them. One of the things that they talk about is that don't just listen to us by the way that we quote a North Carolina clean energy technology study was committed to the case file. This is dated May 2017. The report states the negative health and safety impact of utility scale PV development were shown to be negligible while the public health and safety benefits of installing these facilities are significant and far outweighing negative impacts. So, I would just like that noted for the record. Given our time constraints—by the way, Mr. Chairman, I think we can do our presentation in about 20 minutes if we can be so indulged but we'll try to be brief.

Wolff I'm amendable.

Solada Okay, thank you. I'd like to now touch on Finding #2. I noticed it's of great interest to the community. The proposed use will not injure or adversely affect adjacent area or property values therein. First of all—

Wolff Let's please be respectful of everyone presenting.

Solada Members of the board, your record has in its case file a report prepared by a company called CohnReznick. CohnReznick is based in Chicago. It's a very thorough study and I think it's important to emphasize that CohnReznick and the

folks that sign the report hold the highest accreditation of any real estate appraiser, which is the MAI certification. These folks are also licensed in the state of Indiana to be appraisers. What they have done is a study of various projects, one in Illinois, four in Indiana. The conclusion of the report is that no consistent negative impact has occurred to adjacent property that can be attributed to proximity to an adjacent solar farm. By the way, the CohnReznick conclusion notes that they have interviewed a number of county assessors including in Marion County, which those assessors have provided written statements that they have seen no evidence of decline in property value. I can talk more about the CohnReznick report on rebuttal. I'm, of course, interested in what Mr. Andreoli has to say about it but I wanted to make sure that that was clearly stated.

The next thing that we want to emphasize is that we are only talking about in the jurisdiction of the town of Zionsville about 235 acres that are actually covered with panels. Much of this land is setback land, land that's used for transmission. Again, we're only talking about 235 acres. That's about 30% of the project size. I know folks here disagree but we believe and we stand by this assertion based on our industry experience and we are the industry leader by the way, that this is at the end of the day after construction is a passive use. It has virtually no noise. It has no glare. It will have a detailed landscape plan that Ally will present here shortly. By the way, as we already stated, we use virtually no government services and provide a tremendous boost, if you will, to the tax base. Not that Zionsville is lacking for tax base but I just think it's important to understand that we're not adding kids to schools. We're not, by the way, not in the way of the airport which is aware of this project. We also do not endanger natural resources. We have an expert, Hannah, who will speak to that. I think it's also important for folks to understand, we actually think we improve area drainage. We keep best practice engineering. We could talk about that in more detail but we stand by that assertion that we, by adhering to the town storm drainage requirements and whatever the requirements the Boone County drainage board imposes upon us, we think we will certainly not be a detriment to area drainage. By the way, traffic—you heard about traffic tonight. Once this project is constructed, there's virtually no traffic. I mean, this project employs on site, what, two to three people?

Sexton           Correct.

Solada           So you're talking about those folks coming and going occasionally. So this is a very, very low traffic situation. Lastly at no cost to taxpayers, I think that this needs to be emphasized for the record, we provide was is called a decommission plan. Your attorney has reviewed it. What it provides for is continuing financial security that NextEra provides through a third-party bond issuer that basically says there will be seamless - there will never be a gap in this protection. So if next year were to become a European company, never going to happen, file bankruptcy, never going to happen, we want to make sure that the public understands that the taxpayers are not at-risk year 30 or 35 from now to decommission this project. This third-party surety, we'll always be on the hook for those costs. That's a continual every five years that security bond is updated. We can get again into the weeds in this but I think it's important to understand that that decommission risk is deminimus.

Okay. Finding #3, well as you know because you hear about this every meeting, we have to demonstrate that our use is consistent with the character of the district and the town Comp. Plan. Well, first of all, we are not seeking a rezoning. We are seeking a special exception. The land remains agriculturally zoned. The land, in our opinion, is in this period of time for 35 years is literally resting. It will add nutrients. There are things we can do as part of our decommissioning that will ensure that the land will remain viable as farming land. I don't think our land owners would sign leases with us if they were not confident in that. So the land will be able to be repurposed for agricultural use. So this is a land-banking activity. I think it's also important because as I understand it, the Comp. Plan of Zionsville does not really index to agricultural. What it indexes to is low-density residential. There's no reason why this property couldn't be developed some day with homes. We're not suggesting that's a good or bad idea. That's 35 years from now. We don't know what the housing policy of the town's going to be then but were the town to be desirous of rooftops, that's an option. If the town is desirous of let's continue this, is it for an agricultural purpose. Everything will be done per these contractual arrangement to make sure that again the property could be farmed at year 36. So at this point, I would like to turn it back to Ally because I think it's important that we provide a clear understanding to you all of the vegetative screening plan that is outlined in the slide but also in condition #10. As we come back, we'll talk about the proposed conditions of approval.

Sexton Yes. Thank you, Mary. So this landscaping proposal and view shed proposal is on file in our petition. We held two open houses with the community, one that was in person and one that was virtual. You know, after talking to community members, this is a proposal that we put forth. So you can see here in the visuals to the right what we have proposed is a double row hedge for all residential structures that are within 400 feet of the project. So this hedge would consist of being 200 feet in length. It would have a back row of trees planted at intervals of 10-15 feet that are 5-7 feet at time of establishment. The front row would consist of shrubs or bushes planted at 5-7 intervals and 2-4 feet at time of establishment. So you can see in the visual demonstration here what it would look like at time of establishment in year one and then again in year five. Just to comment on the installation that it's screening, these solar panels, they are tracking technology, therefore they are following the sun as it rises in the east and sets in the west. So at noon or when sun is overhead, this installation is 5-6 feet in height. Also at night when the panels are in stowed position, the installation is 5-6 feet in height. Now, the average maximum height of the panel edge is nine feet when the panels are fully tilted at a maximum 60-degree tilt when the sun is either at the horizon in the east or the west. So now I'm going to hand it over to Hannah Marsico who is our Environmental Specialist.

Marsico Hi. Thank you, Ally. So for Brickyard, we've done a number of voluntary environmental studies to better understand this particular project area. Natural resources are a priority for us on this project. We've evaluated a number of different studies. We've done biological and bat habitat assessments, cultural surveys, wetlands and water surveys. We have a Phase 1 ESA currently underway. We've undergone voluntary coordination with both Fish and Wildlife and the Department of Natural Resources. Impacts that we have found with resources have been avoided or minimized. If tree clearing is necessary we're

going to be following the tree clearing recommended by Fish and Wildlife for the listed bats in the area, Indiana Bat and Northern Long-eared Bat. We have no eligible national register of historic places onsite. Wetland and waterway impact will be permitted with the Corps and Department of Environmental Management if they're needed. Additionally, we really believe that this project is going to create a lot of additional environmental benefits for the area. The arrays are going to be fenced off and blocked rather than around the entire perimeter. This will allow for a wildlife corridor through the site. The solar sites that we have in Florida, I've created a link here to a news article. We've seen a variety of wildlife utilizing resources within our project area for foraging, nesting, resting, really all types of activities. I've included a picture here of a heron perching that we've seen as well. Next slide.

In addition to all of that, we will have low growing perennial vegetation under the panels which are going to provide a number of benefits to the land. Recent study has shown that solar facilities planted with this type of vegetation can have increases in local pollinator supply, soil carbon storage, sediment capture, and stormwater retention capacity. This again, goes back to Mary's point that we really think that this is going to be a benefit to the drainage in the area. It also allows the land to remain fallow, accumulation of organic material, improve stormwater quality which is going to be really great when the land returns to Ag at the end of the project life. It will have minimal maintenance for vegetation and contrasted tillage and agricultural practices that can weaken soil. The typical maintenance includes mowing and limited herbicide spot treatments for invasive or woody species as needed. We really try to limit that herbicide use to allow the organic materials to accumulate and help the environment in this area. This will all allow the land to return to agricultural use at the end of the solar project lifeline and it's not a permanent conversion of land.

Solada

Thank you. Appreciate it, Hannah. So members of the board, simply because I think it defines further information about the project, I'd like to jump into what proposed conditions we offer up this evening. The first of course, as I mentioned, the decommissioning agreement and bond subject to a decommissioning agreement that can be approved by your legal counsel. Of course, we have to comply with Indiana code and town drainage requirements. We have to maintain drainage tiles. The other thing we haven't touched on yet is there is virtually no lighting of the solar field. Now, yes, there is lighting at the substation. That's required by national code, but this is not a situation where the field is awash with lights at night. It's just the opposite. It's—there's just very few lights at night. We have offered and I know Ally's talked to the fire chief, safety drills with the fire department prior to energization post-construction meaning before it becomes operational. We are happy to collaborate with any emergency responders with details about the project but the bottom line is we view that as our responsibility to make sure that there is proper training, you know, in the hopefully very unlikely instances of fire.

We heard earlier this evening about noise. I think that that presentation was helpful in explaining noise DBA. We are committing that our operational noise will not exceed 50 DBA at the property line of the non-participating residents which there was a great example Mr. Jones had. I think 50 DBA is a pretty low sound measurement. We could talk—we'd try to answer questions about that.

Next thing is setbacks of 200 feet from non-participating residents. This is a voluntary condition because the town does not have an ordinance regulating solar. We looked at ordinances by the way around the state, other counties we've worked in and feel that a 200-foot setback from a non-participating residence of a solar panel with 50 foot from property line is a very fair and objective setback. Again, it has met support I believe with the Indiana University proposed model ordinance. Ally touched on panels would be five or six feet in height when the sun is overhead with the maximum height I believe did you say nine feet, Ally? Average max of nine, I think sometimes I've heard it stated that sometimes these can hit the max to go up to like 12 maybe be the—because of undulations in the ground, the absolute maximum height is 12 feet but that's just at that point in time in day. Of course, we talked about landscaping of homes within 400 feet to include 200 feet of double row plantings. So I know there's a lot there. I think at this point, given the time constraints this evening, given that I assume you're going to have a lot of questions of us and our experts, we at this point will step aside for others but wanted to while you have us here wondered if you had initial questions. If not, we're happy to respond later.

Wolff Sure. Fellow board members, any questions for petitioner's representatives?

Lake Sure.

Wolff I have a few.

Lake I do want to be on the record, I fully support solar. I support it on homes. I support it in some areas on land. I even support it on warehouses in Whitestown if you could make that happen because that seems to be even a better use or at the end of a runway at the airport better use. On the front of your packet, this guy that we were given, you first state that you would expect to generate approximately \$27 million in additional revenue and then provide us with two numbers whose sum total are greater than that and the one in Zionsville which is greater than that. Which is correct? Is it the \$27 million or is it the \$30.5 to 35.3 for Zionsville?

Solada Okay. It's the \$30 million to the \$34 million. Let me try to explain why. There have been a number of projects in the State of Indiana that have been approved in the last two years one of which is Dunsbridge Solar that NextEra is developing in Jasper County, Indiana. These are projects under construction. They had not been assessed yet by local assessors so when we do tax projections which by the way we have shown our numbers to Baker Tilly which is an independent entity accounting firm that works with a lot of counties and cities and towns around the state. So our numbers are validated. What Baker Tilly agrees is that until an assessor actually assess and says, "Okay, we think about 95% of the improvements are personal property and probably 5% are real property but until we actually get an assessment"—of course, we have tax rates that change overtime. So if you add those two factors, we don't have an assessment yet. We don't know what the tax rate's going to be three years from now because this project may be done at the end of 20—



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- Lake I'm not questioning your number. what I'm questioning is the line above you say a total of \$27 million additional and then you break it out by county below and the two-county total is over 40.
- Solada Correct because we're not including the Boone County part. So 30% of the project is in Boone County not in the town.
- Lake Fair enough, your numbers still don't calculate. It's a moot point.
- Solada There's land taxes now, we're adding to those land taxes.
- Lake They all say additional. We'll move onto the next one.
- Solada All right, very good.
- Lake So do you have test reports from your panels that you can furnish to ensure that they do not have toxins in them?
- Solada Do we have test reports that confirm we do not have toxins?
- Lake There are panels on the market right now some of which are not made in the US that claim to have no toxins but on our project specifically have found that they do in fact have toxins.
- Solada So your question is essentially what certification do we receive from our suppliers?
- Lake Yes. What can you provide to the town to ensure that you're, the panels are toxin-free as you've stated and therefore will not have toxins leach into the ground? Does that documentation exist?
- Solada So Zack's going to jump in more on the procurement side of this.
- Lake Sure.
- Solada We can provide documentation on the makeup of the panels as they're procured.
- Lake Okay. I just wanted to confirm that. Your study, your CohnReznick or whatever it was study, so I did a little bit of research on those. So none of those are suburban towns to a big metropolitan area that are viewed as the most probably idyllic suburban area in the state that they're in. None of them have a population anywhere near Zionsville. None of them have a household median income near Zionsville. None of them have a median home value near Zionsville. So while I appreciate the effort, that study likely is not comparable to us in this market. So any thoughts on how we can get something that maybe approximates us a little better.
- Solada Well, it's a great question. I have worked with CohnReznick in other counties in Indiana. I've seen multiple versions of their reports. Part of the issue is that with all respect to any report that anybody else comes up with, there's only one project in the midwest of this size that's even in existence today. That's in

Minnesota. CohnReznick talks about that. They, at length I believe, submit letters from the assessor of that particular county saying that there hasn't been an impact. So that's one way to look at it. I think the other way, sir, is that they do talk about these projects in Marion County which are nearby homes. I think that the third way to look at it and maybe we need to go back to our site plan, a solar project is not one huge block of panels. It's, there are building blocks to the project meaning it's a bunch of smaller segments if you will that together make a project. So one would argue that does it matter if it's 100 megawatts or 300 megawatts? Maybe not because it's the building blocks are still desegregated.

Lake I don't know that the size matters just the respective demographics of the locations that were used in the study don't represent Zionsville. I'd like to think that we're special.

Solada You're special because you're the most affluent county in the state, right. I mean, there's a lot to be said for being in Zionsville. We totally respect that but we also feel like this is the outer bounds if you will. I mean, it's—

Lake Well, so if you sat through—you sat through this—hold on, hold on.

Solada Well, I—

Lake You sat through this tonight. There were three other petitions of people wanting to build single family residences in the areas where you're wanting to put solar panels, so there is high demand to be in that area as a resident. So it may look like it's on the outer boundary but it's Zionsville.

Solada I understand. I think the question for you all is, what sort of homes do you want on this land in lieu of housing because it's inevitable? It's going to be—it's either going to be housing or it's going to be solar. I mean, I'm talking about whether it's 10 years from now or 35 years from now.

Lake Or it's going to be farm land.

Solada Pardon me?

Lake Or it's going to be farm land.

Solada Could be.

Lake Let me see. So 30 years? That's over a whole generation that gets lost to that land. It's a pretty substantial period of time. A generation is 25 years. So that's a whole generation that is lost to having access to that land for whatever Zionsville may want 10 years from now that they don't know they want because of this 30-year commitment.

Solada Right, but we have leases. We don't buy our land. We have willing landowners who are willing to commit this land for this use for this period of time. They believe it's in the best interest of their families, their grandchildren with the reexamination of the use 30-35 years from now.

- Lake I don't disagree that it's in their best interest. I think everybody agrees that's probably the case or they wouldn't be doing it. So, I noticed all the images that you show are of dead barren fields that you put solar panels on. I drove around this area last night and it's—I'm sorry, Sunday night not last night, Sunday night. It's beautiful, absolutely beautiful. It's green. It's got vegetation all planted around it. Again, I'm all for solar panels. I spent a vacation a couple weeks ago driving not intentionally for this but happened to run across over a dozen solar farms up along the east coast, none of which were quite to this scale but also none of which were in and around this many houses. So, I do question if this is the best location for that. You do have a lot of folks that do have houses that are going to be looking out at this. When you stand in your house and you have a solar farm that is  $\frac{3}{4}$  of a mile long and you provide a 200-foot barrier to screen that, are you really screening it and how meaningful is that screen?
- Solada Well, it's a meaningful project.
- Lake Yeah, but your budget is not of our concern.
- Solada No, what I meant is the cost to do the screening is highly significant.
- Lake I get it but that is not relevant in the discussion relative to the finding of fact. That's—their budget is but not your budget. It's not relevant.
- Solada Anything I say I know people are not going to be happy with. The reality is what certainty is there with farming? I think this is something that developers with solar projects posit as something to think about right. I mean, once this project is built, you don't deal with a harvest. You don't deal with planting season. You don't deal with dust. You don't deal with noise. You don't deal with grain silos. You don't deal with hog farming. All those things are off the table for 35 years. So, it's a quiet use.
- Lake Those people moved out there expecting that. They didn't move out there expecting a solar farm. They moved there for the things that you see as negative that they see as positive.
- Wolff Can we go back to the taxes and I'm just going to show my ignorance? Where does that tax come from? Where does the tax revenue come from and does it include any sort of abatements or how does that factor into this equation?
- Solada Well, there's no pending application for tax abatement.
- Wolff You think there might be someday in the future?
- Solada I can't say yes, I can't say no but what I can say—
- Wolff What would your experience say?
- Solada Well, let me just try to answer your question on how it's taxed.
- Wolff Yeah. Let's talk about where does that number come from?

Solada All right. So it's what, \$210 million something like that? Okay. We think based on conversations we've had with the state and with the county assessor, we think 95% of that will be taxed as what's called utility distributable property which is the same thing essentially as personal property. That generates a healthy, very healthy—

Wolff Can you say that again? I'm just not familiar. Utility—

Solada It's called utility distributable property. So for example, if you're Duke Energy, you pay property taxes just like everybody else on your equipment. So we are going to be taxed just like a utility even though we're not a public utility. So that \$210 million gets taxed, we think 95% of it at that utility distributable rate. We think about 5% is taxed by the local tax assessor because you're going to have a building, you're going to have landscaping, you're going to have roads. Those are taxed real property. The point is, there's no tax exemption here. This is a full flight taxpayer. This is something again that is balanced when you consider the fact that we have virtually no need for government services. There's no kids to educate.

Wolff You mentioned that, I believe it was Nipsco is the utility that is going to consume this product, consume the energy? Where are they?

Solada They're based in Merrillville, Indiana.

Melda Merrillville, Indiana.

Wolff So, my perception is—and we need to hear more testimony, we need to hear more conversation and educate ourselves but my perception is that we have the solar panels, they get the energy?

Melda Well, think of this solar grid as a whole, actually think of it as a big swimming pool. If you're standing on one side of the pool and I'm standing on the other. And, you want to, I'm pouring a cup of water into the pool and you take a cup out. That's the relationship. So, the panels are here. NIPSCO is paying for it but electrons travel the path of least resistance. So, the energy is going to be consumed here.

Campins So, they need renewable credit offsets.

Wolff Is that what it is?

Campins And, so it goes into the grid and [inaudible, 3:03:41] tells it where to go. [Inaudible] tells it where to go based on demand.

Wolff I think I followed you. What other questions do we have for the petitioner's representatives at this time?

Mundy Have you ever decommissioned one of these sites?

Melda No, we haven't.

- Mundy I'm not an expert on solar—
- Melda The way the decommissioning agreement would work is a third party engineer that we will agree on will do the actual assessment for how much it's going to take to remove the solar array and all its associated structures and then that's the amount that we agree on to post. Then, that is reevaluated every five years to make sure that that amount for decommissioning is still there.
- Jones Then those funds are deposited somewhere?
- Melda Yes, they are held in a bond with the County.
- Solada The Town.
- Melda Or, the Town.
- Solada The Town is named as the payee on the bond. So, the idea is that if for some reason next year it doesn't do what it's supposed to do under its leases, under its contract with the Town, then surety steps in and pays the claim.
- Wolff We have a tremendous amount of information and thank you for providing all that detail. Can you point me where the substations will be located at? And, what do those look like?
- Solada So, the substation and switchyard would be located just under the, um, yellow line on the screen which is County Road 200 North. It's the two small boxes. There are visual representations that are also filed in the petition that you can see.
- Wolff So, do you have, how many acres do those, would that area consist of or consume?
- Solada Yeah, we have our representative from engineering and construction, Kevin Kline. Kevin, if you're able to chime in on the footprint of the substation or switchyard that would be great.
- Klein Absolutely, Ally. So, typically, we will use um, 10 acres as a frame of reference, as a starting point for the substation/switchyard which we typically also use for a lay down yard and staging area in the early process of, for the project.
- Wolff Okay, so, I'm going to go back. I believe we discussed about 235 acres of panels and 10 acres of substation and switchyard. What's consuming the rest of the property?
- Sexton So, the rest of that acreage, um, the 785 [inaudible, 3:04:41] acreage, you have spaces in between the panel areas here and the fences. There's, you know, sometimes 20 feet in between the panel and the fence. There is, the ground coverage ratio, um, is the ratio of land that is actually covered with solar panels so there are rows in between every panel as well for renewal technicians to walk in between to perform preventative and ongoing maintenance. So, the, the 785 fenced-in acreage if you will might be helpful in conceptualizing it but it's about

a 30% ground coverage ratio of what is covered in panels when the panels are horizontal.

Wolff Okay, so if we add in the setbacks off the fence line and the access roads and the rows between the panels, we start consuming the remainder of that acreage?

Sexton Yes, sir.

Jones So, is the math correct? It's like 550 acres are common space, 235 is the actual panels and 10 acres of substation to equal the 785?

Wolff Mr. Jones, you know I have a policy of not doing math in public. Somebody could do it though.

Jones Somebody could. Is that correct?

Solada We're calculating. We want to give the right answer. Part of it is in Marion.

Wolff Yeah, I think you may have crossed townships.

Lake 700 and some total on this—

Sexton It's it's --

Lake You know, if we could get them to put this at the end of the runway, that would solve the Plan Commission issue.

Jones I'm not on the Plan Commission.

Campins What type of fencing are you talking about, a security fence?

Sexton So, the fencing that we would have around the panel area would just be a chain link metal fence, you know, something that is allowed around panels but I think it's between 6 and 7 feet in height.

Solada It does not have barbed wire on top?

Sexton Yes, there would only be, there is national electric code rule that requires barbed wire around the substation only but not the solar facility.

Lake Your imagery shows a chain link fence but when you actually call out the image of the fence itself, it is a wooden pole fence with like a 4x4 grided farm fence. Which of those two is it because that description contradicts what's in your documents? Not necessarily the image, but what you call out as your fence.

Solada Okay, let me try to explain—that's a great question. I personally like the more farm fence look and suggested that imagery. What happened is when we presented that idea to the Boone County Plan Director, she didn't like it. She wanted the more, she wanted the chain link. We are willing in the Town of Zionsville to have the more farm look with the imagery we showed. We are really looking for your selection if you will.

- Lake I don't know that I have a preference. It's just contradictory.
- Wolff Mr. Lake, where are you seeing that?
- Lake Ah, ---
- Wolff Somewhere in there, okay.
- Lake I'm seeing it in—
- Solada Yeah, it's in the handout package. It's in the package that I think we submitted to Mr. DeLong that the board members. It shows what I would call, it almost looks like a deer fence.
- Lake In all the renderings you see a chain link fence, then at some point in this mound of documentation was an image of just a fence, not, not solar panels or other stuff and it was, you know, round wooden 6-foot tall fence with an open 4x4 grid.
- Solada Which some communities prefer by the way. And, if again, if the Town and particularly Mr. DeLong's view, but if the Town prefers that appearance, we're fine with that.
- Lake It certainly helps with migration of smaller animals.
- Campins Has there been, um, environmental studies done on projects that have been removed, farms that have been removed on the soil and everything?
- Solada That have been decommissioned? So, you're basically asking once a project is decommissioned, have there been studies done on impacts to wildlife?
- Campins No, no, on the land.
- Solada Oh, impacts on the soil, the tillability or farmability, agricultural quality of the land?
- Campins Right.
- Solada Who can speak to that? Oh, Hannah, can you jump in on that one? Can you hear us?
- Marisco Sure, I can hear you. So, no and that is because these solar projects are relatively new so we have not had a project that has lived out the 30-year lifetime to be able to be decommissioned and do those studies yet.
- Campins So, what happens at the end of the decommissioning process if the soils are found to have been contaminated during the process? Does the bond, is there money there to fix that? Who fixes that?
- Solada Absolutely. That's a great question. I guess I look at it a couple ways. One of which is the decommissioning agreement has requirements in the attachments to

it that describe the quality of the soil at decommissioning. So, that's a contractual obligation.

Lake Okay, that's sufficient, thank you.

Jones All right. I'm going to back up and do math again. Because I'm struggling. So, the drawings up there and the drawings we have here are just a little bit, don't quite match, which is my specialty, I guess. But, I'm trying to get an idea of what we're looking at. Um, if you're telling me that there are 785 acres that you guys have under contract and you're going to put 235 acres of exposed panel on it and the rest is going to be all kind of common area, either the density of the panels being shown is either going to be less than what's on here or something isn't jiving up. I don't see where there's—

Sexton Sir, um, you stated the 785. We have 1660 acres under lease. The 785 figure is what would be fenced in and shown in the panel areas here. So, outside of that fenced area is that additional setback that we spoke about in our commitments and conditions of 200 feet from residential structures and 50 feet from nonparticipating property lines.

Solada So, I mean it's tiered. I mean, you have the total gross acreage which I believe the findings talk about 1651. Does that sound right? Okay, 1651 acres have been submitted, those legal descriptions are in the case file. Within the fence is 785. So, if you do the match between 1651 and 785, that's the setback. There'll be nothing there other than the landscaping and the wild grasses and all of that. Then, inside the fence line, you've got the 235 acres that are actually under panel. The rest being the spaces between the rows and –

Lake I think where Larry is going is either than you're showing your panels much closer together on these images than they really will be because if you look at the ground coverage of this, you're covering like 90% of the ground, not 30% of the ground. And, also to Larry's point, that coverage does not match what is in our book.

Solada I can see the problem with the imaging.

Lake So, is that your configuration or is this your configuration because they are different?

Solada Well, I think what we say in the findings of fact, we are bound by. And, we are saying in the findings of fact, that it's 1651 with 235 acres under panel.

Lake Okay and that's fine but the layout up there is different from the layout we have here.

Sexton Yeah, the layout you have is the technical engineering layout. This is a visual to show the panel areas but it's, it's impossible to show the individual rows, this is zoomed out.

Lake The footprint there though is smaller than the footprint here.



- Solada Now, one other thing—I neglected to mention this—we have filed a development plan application with the Town that the Plan Commission will take up, we hope in August. All of that level of detail, they’re going to go over. I mean, it’s a very thick submittal, things that Wayne and others of his team have asked for of us and that level of scale of drawing will be examined by the Plan Commission. And, then, ultimately, of course, we have to obtain an approval, location permit that has to have absolute final locations.
- Jones You know, being on BZA and Plan Commission, we get lit up about lot coverage every day. So, you’re saying you’re held by the findings of fact, right? So, when you say that there’s 651 acres and that the modules will be mounted and will cover approximately 235 acres or 30% of the ground when positioned horizontally, you’re saying that they will actually be able to cover 495 acres. That’s a big swing. 235 to 495. What’s the number? What are the numbers, guys? Because everybody out here is looking at this, at the density of coverage and not happy about it. What is it? Because I don’t think that. Nothing’s – am I off base? As usual.
- Lake No, no. You’re not. You’re not.
- Sexton Kevin, are you able to speak to the ground coverage ratio and the specifics and also permeated play, these are tracker panels that cover, you know, slightly different amounts as they are at horizontal versus full tilt?
- Klein Yeah, Elly. You are absolutely correct that the density is, I guess, misrepresented in the arial image. Those are the arrays and those arrays at that point will be at a 0.30 gcr which is ground cover ratio. So, within those black blocks that you see, we will only be covering 1/3 of the ground.
- Jones Just to confirm, in the Union Township area, currently what we are seeing on this drawing, what was up there a minute ago, the gross 1651 acres under lease. That’s the area under lease in the Union Township area. Is that correct?
- Solada I apologize. Could you repeat the question?
- Jones Currently, on the maps we have Drawing E200 overall site layout, max build. What we’re really addressing tonight for us is the area inside of Union Township which is that area from 200 South or 200 North to 421 to 100 North to 600 East. Within that area, you’ve got under contract or available to be leased 1651 acres? Is that correct?
- Solada Yes.
- Jones According to what you’ve got listed here in the findings of fact, basically the largest amount of ground that you will cover with panel at that point would be, could be up to 30% which is where I came up with the 465 number. What you have listed is--
- Solada It’s within the 785. I mean, it’s the acreage, the only way we can develop is within the fence. Again, anything outside the fence, based off the 1651 are these setback areas.

- Jones            Okay, let me—that even makes less sense. So, you say you have under lease 1651 acres.
- Solada           Yes, right.
- Jones            Of which you're only going to use 785?
- Solada           Only 785 within the fence. And, then, even less than that is actually have panels on top of it.
- Lake             So, then the black area is a hatch representing the area within the fenced not the area with panels.
- Solada           That's correct.
- Lake             Okay. You really ought to have a drawing with area of panels because that is extremely misleading. That looks like that whole area is being covered with panels.
- Solada           Well, what we presented—we just filed this last Friday to the area Plan Commission—has this drilled down a little bit better. When we say maximum optimization, I think that is meant to allow us to shift panels around based on final engineering which is not completed yet.
- Sexton           So, the map that you have, I believe it's the engineering drawing, it should be the actual panel areas. So, this is just, this area should be represented as the hatch that you described.
- Lake             We don't have any other than that. The only thing we have, all the drawings we have have this hatch on it. We don't have anything that has less than I am aware of.
- Marsico          This is Hannah Marsico, if I could speak for a moment? So, I actually have a background in mapping as well. The reason that the area is so large is because at this scale with this symbology for you to actually be able to see the panel, a line has to be thickened which makes it that wider area. You would have to zoom way in to see the actual panels in their rows at that level of detail, and I think that we were trying to show a larger area of the project so this symbology just isn't possible the way the mapping works.
- Lake             As an architect, I totally get that. It's just very misrepresented.
- Wolff            It might be helpful to see if we could zoom in on an area to get an understanding of what one particular area would look like. I also have another question regarding these, as I look at the map, um, there's some separation between several of these different areas. What is the transmission lines between these areas?
- Sexton           There would be collection running in between the panel areas, yes, that would connect the, the panels.

- Wolff Is that above ground?
- Sexton It's under. Underground.
- Lake There is already an overhead transmission line that bisects this property as well, is that correct?
- Sexton Uh-huh. And, that is exactly why this is the location that was selected for this is because of the existing grid infrastructure and the proximity to the transmission line and the capacity that it had to carry and inject this energy.
- Lake So, there's already a big high-tension line that runs right through here.
- Wolff You mentioned earlier the 50 decibels at the property line. What makes noise? That's a dumb question.
- Sexton No, that's a great question. Kevin, you want to jump in on some of the equipment here?
- Klein Sure. Yeah, Ally. After the construction phase is completed, the only thing you're really going to have noise from is the noise from the inverters. Um, a project of this size, we're looking at somewhere between 60 and 63 inverters as well as the GS2 or the main transformer at the substation and those are going to be the equipment that makes noise.
- Wolff Makes sense, yep.
- Mundy Can you tell us how many residents are adjacent to panels currently, not what might be there two years, but what's there now? Do you know how many and how many of those are within that 200 feet or so where you do the double row of vegetation? Are there many?
- Solada There are 29 we believe residences that are at the 200 foot line. I'm sorry, for the 400 foot.
- Sexton Yes, as Mary said, it's the 29 residences that have been identified that would be within the 400 foot proximity measure which was what we based the visual buffering landscaping proposal off of.
- Wolff Okay, can you give me a better understanding of—I'm one of those 29 residents, my property line is right here, how far away will the fence be from my property line and where will that visual buffer be?
- Sexton So, the visual buffer would be located outside of the project fence line and the exact proximity to the fence line would depend on how far away the residence is from the road but in, in no situation would a panel be closer than 200 feet because of the setback.
- Wolff Okay, so if I measure from the road and I walk onto this property, I shouldn't be able to hit a panel until I've walked 200 feet.

- Sexton Correct.
- Wolff Okay, where is the fence line located at?
- Sexton The fence line is approximately 20 feet. I can let an engineer correct me but that's based on allowing space for emergency vehicles or maintenance vehicles to be able to—
- Wolff 20 feet off the panel? Okay. So, if I, if I walk 180 feet from the road, I should hit a fence. Then, if I jump the fence and walk 20 feet, I should hit a panel.
- Sexton Yes, sir.
- Lake If you have time for that plan, every red section is the length of the planning berm they're talking about which is where my comment came in, that if you've got a quarter mile or half mile of panels and you look out your window and you get 200 foot of berm it really doesn't cover a whole lot when you consider your natural field of view is this and you're going to cover like this.
- Wolff It's interesting. It's an interesting image because when we described the project it didn't have those small red lines in my head but now that I see them—
- Lake I mean, you think 200 and you're like, well, 200, that's, that's pretty generous and then you look at 200 on there and you're like, it really doesn't hide very much.
- Wolff Okay, I'm going to pause this conversation momentarily and I'm going to go to some admin stuff. We have several people who are interested in this topic and it's 10 o'clock. Um, I have no intention of being here all night. Um, I would open this up to the group on what is the appropriate way to continue this conversation? Obviously, we have not heard from any remonstrators who probably still have questions for the petitioners. Um, and I would strongly encourage that this is going to require a robust conversation. Fellow board members, how would you like to proceed? For the record, nobody can tell, but Larry has a calculator out still.
- Mundy I would prefer to hear the remonstrators tonight. I would rather not delay that until some other point but I think that may be all we want to do tonight, too.
- Lake Well, and I'm kind of going back to your statement earlier. You know, everybody, there's quite a bit of shared sentiment and hopefully there are a few people who can talk for the many. I mean, we have, it's not like we don't have literally remonstrance letters, you know, out of the whatever that cover this. So, I mean, there aren't 600 different topics that people are frustrated about. It's like six that don't need to be reiterated 100 times. So, I think we can probably try and condense some of that sentiment down.
- Wolff Okay, so I'm assuming we still have more questions for the petitioner. There will be an opportunity for them to come back before us. Um, maybe what we should do is hear, let's just put a hard time limit on it. We can hear more if we continue

our conversation, but we stop at 10:45 or 11? I mean—see where we can get. Okay, thank you. And, not be here all night.

Lake I think everybody's property is unique and everybody might have a unique story but if it's the same talking point, we just need to move on.

Wolff Okay.

Lake Because I only got about 6 or 7 things out of literally 300+ remonstrance letters.

Wolff Very good. So, would anyone like to speak before or against this project? Mr. DeLong, is there a logical place to start with this as you have—

DeLong Well, certainly your rules of procedure speak to the petitioner and parties speaking in favor of the petition as one group. Certainly, remonstrators is identified in your rules of procedure as an additional group. You've given an amount of time to the petitioner. I mean, while there has not been any additional party speaking in support, to your groups' points here, it seems appropriate to gather information from interested parties that are not in favor of the petition so without excluding any additional positive comment or excluding additional negative comment in future dates.

Wolff Okay, yeah. Let's proceed with this understanding. If you are in favor of this project, thank you. We would like to hear from you at some point. At this point, we've heard the petitioner and we've heard their pitch so let's hear from some remonstrators and then as we continue our conversation, we can open it back up to the public and allow those people who are in favor of this project. So, if you're a remonstrator who is not supportive of this project, feel free to come forward and state your name and address for the record. As we discussed, if you want to queue up that way, please be concise, and if you have repetitive comments, please limit those as much as possible.

Andreoli For the record, my name is Mike Andreoli, 1393 W. Oak Street here in Zionsville. I represent a designated group of individuals who are remonstrating against this Special Exception for the Brickyard Solar LLC. A couple of comments and then I will get into my formal presentation which I'm going to keep very, very brief. I submitted a very large submission for your consideration. Unfortunately, it came right before the 4th of July holiday so I hope at some point if you have not already read it or reviewed it including the studies that are in there and also including the written testimony of Professor Corey Lang from Rhode Island who testified on the diminution of property values as it relates to this particular project here in Indiana, that's part of that particular submission. So, there is written testimony in here from him as it related to this particular project and his credentials are in there and previous studies are in there. So, hopefully, you have a chance to review that. I certainly understand if you did not have a chance to review it all before tonight because of the holiday period.

A couple of things that Mary said that I want to respond to just very, very briefly. And she made reference to the fact that these are in other locations. And, I have no doubt, not necessarily the same project, not necessarily this size but are in other locations which makes sense because counties varies, demographics vary,

towns and cities varies. They have different needs. They have different qualities they want to maintain. They have different aspects of life that they try to maintain. All of those are fine and all of those are good but what may be appropriate for a county in southern Indiana or perhaps a limited solar array in northern Indiana may not be what we seek here in Zionsville and that will be your hard charge to have to make those decisions based upon their Special Exception application. So, I do represent that group and have filed that written opposition.

This in no way complies with your Master Plan, does not comply with your Master Plan. You're going to hear only tangential arguments that suggest that somehow or another removing farmland and replacing it with solar panels complies with your Master Plan. The Master Plan that was done in the county at the time for Eagle Union Township back in 2009 had a huge number of people from Zionsville participating in that plan including Mary's partner, including a number of representatives from the Town, including Ed Mitro and others that were part of that study committee that prepared that plan for Eagle and Union Township. One of the, one of the hallmarks of that plan was that the agricultural ground would be protected, that it was a resource not only personally but it was a resource economically and it would be protected. What's happening here is we are seeking to remove that ground from agricultural ground and replace it with the solar panels. That is totally against the Master Plan itself.

I'm also concerned about the process. Nothing about what the Board is doing or what has been filed or how it has been submitted yet other than I have concerns that, as I mentioned in my presentation, written presentation, I have to present more information to this Board when I file for a Special Exception for a single family home in the ag area. I have to have a detailed site plan. I have to know whether I'm impacting the legal drains. All of that has to come before you before you can make an intelligent decision. And, if none of that, none of that's present in this particular application. That's not the Board's problem. That's not your job to have to do what the applicant needs to do. That's their job to do that. And, this application is wholly insufficient in that regard. When you're working it, trying to figure out what the numbers mean, something's not right with regard to the application. We ought to be able to agree what the numbers are, what's going to be developed, what the site plan is going to look like. You can argue about whether or not it should be in a position to be approved, but we shouldn't be arguing about the specifics of the development itself. That's not your job. That's the applicant's job to give you the information that you need in order to make an informed and intelligent decision.

I'm also concerned because I was on the original reorganization committee that now brought Union Township, rural Eagle Township and Zionsville together. And, we had a number of discussions during that process about how were we going to convince the people in Union Township, the people in rural Eagle Township, that their rights and their interests would be protected over Main Street's. There were a lot of discussions about that because there had to be a vote. People had to vote for this reorganization. And, if they didn't vote for it, it couldn't occur. And, I have a, I have a genuine concern, I mean a genuine concern that somehow or another my clients out in Union Township feel that—and they have expressed this to me—that this is the litmus test of whether they

voted correctly and whether they made the right decision as to whether their interests are going to be protected. They have a concern about that. Ultimately, you will make the decision that you feel best and supported by the facts and the information and the evidence but they are, they are scared about that and they have a concern about that.

I have a concern as to whether this is the right approach in terms of the application. I looked at the application and it shows a box for utility special exception for box but then you to the, you go to the definitions and it talks about public utility in the Zionsville code states that municipal public utility service which has been issued a final order by the state's utility regulatory commission granting an applicable certificate to the utility and maintain such certificate in good standing with IURC. And, this may be a simple issue; it could be cleared up but I just didn't see it in any of the submissions so I respectfully apologize if I'm raising a red herring that I don't intent to raise. But, as a practical matter, I saw no information in there regarding this project, whether the Brickyard Solar, LLC has been approved and given a certificate by the IURC because if they haven't they don't even meet the definition of utility, public utility that comes within your ordinance. I'm sure that will come out later in staff reports when staff has an opportunity to talk about that, but I'm just raising that issue.

We've submitted a number of studies and others will talk about a number of studies regarding the hazardous nature of these panels. They are having trouble figuring out how they are going to dispose of these panels. There are a number of studies and those types of things that I've included and referenced and others will reference and we will supplement. Since we've talked about that, we will supplement those particular studies for your reading pleasure. Because there are a number of concerns and Mr. Lake, you raised questions about that. And, I think they are legitimate questions because this hasn't gone on far enough so that we know whether we are going to be doing the right thing or not. We don't know whether there is going to be leaching into the soil. Everybody says the soil in 30 years will be fine. We don't know that. And, there is concerns about that. There's concerns about the fact that we're in a tornado area and things come through. Well it will be a piece of glass; it won't be a small glass. I don't buy that for a second. And, that's a concern into the soils and otherwise.

The other thing that I thought was interesting and perhaps we will find out more about this, we presented petitions and hopefully you received a number of letters from concerned citizens. Now, all we asked them to do to the extent that I had any input into it is tell them what your story is, tell them what your concerns are, tell them what your details are. Tell them what you think about this in terms of whether or not this is right for Union Township. And, I actually got this in the mail. It was a flier from NexGen Energy asking me to go ahead and send a letter to Mr. Wayne DeLong suggesting I support the Brickyard. Have you received any of these?

DeLong            We've received two.

Andreoli         I didn't know. Whatever you received, you received but they went to this mass mailing and spent all this money and so far you've received two?

DeLong Correct.

Andreoli Well, I'm not sure, I'm not sure that's the best use of one's finances but you'll make that all in the end. I'll be quiet now. Others may want to speak. I'll have an opportunity to address the board again. And again, thank you to the extent that you have or that you will in the future read my submissions and information. I really do appreciate it. Thank you.

Wolff Thank you, Mr. Andreoli. So, the way this goes, name, address and what your concerns are.

Brownley I've been here for 20 hours. I know how to do this now.

Wolff You know what? If you want to trade seats, I'm in.

Brownley Good evening. My name is Nancy Brownley. I live at 7317 East 100 North. My address is actually Whitestown but I am in Union Township. I thank Mr. DeLong and the board both for enabling us to be here in person and to meet the needs of the community on this very large topic. I also want to genuinely thank you especially after being at this meeting tonight for serving our community as a public servant. I am certain that your job, um, is not very easy and that you fulfil it because you're passionate about preserving the culture of our community while enabling responsible growth that adheres to the plan set out in 2009. You just received a packet from me. It has some that was in my letter as well to you but it has some additional pictures and information in it and articles. I just wanted to say that working in the business world, I had the opportunity to travel the country and on a very, very rare occasion I would stumble upon a gem of a little town or a borough or a village just like Zionsville. We have something very special here and I am privileged to call it home. For some, Zionsville is walking to the park, to Main Street or to the library. It's the architecture and the preservation of it. It's community. Eventually, my family embraced Zionsville as our community but from County Road 100 North. I was a city girl moving from Raintree subdivision to the country was quite eye opening for me. I have grown to love the many differences of country living, things like well water.

As I think about the health of my family and community, I wonder what the solar panels, if the solar panels will leach toxins into the water table impacting human life but also the well-being of farm animals and the wildlife. NextEra said on a Zoom session a few weeks ago that it would not. But, if you noticed tonight in their presentation, they said not likely. You'll also find that if you do research and we were told on that Zoom call that specific details about the panels and where they are manufactured, they don't spec them until they receive this Special Exception. So, in fact, we don't really don't know where they are coming from and what truly is in them.

Also, a recent article stated that they are currently purchasing them from China. They have also commented that the solar panel industry is very dynamic and rapidly changing. I have found multiple third party studies that counter the safety of the panels and toxicity issues enough to leap out a concern. And, I appreciate you, Mr. Lake, and those who were astute enough to ask the right questions because we really don't have the right answers. I learned living in the country



that we experience significant wind and very often. I have a packet included or a picture included of a tornado that hit directly across the field from my home. It's a paneled home. It's a home that will have solar panels in it or a paneled field. We often joke, we live in tornado alley. Well, what happens if and more likely when a tornado or gust of winds passed through 675,000 solar panels. What is their trajectory and how far will they fly? A NextEra rep at the open house that installations are built to withstand winds and I believe the figure of 120 miles per hour was listed. These pictures that you have in the package tell a different story. And, don't forget the hail.

I'm still fascinated and excited to see wildlife in the country. We have the usual rodents but we also have red fox, coyotes, deer, lots of migratory geese. More recently, we have seen bald eagles and the occasional bobcat has been sighted. A NextEra rep said and they did tonight, they do studies to best mitigate the conservation of wildlife. How is this even possible and what does that mean with hundreds of acres of newly fenced solar panels and what about the proposed sanctuary less than one mile south of this installation? They say that they are no-glare panels but I looked and looked at just what they post and you can see that there is enough glare to the panels that the geese might confuse it for a water source. This, too, is a controversial issue and it's hard to validate because there are no rules reporting bird carcasses found on a solar field.

Decommissioning. The concept is riddled with whys, at least to me. Why is the long-term plan so short-term if solar is really so good? What kind of risk management will be done by Zionsville now to be sure the installation gets cleaned up later? They said tonight that they will do a bond and I do believe they will. But, they reevaluate it every five years and only fund it gradually. What happens when this LLC is no longer in existence? What happens to the bond or the remainder and also inflation? These are just things that need to be addressed. Farmers or most farmers—apparently there are some in the room that think that the land will be ready for production the next day and that's a direct quote from a NextEra report but how many farmers really believe that the land will not need to be filled and nurtured with nutrients perhaps for years to come to be productive and productive soil again considering they have had panels on them for anywhere from 20 to 50 years? And, what if it is discovered the panels did leak toxins into the ground or has glass shards in it from damaged panels.

The topic of solar is very complex. Several of us have literally spent the last two months and hundreds of hours researching this. This is a big deal for you. With NextEra adding more than 6.5 million panels in the last three years and 30 million panels planned to be installed by 2030 as stated on their website, I wonder about the tradeoffs. Where will all the panels be discarded? NexGen reps say panel manufacturers have a plan but industry news will tell you otherwise. It actually is a very big industry conundrum right now. After hundreds of hours researching large solar panels placed on prime farmland which ours is, the above questions only serve to illustrate there are considerably more questions than answers. Often, the answers are biased and very controversial. Proof of concept is the thing of the future not the present due to the emerging technology and industry. And, at this time, large solar installations on prime farmland serve only two purposes, financial gain for the landlord farmers, financial gain for the energy company and shareholder.

This financial gain comes at a cost to our local community. There is much in this industry that is immature, emerging, unsettling, unresolved and downright scary to those closest to us. While I understand many believe solar to be the energy of the future and would like to see Zionsville be a part of the solution, we really already are. Think about. We have limited prime farmland that is contributing to the needs of the world through beans and corn as well as beef, pork, chicken and bison and I'm sure I'm leaving something out. As you wonder if NextEra's proposal is going to promote the health safety and well-being of the rural constituents and rural community, I respectfully ask you to do your own research but access third party objective studies. I would also advise you to talk to other commissioners in other counties, to visit other solar sites because they don't look like what the pictures look like and find out first hand what they dealt with. Clearly, the majority of the local community impacted by the proposal of this large scale solar installation opposes the project. I respectfully ask you to vote no to NextEra's filing for Special Exception.

Wolff Thank you. Thank you very much for participate in tonight's conversation.

Wessler Good evening.

Wolff Good evening.

Wessler I'm Victoria Wessler 6906 N. Caldwell Road, Lebanon, Indiana. I have some comments regarding the solar industry in general that I have been asked to share with you this evening. As a 20-year resident of Boone County, I took great interest in the proposed project. I went down to the planning office and I read through the entire set of documents including the findings of fact. In the findings of fact document, there is only one comment about the safety and efficacy of solar farms. It's been read earlier today but I'd like to read it again just so I can refresh your memory. It was from the North Carolina Clean Energy Technology Center and it was dated 2017. It read as follows: The negative health and safety impacts of utility scale PV developments were shown to be negligible while the public health and safety benefits of installing these facilities are significant and far outweigh any significant impact.

It sounded pretty good to me. As I was driving home in my car, I had a very unsettled feeling and I just keeping why would an industry that prides itself in advancing technology use data from 2017 in something they submitted in 2020 or 2021. So, part of my career was as an internal investigator in corporations and this kind of just got the hair on the back of my neck standing up and I thought maybe I should do a little research. So, I went home and I started doing some research on the current state of the solar industry in North Carolina. And, this is what I found. This is from an article dated October 2020, the *Carolina Journal*. I discovered a very different picture of how solar farms affected North Carolina. And, North Carolina, just so you know, is one of the early adapter states for solar along with California. They were all in at a very early time. The article was titled, "Are counties taking the lead in solar pushback?" and, it reads as follows:

The fact is that solar power is not a panacea. Without the billions of dollars North Carolina's taxpayers and electricity customers have given the industry, solar

power would not be thriving. Property owners have seen their land values drop when a solar plant is installed adjacent to their land. Duke Energy has admitted that its natural gas fired power plants which are needed to fill the gaps caused by the intermittent nature of solar plants are polluting more now as a result of more solar plants coming online. [And, I'll talk a little bit later about that intermittent nature and what happens with that.] Beginning some 15 years from now, the state's waste stream will be hit by a tidal wave of spent solar panels. California classifies spent solar panels currently as hazardous waste and research has shown that heavy metals are leaching out of the solar panels into the ground water. [And we all know that those of us who live in rural communities depend on ground water for our drinking water and for water for our lives.] Reducing property values, causing more air pollution and contaminating ground water are all external costs of solar power. That is, the solar companies are not paying for them. Others external to the companies are. And, those are the taxholders and the residents.

North Carolina professor Herbert Eckerland confirmed this sad state of affairs in a public comment dated March 16, 2021 by saying, "We have seen the transformation from room to farmland take place in North Carolina and the results have not been pretty. Entire communities have been transformed. Jobs have been lost. Farm-related businesses have been closed. And, food production has been curtailed. And he ends his statement by saying, "Is this what you want for your communities?"

Also, just as a sidebar, given the discussion about the ability to transition the land back to being farmable, further on in his comment, and if you want any documentation of this, I'll be happy to send it to you. He estimates it will take at least five years for the land to be tillable again. After reading this and several more articles, it became fairly clear to me why the current picture of the solar industry in North Carolina wasn't stated in that finding of fact and why such old data was being used.

So, at this point, I really didn't have a firm opinion of the solar industry, only what I knew from the promotional materials that I read and I decided to do some research. And, I found that there is another side to the solar industry and it is not a very attractive one. I'd like to share just a few issues that have stood out that you might want to take into consideration as you're assessing this project. Um, the first is that solar power is at best intermittent and unreliable. On cloudy or rainy days, solar performance is inconsistent, unpredictable or nonexistent. In Indiana, believe it or not, we have an estimated number of clear days—that number is 88 in the year. Those are days that we have full sun and less than 30% cloud. So, while you can make power while the sun shines, you cannot store enough of it to meet peak demands. Which brings me to my next concern and one that I am told often gets hidden from the view in the solar power debate, and I hope will not be hidden here. And, that is the issue of the minimal backup requirement, sometimes referred to as MBR. If you haven't discussed the minimum backup requirement or you don't know what it is, I believe it should be an integral part of assessing whether or not you want to bring the solar industry to Boone County. According to David Wojek, former consultant of the Office of Scientific and Technical Information with the U. S. Department of Energy, for every utility, there will be times where there is zero solar power

combined with near peak demand. Meeting this need is what is called the minimum backup requirement. And the huge cost of meeting that requirement is part of the cost of solar power. The part that people rarely talk about, especially the utilities. We need to be asking the question, "How will NextEra provide power to meet peak demand when solar production is controlled by Mother Nature?" The answer is that you will have to buy it from somewhere else. And, that is going to be expensive and very expensive. It's the reason why electricity prices in early adopter states like California and North Carolina have risen rather than declined with the addition of more solar installations. And, in Germany, the world leader in solar and wind energy, the citizens experienced a 50% increase in electricity prices between 2009 and 2017. Germany learned a hard lesson about the minimum backup requirement and their attempted transition to renewables over the last 20 years which was a huge project in their country was such a failure that they have now gone back to traditional fuel sources.

Another issue is that over the life of the project you may be dealing with a company that is not the same as the one you began the project with. Solar companies can sell off projects all the time. It is very common. NextEra does it. It's a business practice. You sell ones that are underperforming and buy ones that are performing better. It's just the way it is. I would like although I have not seen a contract that there are no contractual guarantees to Zionsville or the landowners, that the ownership of the Brickyard Solar Project will remain in the hands of NextEra for the estimated duration of the project's life. And with the globalization of business, it is certainly possible that the project could be sold off to perhaps an entity that is owned in whole or in part by another country.

Lastly, I would ask you to consider an assessment of the solar industry by KWH Analytics. KWH Analytics is a market leader in solar industry risk assessment. In a June 2021 report, they had this to say about the industry. "Solar asset underperformance continues to worsen with projects chronically underperforming and modules degrading faster than previously expected." The fact is that they are degrading twice as fast as they have estimated. The report states that over a 20-year asset life, the project degradation could therefore be underestimated by as much as 14% resulting in severely overestimated performance and overestimated revenue forecasts. Writing in the report's executive summary, KWH Analytics states that the data compiled highlights how the industry has "significant work to do when it comes to mitigating financial, operational and natural catastrophe risks." Why would anyone if given the choice even consider allowing an industry to come to Zionsville or Boone County which has been characterized by their own risk managers as one who has significant work to do when it comes to mitigating financial, operating and natural catastrophe risk. Perhaps the recently released report from the American Experiment titled "Not in our Backyard" says it best. It details the growing opposition of government entities across the country to solar projects in rural America. It says that paving rural America with renewal energy won't solve climate change. It will, however, costs billions of dollars, create visual blight across the country, cause more negative human health impacts and lead to more economic pain in rural America. Why would we want to pursue a path that has failed in this country and is failing in other countries? It is with the best interest of the future of Zionsville in mind that I respectfully ask you to deny NextEra's

filing for a Special Exemption [sic] for the Brickyard Solar Project. Thank you for your attention.

Wolff Thank you for your comments.

Grinstead Andy Grinstead 9400 East 300 North, Whitestown.

Wolff Andy, I'm sorry. I'm going to call you Andy because I didn't catch your last name. Will you repeat it?

Grinstead Andy Grinstead.

Wolff Thank you, sorry.

Grinstead My wife and I are lifelong members or lifelong residents of the county and I'm here to represent the people of the community. The community are really the ones that have to live there. They have to look at it every day and have to live beside it. I think the community opinion should count for something. You're going to hear a lot of hard facts tonight. You've heard a lot of them already. Impacts that are affected include the negative impact on property values. We can have studies on either side that can say anything you want to say. It's really common sense. I don't think that anybody can debate that any other way than to say common sense, no question that that is going to have a negative impact on property values. Impacting wildlife, destroying roads during construction, taking farmland out of production, raising neighborhood temperatures, creating an issue for future generations when decommissioning needs to happen, the fact that the power generated will not be used locally, potential contaminants, underground drainage conflicts, noise generated during construction and more. You've heard those already. I'm not going to repeat those.

I'm going to discuss a soft fact, a fact that maybe sometime gets overlooked. I'm going to talk about the community. Our community is certainly made up of farmers but our community is also made up of others, teachers, nurses, pharmacists, doctors, firemen, construction workers, grandparents, parents, kids, people that have all chose to live an ordinary simple life and be peaceful. People in our community chose to live here or maybe they stayed here because they wanted to be away from the infracture of the urban cities. They wanted to have freedom from noise, traffic, the cityscape, glass buildings, sidewalks, industrial fences, stoplights, etcetera. They chose to live here where they know their neighbors. Maybe their neighbors went to high school together. Maybe they grew up together. They watch each other's kids. They have cookouts. The potential of this project has solidified this community.

I was recently asked a good question by an elected official from Zionsville. He asked me, "Have you come across anyone who is in favor of this project moving forward?" My answer is very simple, "No." Outside of the landowners who have signed up to lease their hand, I have personally not encountered anyone that supports this project. In fact, of the five or so landowners in Union Township who have signed, only one of them actually lives in our community and they're not here full time. This project would be the single most community impacting project in the history of Boone County. Yet, as we saw tonight, there

hasn't been any detailed documents that anyone can tell what's really going to be constructed. We had that discussion during the petitioner's presentation. The community has rallied. The outpouring community expression is united. Hundreds of letters have been written to the County and the Zionsville BZA. We had our own open house. I walked outside during that open house and found nearly every parking spot at the venue occupied. The willingness to sign our petition has been overwhelming. In other words, the community is united in their thoughts. If this project were to succeed, the morality [sic] of the community would be crushed. Regardless of the negative impact on the community, I fear people would choose to sell if this project moved forward and move out of the community.

This coming so soon after the reorganization that merged Union and Eagle Townships. To complete this merger and then immediately throw this community under the bus and allow 450,000 solar panels to be installed in Union Township alone that would change the environment of the area, would be a mistake, a travesty and certainly be a perpetual aberration. It's very clear that passage of this project would certainly dismantle the morale of the community, alter the quality of life for those actually living in the community, decrease neighboring property values, eliminate the desire to live here and basically destroy the community as we know it. The community has one single united request: Don't let that happen.

Wolff Thank you for participating.

Reynolds My name is Steve Reynolds. I live at 10236 East 300 North in Sheridan. Um, I kind of hesitate to talk after hearing the last few people talk. They presented it so well, I don't want to muddy it up, but first reaction or my reaction when I first heard about this project was immediate alarm. My concern didn't come from manufactured outrage or misinformation, but rather it was a concern that a company was trying to build an industrial-sized power product facility throughout Union and Marion Township that is zoned for agriculture. My guess is that they call this thing a solar farm to just make it more palatable to the people living amongst it or the people making decisions. That name doesn't change the fact that they are creating a patchwork of solar panels. If you look at Exhibit 5A, I counted like 12 different mile squares, not square miles but mile squares that have some sort of solar arrays in them.

This is just a massive project and it can't be taken lightly. Brickyard Solar may try to do everything they're promising in their proposal and have everything in place when the power plan goes online but the big unknown is what will these solar fields look like after, say, 10 years when the technology is outdated, repairs are needed, the buffer zones of trees are in disarray, erosions have occurred, water runoff issues, etcetera, etcetera on that. Who are we going to call? Who will listen to us? There are promises made in the proposal but we know the burden of proof is going to be on us about what's going wrong with things. And, I'm sure the attorneys at that point on the other side will get involved and we'll have to hire our own attorneys. It will be very costly. Yeah, they'll come fix something as simple as a drain tile in a field but how much are we going to have to prove that their project impacted that drain tile. Something as small as that.

A project of this type and size in our area should not be allowed. We've heard things tonight about, well, I think we heard that this project—there's nothing of this size—you have to go all the way to Minnesota, I mean, and they are wanting to put it right here in Zionsville. We know how to ask questions amongst petitioners that are wanting to build buildings, residential and commercial, but we don't even know what questions to ask. We don't know—they throw a plan out in front of us--we don't know if it's a good one or not. It may look slick but we don't know the right questions to ask with all that. And, I don't think that this place is the trial ground for a project of this size. I just beg you to stick to the Boone County Comprehensive Plan and the Zionsville Plan and let this land be slowly developed as everyone here expected for as long as they've lived here. We know, we all know that eventually we will be surrounded by development. That kind of development is gradual and is what everyone expected when we purchased our land. Thank you.

Wolff Thank you.

Cunningham My name is Bruce Cunningham. I live at 11559 East 200 North Sheridan. And, really, we had some great speeches, I think. I don't want to be redundant here. But, I felt that I would say a couple of things and then I'm going to leave it at that. I don't believe you're going to vote on this tonight. So, there is a very controversial figure, he's actually a very liberal man. I want to look at his video. It's going to take an hour and a half. It will debunk everything the green energy has to say. He was all for green energy. He debunks everything. He goes to the solar sites. He sees the abandoned solar sites. He tells you how they're made, how it takes fossil fuels. Every green energy idea that they're coming up with right now has to be made with fossil fuels. So, everything they're trying to replace it with can't be made without it. So, I would ask each one of you to look up Michael Moore and YouTube video it and just play it. It will be well worth your hour and a half that you need to spend in front of that to look at everything that they're trying to bring forth, to bring into our community.

Really, the only other thing I want is that I am a farmer and I do farm and to bring this ground back after 35 years is just ridiculous. There's no way. Everything you put into the ground, the fertilizer, the nitrogen, it goes into the soil and it keeps draining. There's no way that you will bring this soil back in any quick time. You are going to have to spend an enormous amount of money to bring this soil back up where they are going to produce anything. So, that is a false narrative that they are trying to push on us, that it's going to go right back into agricultural land. It's not going to happen. And, even the people that are here, I know there are people here that have signed this up that are old farmers and others, but they know that. They're not stupid. They know that. I'm not telling them anything they don't already know. They signed their ground up. I've been approached several times. We own ground in Marion Township. We own ground in Union Township. We have several thousand acres of ground that we own in the Boone County area. And, we've been hit up several times but because and Andy said there was everybody in the township that so far have signed up, there's only a few that live here.

I live here. I love it here. And, I don't want to see my property devalued. I want to turn it over to my kids. If I want my kids to move up by me, they don't want to live across from the solar farm. They want to see the—I love to see hay grow. I love the smell of hay. I love the smell of fresh-turned dirt. I love to watch the crops grow. And, every year it's a challenge to grow more crops. And, to take, to take production—I'm not even on my speech here—I'm just going off. But, you're taking farm ground out of our, out of states, the United States. They're putting it into solar farms, okay? I don't know how much you guys know about farming but we have a shortage of soybeans, we have a shortage of grain right now, okay? And, the prices are actually elevated very high. They had been very suppressed the last few years but right now, we don't have enough. We're shipping more to China than we have to fulfill the contracts for our own needs. If you keep taking more production out of the area, what are you going to have? You can't eat a solar panel. You can't eat it. Trust me. I don't believe you can eat it.

So, the only thing I'm going to finish with is they brought up in their little thing, they said that they virtually have no subsidies, okay? We all know they're getting huge subsidies. That's just the way the government works. They hand out money to anybody that wants to take it. And, what happens when that money runs out? I did a little checking up and in the last couple years in Boone County, there's been over a few thousand acres sold and the lowest price—on farm ground only, no houses, just farm ground, large tracts, 95 to 160 acres—it's been from \$8200 to \$9700, okay? Why, if these people are with the billions of dollars they have and are smart businessmen, if you were going to say let's just average it out, 10,000 dollars and let's take 2000 acres because that's what they're doing, they're essentially, they're taking a little bit more than that if you add Marion Township, if you doubled the price of the ground and say, hey, I'm going to give 20,000 dollars to these farmers and, believe me, there are a bunch of them that would jump on that because it's a lot of money, ok? That's 40 million, taking 2000, that's 40 million bucks. The lifetime of their leases that they're talking about and they're talking 35 years but the contract they showed me was a 30-year lease with an option for another 20. That's a 50-year lease, okay? If you take a thousand dollars a year which is what they offered me and they bump it up 2% percent every few years as the price of everything goes up, that's 15 million bucks per acre, simple math. That's 100 million bucks, right? So, simple math, 40 million and 100 million, you got 60 million. Any businessman in his right mind would say, "Let's buy the ground." If it's going to be put back into production and that can later on be sold into houses, it's a no-brainer for a business to buy the ground, right?

Why are they leasing it? The reason they are leasing it is the same thing that's happened in North Carolina and California. They lease it at a high dollar and there are articles about that, if you go onto the website, there are articles about that. They pay an extraordinary amount of money. Where a farmer may pay 250 bucks to rent ground, they are going to pay a thousand dollars an acre. That's a huge incentive for some people and I get it. But, what's going to happen when that lease runs out or when they debunk on their, uh, if they go belly up? They're not going to get no money. And, these people have no responsibility. As I said, they have a bond and that's all good and dandy, but half the time, it's not even true so. I would ask each one of you people on the board one question:



would you, would any of you build a new home or buy a home next to this project? That's the only thing I want to know from each one of you. If you would build a home or buy a home, the most expensive and best investment you'll ever make in your life is your home, it's your dream home, would you build it next to this solar farm or would you buy one next to this solar farm? Thank you.

Schultz

Good evening. I'm Greg Schultz. I'm building a home over off Hunt Club and residing over in Austin Oaks temporarily right now. I am a California transplant as of last October here. We escaped, my wife and I, from California to get away from some of the stuff you're talking about right now. I'm a retired 32-year instructor of electronics, robotics and science. So, when you're talking about the solar panels, we did a lot of competitions with our school. We did solar bikes, solar cars, solar boats and we did it across the entire nation and we did very well. But, the problem was, when we hit a day that had overcast, our all production to charge our batteries to run our competition almost cut in half. I'm looking at a picture up here that they showed with their solar panels with a bird perched on the panel and it's casting a shadow and one of the ways we shut off our panels is we threw a beach towel over them and it shut the power off, just like that. If a student stood over a panel and his shadow cast across it, it cut that panel off and we were on that kid so fast, you're not letting our batteries charge, get the shadow away from there. The lady who was here earlier said how many days of sunshine do you have? California, we're about 365. So, it works it real good out there except they don't tell you and I've been to the plants in southern California because that's where I was and I went to the desert and I saw Solar I, I've seen the other plants out there, I've walked them and they don't tell you that when they build some of these, they transplanted all the wildlife somewhere else. And, they won't tell you about the turtles that are basically now extinct because they picked them up and moved up over here and they all died. That don't mention that stuff. You gotta dig in and find that.

Um, they mentioned about what happens when a panel breaks. And, she's exactly right. It's like a windshield. It gets hit and it just shatters. But, now you have a problem. It's doesn't work, all right? So, we had a student come by, a little and he shot a 3/16<sup>th</sup> inch plastic little bead at one of our panels and it just shattered the whole thing and it was ruined. The lady was talking about hailstorms. Well, we have a saying in California. It's what are you going to do, it's not if the fire or if the earthquake comes, it's when it's going to come. And we've, my wife and I have lived through two major fires in our area. It's obviously when and what is your plan of attack to prevent that or protect your property. And, so, I'm seeing signs out here Hail Damage? So, apparently, there's hail damage in Indiana out here. You know, I'm new so I'm learning a whole lot about the environment. We're loving it.

How they're made. We've built them in the classroom. We built them from the ground up. We did silicone ones. Most panels are made from silicone, one of the two elements out there, silicone and germanium that solar cells are made from. And, you have to realize that in order to make that electrical connection and make it work, the silicone and the germanium have to be doped with some other element. Now, germanium that is used in the space program are doped with arsenic and we know that's not good for us. But, that's why it's up there and

that's why it cost millions of dollars because it has an efficiency of about 44%. I know this because one of my students went to Lockheed Martin down in El Segundo, worked for the satellite division and brought me a defective panel. A silicone one that most of the panels you see on homes and what they're discussing here are around 22 to 26% efficient. So, it's not a very good, efficient way to produce electricity. There are only six ways to produce electricity. And, I would challenge my students when we going through all these different energy sources from Leyden Jars (little battery) all the way to hydrogen fuel cells. And, we've built those in the classroom. We had to take hydrogen. We made hydrogen and split the atom from the water and pulled it off and the byproduct was, you know, the droppings on the ground, we got the hydrogen off and we went to the cell. We've done all that. And, they see what's going on. And, the inefficiency of solar panels is way down there and they're not getting much better.

Environmental damage—we talked about that. Um, oh, she mentioned also the China thing. There are a few companies in the United States, one of them, I think, is still family owned that produces solar panels. The largest solar panel production is in China and they produce worldwide. Now, when we built a solar panel and we used the silicone, you have to strip of 10 that's coated with solder and you need to solder those joints. Solder is made from tin and lead. Lead is toxic to us. So, when that panel gets shattered from hail, and it starts leaking and it starts degrading the solder connections, you're going to leach that lead and that tin into the ground. And, that's why the space program at Avionics does not use lead and tin solder. They use gold on their circuit boards. They use other types of elements to solder with and connect this so they don't fall apart in space in the harsh environments, especially in a fighter aircraft. You have gold circuit boards. Why is a circuit board the size of this going up in satellite cost \$200,000? Because it has gold and precious elements to keep it together and it's non-toxic there also. It doesn't break down like the lead and tin will that we typically solder with. We don't know what China is making over there. Until you get it back here and analyze it, and I will guarantee you it's going to be lead and tin because that's what's used out there and predominantly it's inexpensive and quick and easy; it works well; we knows its properties.

When I retired in 2016, they closed our facility which was Industrial Tech, our vocational area, and we had numerous solar panels, numerous solar cells, batteries and all that and the district came out and took a look at us and said, "We can't haul that out of here. We got to call California state." All right, the state in California you already know is just bogged with regulations. HAZMAT came out, State HAZMAT, hazardous materials, took a look at our panels. Okay, we'll be back in a week. It took them a day to come out with special boxes to pack those panels up and haul them to who knows where to destroy them or whatever they—we don't even know what happened to them. But, they came with special boxes, very special and they packed them and insulated them and hauled them away. It took them almost a day to pack everything up, batteries and the other stuff, but they came out with special equipment to remove those panels from our site. We were just saying, "We'll just throw them in the dumpster, we're done." Oh, no, you won't. Because there's cooper, there's tin, there's lead, there's caustic materials in there. They don't want to talk about that.

She mentioned Germany. I can reiterate on that. Germany has been doing it for over 20 years and their price of electricity and production in their green energy, wind and solar, has gone up about 400% and they were told it's going to go down, you're going to have great energy and it didn't work. So, again, yes, I can back her up on that because I've read about that.

I respectfully ask you to do your due diligence on this. Um, read about it, find more information and deny the solar project really. That's what you need to do. Thank you.

Wolff Thank you, Mr. Schultz. Welcome to Zionsville.

Boyle I am woefully unprepared. Tim Boyle. I live at 850 North 800 East.

Wolff You seem familiar to me.

Boyle Well, everybody looks familiar to me. I'm nervous. I don't know why. Um, anyway, um, I think it's a huge gamble, that they're building this over the watershed, Eagle Creek Watershed. That's really it. That's how prepared I was.

Wolff Would you surmise that you're concerned about the environment or the environmental impact?

Boyle Yeah, not just, you know, people's wells but when you drive around Zionsville, all the bridges you drive over say Eagle Creek Watershed, but the underground watershed is in Boone County directly where they're building. So.

Wolff Thank you, sir. Good point.

Boyle And, I'm thinking about buying a house here but not if this gets approved.

Wolff Wait, what? I'm sure you can but it's 11 o'clock. I turn into a pumpkin pretty soon. Fellow board members, this might be an opportunity for us to pause our conversation, um, I think there's probably more information that we have. We certainly have to have an opportunity for our petitioner to address some of the current concerns we have, that's part of our rules of procedures. So, if there isn't any objection, I recommend we continue this conversation.

Mundy At the August meeting?

Wolff I'm going to turn to that group. August 4? Yes.

Jones I've got a couple specific things I wouldn't mind seeing better represented at the August 4 meeting by the petitioners. Can we get it out there?

Wolff I think you should state them publicly. I don't think we need the petitioner's representatives up, just tell them what you would like to see addressed.

Jones Correct. No. 1 is just confirming, what land is under contract. Once again, going back to the exhibits that were provided, it just seems, they weren't particularly

clear as to the gross amount of land and net amount of panel that will be on them.

Wolff You didn't see the deeds?

Jones You know, I gotcha. The second is, and it never got discussed, is just the insurance provision that will be carried, the insurance that will be carried by this outfit and what protections it will offer both the site and the community at large. And, finally, just a little more information on decommissioning. That seems to be a large bone of contention and it kind of fluctuates. But, anybody else?

Lake No, I just had maybe legally, if we approve this Special Use for this project, because they actually have more land under lease than where they are putting panels, does that automatically give them the right then on that same land, to add additional panels under this use exception or do they have to come back for an additional use exception.

DeLong ---what they have submitted.

Lake So, no larger footprint than that? Okay.

Wolff I am looking at the petitioners, clear on Mr. Jones' request?

Solada Okay. First of all, we have no objection, of course, to a continuance. Um, having been through forums like this before, I think what would be helpful I think to all parties, and I haven't talked to NextEra yet but is that 10 days ahead of time, we give you a written document, I mean, I've tried to take copious notes of all the things I heard tonight and try to respond to as many of them as we possibly can. Meaning that, that way the public can see it, you all can see it, have time to look at it. We can then at the next hearing literally go through, I mean, there may well be 18 points, right? But, that at least we can try to touch on as many as feasible. But, I think there's two things to point out tonight. We have, we have to deal with [inaudible, 4:26:19], I think somebody mentioned that, in terms of getting on the grid. We can only put so much power into the grid. The reason we have more acres than what we would use is A) because of these setbacks but B) we are and Ally can jump in here but we need optionality, right? Like we're not sure, is that particular panel going to go here or over here and it's still going to be the same amount of power generation. It's not going to double the amount of panels. I need to give you a better answer but that's the short answer to the question. The other thing I think it's important to point out is the Indiana Utility Regulatory Commission did approve Brickyard Solar and its power generation and it was very well vetted. I mean, there were nature studies and all kinds of things. Zack and Ally were very involved in that. So, this is a quasi-public utility which probably doesn't help you much. I think somebody asked the question about what box did we check. Oh, maybe Mr. Andreoli, you asked that? I mean, we have a certificate of declination from the Indiana Utility Regulatory Commission.

Andreoli [inaudible].

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- Solada Well, you had asked, right? You asked but I will explain it to them and we can provide that detail as well in this response document. Now, if you tell me, don't spend your time on a response document, we won't because it's going to take—and we're happy to do it—but considerable effort to put together.
- Wolff Understood. Yeah, so I'm going to—would that be helpful information to have?
- Lake It would and I would state—it is my preference—if you show a plan that has solar panels in an area and you tell me that as you move forward with your project you may take 10 acres of solar panels here and move them to a completely different area on that 1600 acres, I'm on Plan Commission and I will not approve that. So, if you're showing it on a parcel, you better know it's going to go on that parcel and end up on that parcel. Because that isn't, we're not going to play a shell game where it's under this cup today and under another cup tomorrow.
- Solada Fair enough.
- Wolff It was Ms. Solada, correct?
- Solada Yes.
- Wolff Okay, very good. So, I think the response was yes, we would like to see that information put together and if you could provide it 10 days in advance, I know it's an ask of you so that would be appreciated and I think we would certainly share that with the public. Do we have the mechanism to do that? Post it on the website?
- DeLong Website.
- Wolff Perfect. Turns out there's this thing called the web.
- DeLong And, we are a public building and hopefully this pandemic will allow us to be open.
- Wolff Yes. Yeah, yeah.
- DeLong Hopefully without restrictions.
- Wolff Okay, thank you very much.
- Solada You're welcome. I guess, all we can ask of you, we'll be very patient on August 4, but if we knew what time we would be called up and be on your agenda? Because of the timing of our experts, right? Like, we don't know how many other cases you're going to have and all of that.
- Wolff Our rules and procedures would suggest that you would be first on our agenda. Mr. DeLong, do you have any visibility of what's on our August agenda.
- DeLong I'm going to have to turn to either Janice or Suzanne.

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- Baker I think there are five new petitions, the one that got continued this evening.
- Wolff Anything of any large controversial nature that you can think of?
- Baker Not that I'm aware of.
- Jones Involving the Sammy Davis, Jr. and the candy man?
- Wolff We're not at liberty to say.
- Lake I think it would be in our best interest to continue it first.
- Wolff So, I think if we continue down this path, if we continue this conversation first on our agenda, we need to communicate to our other petitioners that they are behind this project.
- DeLong Certainly, that's what your rules and procedures spell out. Certainly, again, you would have the opportunity to adjust your agenda or when the board is unable to and reconvenes—
- Wolff So, to answer your question directly, I think we are going to do our best to keep it first on the agenda per our rules and procedures.
- Solada Okay. Super. So, 6:30 p.m.? Thank you.
- Wolff On August 4.
- Solada Ok, thanks a lot.
- Wolff Thank you. With that, is there a motion to continue this petition which is petition Docket 2021-13-SE to the August , 2021 BZA meeting?
- Lake So moved.
- Wolff I'm going to call Mr. Lake on that. Is there a second?
- Mundy Second.
- Wolff I'm going to call Mr. Mundy. All those in favor, please say aye?
- All Aye.
- Wolff Those opposed? Motion carries. Is there any other business we have tonight?
- DeLong None.
- Wolff This meeting is adjourned. Where do we turn our overtime into?

