



**SPECIAL MEETING RESULTS ZIONSVILLE PLAN COMMISSION**  
**TUESDAY July 20, 2021**  
**7:00 PM (Local Time)**

**THIS PUBLIC MEETING WAS 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.**

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

- I. Pledge of Allegiance
- II. Attendance

### III. Continuance Requests

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be Considered</b>
2021-23-PPA	The Parke	410 S. 4 <sup>th</sup> Street and 500 S. Main Street	<p><b>Petitioner Requested Continuance from the June 21, 2021 and July 20, 2021 Plan Commission Meeting to the September 20, 2021 meeting</b>  <b>6 in Favor</b>  <b>0 Opposed</b></p> <p>Continued from the June 21, 2021 Plan Commission Meeting to the Special Meeting of the Plan Commission July 20, 2021</p> <p>Petition for Primary Plat Amendment to provide a central water system supporting a separate fire protection main as per Section 193.056 of the Subdivision Control Ordinance in the Urban (PUD) Planned Unit Development</p>

### IV. Continued Business

<b>Docket Number</b>	<b>Name</b>	<b>Address of Project</b>	<b>Item to be Considered</b>
2021-20-Z	Town of Zionsville	11281 & 11589 E. County Road 200 South	<p><b>Received an Unfavorable Recommendation to the Town Council</b>  <b>5 in Favor</b>  <b>2 Opposed</b></p> <p>Petition for Zone Map Change to rezone 160 Acres (+/-) from the R-3 Rural Residential District (as modified by Instrument No. 200700001388) to the Agricultural (AG) District</p>
2021-21-PP	Union Woodlands	11281 E. 200 South	<p><b>Approved with Conditions</b>  <b>6 in Favor</b>  <b>1 Opposed</b></p> <p>Petition for Primary Plat approval to provide for 179 Lots in the Rural (R3) Residential Zoning District</p>
2021-24-PP	Holliday Farms Section 7	3900 S. U.S. 421	<p><b>Approved with Conditions</b>  <b>7 in Favor</b>  <b>0 Opposed</b></p> <p>Petition for Primary Plat approval with waivers to provide for 38 lots (19 single family residences and 19 commercial lots) in the (PUD) Planned Unit Development Zoning District</p>
2021-25-DP	Holliday Farms Section 7	3900 S. U.S. 421	<p><b>Approved with Conditions</b>  <b>7 in Favor</b>  <b>0 Opposed</b></p> <p>Petition for Development Plan approval to provide for the development of a 64.17+/- acre site into 38 lots (19 single family residences and 19 commercial lots) in the (PUD) Planned Unit Development Zoning District</p>

V. New Business

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

VIII. Other Matters to be considered

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

Please note that a quorum of the Zionsville Town Council may be in attendance at the meeting.

Respectfully Submitted:

Wayne DeLong, AICP, CPM  
 Director of Planning and Economic Development

July 21, 2021

**ANNEX TO PUBLIC NOTICE FOR THE July 20, 2021 ONSITE AND ELECTRONIC SPECIAL MEETING OF THE ZIONSVILLE PLAN COMMISSION**

In his various Executive Orders, Governor Eric J. Holcomb has ordered all political subdivisions of the State of Indiana to limit public gatherings and to implement the Centers for Disease Control and Prevention’s and the Indiana State Department of Health’s recommended virus mitigation strategies. The Executive Orders suspend certain requirements for Essential Governmental Functions that facilitate Essential Infrastructure with respect to public meetings and open door laws, including suspending physical participation requirements by members of public agency governing bodies and permitting public attendance through electronic means of communications. As a political subdivision of the State of Indiana, the Zionsville Plan Commission must comply with the Executive Orders throughout the duration of the COVID-19 Public Health Emergency. Members of the public shall have the right to attend Plan Commission Public Meetings via the following forms of electronic communication:

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1. If a member of the public would like to attend a Plan Commission Public Meeting, but cannot utilize any of the access methods described above, please contact Janice Stevanovic at 317-873-1574 or [jstevanovic@zionsville-in.gov](mailto:jstevanovic@zionsville-in.gov).
2. The Plan Commission will continually revisit and refine the procedures in this Annex to address public accessibility to Plan Commission Public Meetings during the COVID-19 Public Health Emergency.
3. If you need technical assistance in logging into Zoom for this webinar, please contact Joe Rust, at [jrust@zionsville-in.gov](mailto:jrust@zionsville-in.gov).

Zionsville Plan Commission  
July 20, 2021

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

Staff attending: Wayne DeLong, Attorney Dan Taylor, Janice Stevanovic.  
A quorum is present.

Franz Plan Commission meeting of Tuesday, July 20, 2021. Please start with the Pledge of Allegiance.

All Pledge of Allegiance.

Franz Wayne, would you please take roll?

DeLong Yes. Mr. Franz?

Franz Present.

DeLong Mrs. Grabianowski?

Grabianowski Present.

DeLong Mr. Jones?

Jones Jones is actually present tonight.

DeLong Duly noted. Mrs. Walker?

Walker Present.

DeLong Mr. Lake?

Lake Present.

DeLong Mr. Fedor?

Fedor Present.

DeLong Mrs. Madrick? Miss Madrick may be online. I don't know if IT sees her as logged in or not.

Franz Has she been promoted?

DeLong You don't see her? All right.

Franz If she does join, please let us know. All right. So we have six people, so we do have a quorum. Any matter acted on tonight will take four votes. We have a continuance request. Docket #2021-23-PPA The Park 410 South 4<sup>th</sup> Street and 500 South Main Street petition for primary plat amendment to provide a central water system supporting a separate fire protection main as per Section 193.056 of

the Subdivision Control Ordinance in the Urban PUD Planned Unit Development? Petitioner present?

Resetarits Yes, sir.

Franz Please proceed.

Resetarits Good evening. My name is Kyle Resetarits. I am an attorney at the Law Firm of Dentons in Indianapolis, 10 West Market Street representing the petitioner MAPAT 61 Development relative to the requested plat amendment petition for the subdivision of Park. My colleague, Matt Price, could not be here this evening as he had a previously scheduled meeting in another community so he asked that I attend in person and request this continuance. Also here this evening are two other partners for the petitioner, Paul McCoy and Andrew Hurd. We're here this evening to request this continuance to allow additional time to work through some of the town's comments specifically relative to specific components and specifications relative to the fire suppression system for the community. This has been sort of a two-year collaborative process with the town on the matter. Really, we're just waiting on specifics from vendors and perhaps at their mercy as development is quite busy as we all know. So, we anticipate a quick resolution of these specific details as really, we're just focusing on the granular aspect. We have a meeting of the minds. We have a general understanding, so. I know you have a busy docket this evening. I'll be brief and just respectfully request a continuance to resolve these details with staff.

Franz All right, thank you. We have a request for continuance. Is there kind of any comments, questions on this matter?

Lake Is one month sufficient?

Resetarits I did have a specific conversation with Matt about that expecting perhaps this question. In all honesty, 60 days would certainly get it done. Understand that if the Board would like us to come back in 30 days and give an update, we would hope to have a resolution by then. Certainly, would take your lead on that.

Franz I think if you guys need 60 days that's fine given that next month looks like it's going to be a full docket also. I would go ahead with the 60-day request. That would be—what would be the date in September on that, Wayne? 20<sup>th</sup>? Okay.

DeLong 20<sup>th</sup>. Sorry.

Franz September 20<sup>th</sup>. So, any further questions, comments? Is there a motion to continue this matter to the September 20th Plan Commission Meeting?

Lake So moved.

Franz Is there a second?

Fedor Second.

Franz All in favor signify by "aye".

- All Aye.
- Franz Oppose by “nay”. Motion carries. Continuance granted. See you in two months.
- Resetarits Thanks for your time, appreciate it.
- Franz Thank you. Continued business from last month. Docket #2021-20-Z Town of Zionsville 11281 and 11589 East County Road 200 South. Petition for a zone map change to rezone 160 acres +/- from the R-3 Rural Residential District as modified by Instrument #20070001388 to the Agricultural AG District. Is the—Wayne, are you handling this for the town?
- DeLong Certainly, certainly. As you indicated, this petition is a request for rezoning. This petition comes to you directly from your Town Council who has passed a resolution requiring the Plan Commission as state statute requires to consider the petition. That requires the staff to file a petition which has been done, and then that petition be considered by the Plan Commission. Certainly, the staff report gives the analysis of the request. Certainly, the request in front of you is somewhat narrow. Do you or do you not move forward with the request and consider and provide a recommendation to the Town Council favorably or unfavorably to rezone this property in question, which is 160 acres to the Ag classification.
- In looking at the past history and past history referring specifically to the last two years where the town has been studying this area surrounding the airport. Certainly and that as discussed last evening and certainly as online and available for review is a draft copy of the plan amendment that recommends this property be rezoned to an Open Space classification, classification other than Residential. Staff certainly is a part of that two-year process coming to you with that knowledge. In substance, that is the essence of the recommendation here for your consideration from Staff, is a rezoning to the Agricultural classification. Staff is recommending that action this evening. Happy to take questions. That concludes the presentation. All right, stop.
- Franz Thank you, Wayne. At this point, I’ll ask if there’s anybody in the public who would like to speak on this matter? If you would, please step forward and state your name and address.
- Howard Good evening, ladies and gentlemen. My name’s Michael Howard. I’m the attorney for the Hamilton County Airport Authority, the owner of the Indianapolis Executive Airport. My business address is 694 Logan Street in Noblesville. The Airport Authority comes to you in strong support of this petition. We have looked at these issues of compatibility and non-compatibility of the public use airport with residential uses. There is a statute in the State of Indiana that talks about a noise-sensitive area. That area is supposed to, is a nautical mile and it’s about 3,200 feet wide on either side, or 1,600 feet wide of the center line. The statute provides that if whether you build in a noise-sensitive area that you have to file a—the builder has to file a permit and record it in the chain of title putting people on notice. Well, we didn’t oppose Fieldstone and Brookhaven even though they were partially in this area. We thought that statute

worked and it put people on notice that there was going to be an airport in that area. Well, it didn't work. Your predecessors and the people in the town have gotten plenty of calls from the people, "We didn't know there was an airport there." We've still heard the same thing from people so that statute didn't work. Then in 2006, the property that is the subject matter of this rezone was zoned an A-3, or I'm sorry, an R-3. In that zoning of R-3, there were specific covenants that were put in place and recorded by the property owner, the same property owner that's going to be before you in the next agenda item. They provided that in both recorded plat and the covenants there would be numerous items placed in the record to put potential home buyers, not only the initial home buyers but subsequent home buyers on notice that the airport's there. Those included an acknowledgement that this was an AZ zone and the airport had a right to be at the airport. That it had been a public use airport for years and it had a right to be there. That they could experience significant levels of aircraft operations and that the land owner accepted title with full knowledge of this existence. Those covenants were recorded and they were labeled material representations and commitments to induce zone map change.

The question is, is that enough to put people on notice that their new dream home that they're buying might be in a noise-sensitive area? There are days that if you are at that home or the model home for an hour and a half, you would know there were airplanes flying over, and there's days that you would not. Essentially, the private covenants issues have not worked. The fact that the next petitioner is coming up, is prime, efficient evidence that those are not significant. Those covenants made in 2006 are not significant enough to require people to place potential buyers on notice. So, the Airport Authority strongly supports the town's position to move forward and to rezone this as agricultural land. There may come a day that there are some commercial uses that might be able to go on this property where nobody cares if airplanes are flying over but residents are a different story. We think in all fairness to your future constituents who might buy a house in this area that this zoning should be taken back to Agricultural zoning. Thank you very much.

Franz

All right, thank you.

Andreoli

For the record, Mike Andreoli, 1393 West Oak Street in Zionsville. I'm very familiar with Mr. Howard's rendition of what occurred back a number of years ago. I represented the Kato Family and Producers Realty in seeking a particular rezoning. As to the commercial use, we tried that. We filed an initial petition for rezoning for commercial use. None of the neighbors wanted commercial use and the commissioners were not inclined to go ahead and allow a commercial use on County Road 200 given the fact that it would have to be big box uses. You're talking about heavy trucks and those types of things. They didn't feel it was well-suited. So we didn't get very far with the commercial, but we did file and received approval from the commissioners and rezone a portion of the Kato property, specifically the area of ground that's south and out of the runway protection zone. That's extremely important. There will be no houses in the runway protection zone. The noise-sensitive area goes all the way down through Brookhaven and the Drees development specifically and then all the way down into Sanders. I did all of those developments for Mark Sanders. We had all of those specifics, in particular covenants for the Willows and Willow Ridge. All of

those were in there at that time because part of that area actually was in the noise protection area and everything north of County Road 300 up to 200 was also in the noise protection area. All of that was in there. I must tell you, I'm a little surprised that this is being flipped forth by the Airport Authority because of some noise complaints. I mean, I thought that goes with the job if you're a commissioner sitting on an Airport Authority. I thought noise complaints and those types of things come with the job but it's certainly not a reason or basis to go ahead and take my client's rights and rezone on this property back to an Ag zoning classification. If you notice in the particular zoning ordinance itself and I sent a letter to you, I think, in May because I was going to be out of town. So, I'm not going to go over all of that because you've had an opportunity to read that and understand what we were saying in that particular letter. This is essentially a smart move on behalf of the Airport Authority to try to convince the Town of Zionsville to go in and seek a rezone for this particular property. Then when the challenges start coming, the Airport Authority will be as far back as a general in World War II off the front lines. They won't be involved in the lawsuit. They've asked you to go ahead and carry their baggage for them and go ahead and rezone this particular parcel.

There's nothing about the proposed development that you're going to hear that causes any difficulty from a protection standpoint for the airport. There's not any single-family residence that's going to be in the airport protection zone. Interestingly enough, when we did this back years ago and you'll see as part of the exhibit that was furnished to you, we had Woolpert Engineering as the consultant for the airport. They did the exhibit for us showing the airport protection zone so we could plan our development around that and not have any of those developments occur in there. Most significantly, I think, and you may feel this is significant, that will be up to your good judgment, but I think it's significant that even though Mr. Howard has suggested to you there have been complaints with regard to noise from some of the people in Brookhaven and others. This property has been rezoned for what, 13 years? They've had an opportunity to go in and condemn this property and buy this property and take it for that entire period of time. If during that period of time—they have the right of eminent domain—they could have gone in and, if you have any questions about that, ask your counsel. They have a right of eminent domain. They could have purchased this ground or taken this ground years ago if they thought it was important. Now, they're coming in at the last minute after the Katos have already sold it to somebody and asking you to somehow or another deny the Katos what we believe are their rights.

With me tonight are the members from the Kato Family, Producers Realty, also Chris Ferguson and Yasmin Stump from Yasmin Stump Law who will also represent them depending on what occurs with regard to these particular petitions. One thing I was curious about, I saw in the staff report and maybe I didn't get a recent version of it but Wayne will correct me if I'm wrong so I apologize. I saw in the staff report there was a suggestion that somehow or another, the board, if you rezone the property also put a provision or a commitment in there that the property will have no cluster subdivisions. I think I saw that in Wayne's staff report. If that's in there, I have a rhetorical question for counsel. This is not a zone text amendment. This is a zone map amendment. That has not been properly noticed. If you're going to change the text of the zoning



ordinance, moreover how is it that the Town of Zionsville can ask for a commitment on property that they don't own, to put that commitment on this particular property? I think that raises substantial questions. I didn't notice it the first time I read it and then when I read it again it kind of popped up to me. So I asked that rhetorical question because we have substantial concerns with regard to being able to impose a commitment on property that's not owned by the Town of Zionsville. Normally, those voluntary commitments are commitments that are signed and executed recorded by the landowner. I don't know how the town can impose those commitments on the property of another without having any ownership or fee simple title relationship to that particular property, moreover it hasn't been properly noticed. So we would respectfully suggest, especially in light of fact you're going to have an agenda item that received a favorable staff report that complied with your comprehensive plan, to go ahead and move forward with the development consistent with the commitments that were made back a number of years ago when we did the rezoning. They're only wanting to cluster the development on the south side. They're going to keep the north side open and available, would be available for a park or other open space but certainly no single-family homes in that particular area. All of the other requirements under the noise-sensitive area, they will have to be included in the covenants. So thank you for an opportunity to address you tonight. I was unavailable last night so I wanted to make sure I made an appearance and addressed you tonight. Thank you.

Franz All right, thank you. Is there anybody else who wants to speak on this matter?

Ferguson Good evening, everyone. Chris Ferguson, Yasmin L. Stump Law Group 11495 North Pennsylvania Street Suite 101. Following up on Mike's comments, I also represent, or our office also represents, Kato Family as well as Producers Realty. Just wanted to have a couple things following up on what Mike had to say about the rezoning. That is rezoning of my client's property from R-3 to Agricultural is being considered by the Plan Commission this evening and my client does raise its objections to the rezoning pursuant for the following reasons. Town of Zionsville is seeking to deprive my client's property of its highest and best use as an R-3 use to a far less valuable Agricultural designation through the rezoning process. The proposed rezoning from R-3 to Agricultural would significantly reduce the value of my client's property. I'm sorry if some of this seems to duplicate from last night but again, it's a separate record so I need to make that kind of clear. Again, the difference in per acre value between comparable sales of Agricultural and R-3 zoned land in Boone County and in Zionsville is generally measured in tens of thousands of dollars per acre and applied across at least 100 acres of my client's property stands to be in damages of millions of dollars.

However, although my client stands to be deprived in millions of dollars of its private property use, no representative or agent of the Town of Zionsville, the Indianapolis Executive Airport, or the Hamilton County Airport Authority has reached out to my client or its representatives in any capacity to discuss or propose an amicable resolution to this matter. To be clear, the Town of Zionsville is seeking to deprive my client of millions of dollars of private property rights without even picking up the phone to call them. Furthermore, the entirety of the conversation regarding the rezoning of my client's private property has only been summarily discussed as being needed to generalize noise and safety concerns. It

has been briefly discussed that the rezoning would be in line with Federal Aviation Administration regulations; however, that has only been a generic conversation of which no such regulations or recommendations have had any kind of conversation in front of any town or any governmental body of the Town of Zionsville. My client is in complete agreement that safety is an issue that must be addressed. However, addressing future safety issues does not excuse the deprivation of private property rights without government communication and just compensation. There is no controversy that the Town of Zionsville has the authority to rezone my client's property. However, it must be noted on the record that any such rezoning that results in the significant devaluation of my client's property is tantamount to a regulatory taking and/or an inverse condemnation under well-established Indiana Law.

It should also be noted that the Town of Zionsville and the Indianapolis Executive Airport and the Hamilton County Airport Authority have the ability to simply acquire this land through their eminent domain powers through which they would acquire the property at the cost of its highest and best use and fair market value. I ask the Plan Commission to consider the position that my client has been placed in by the proposed rezoning so as to better understand its position. Although the Indianapolis Executive Airport's runway extension has been planned and considered since 2008, neither it nor the Town of Zionsville ever contacted my client about the rezoning or the purchase of the property as recently as—excuse me one moment. My client believed that the legal use of its land as R-3 will allow Zionsville to add to its growing community, add tax revenues to the town and has already priority of Boone County to have a portion of the property be used as an open space park for families. My client is a tax paying landowner of Zionsville and only asks to be treated fairly in this process and be fully compensated for any damages done to its property by Zionsville. In a quick response to the comments by Mr. Howard on behalf of the Airport Authority, the generic concern of phone calls being received by the Airport Authority in such complaints is noted. However, we fail to see any kind of real reasoning as to noise complaints from a telephone call, not lawsuits, to any knowledge of mine or to anybody else's but phone calls as a reason for the rezoning of property.

Also that said, safety concerns have been raised last night during the Hamilton County Airport Authority's land use plan. Also, we heard arguments saying that residences should not be placed near airports for safety considerations. However that seems very contradictory considering the Airport Authority's proposed plan for airport city and/or airport town, airport village. Those are the only two reasons we have been given so far for the rezoning. They do not seem as though it would be a good reason to go through what will likely be a very dragged-out litigation process if rezoning goes forward without any kind of compensation to my client. Thank you.

Franz All right, thank you.

Lewis Good evening. Kyle Lewis, Aircraft Owners and Pilots Association, 421 Aviation Way Frederick, Maryland. I'm here this evening on behalf of our membership in the State of Indiana and also our membership at the airport, Indianapolis Executive. I want to kind of follow up on some comments that have already been made. I think that you're aware of many of the issues with noise

complaints. Noise complaints are a symptom of already existing issues. Noise complaints lead to stifling of airport growth. When residences are put near an airport, anywhere around the airport for that matter especially under the traffic pattern, which is a prescribed landing and takeoff course if you want to think of it, around the airport. It's a rectangle, I don't have the chart but I wish I did, a rectangular pattern depending on which runway is being used at the airport. There are technically two runways at the airport even though it's a single strip of pavement depending on which way the wind is blowing. So if the wind is blowing from the south, they take off to the south. With that said, putting residences under the approach or departure path is just not common sense. It happens around the country. The noise complaints happen. The airport development becomes stifled. They could even shorten the length of the runway.

City councils, county commissioners, they've all tried to change traffic patterns which it's basically FAA regulation what the traffic patterns are. Those can't be arbitrarily changed. It's a pretty involved process to even talk about that. Something else in my letter I mentioned is the Indiana State Code that would require notification for the 7460 process as it's known which is the obstruction evaluation done by the FAA. I don't know if that's been completed with this proposed development but that's something that would be required. It's a pretty lengthy, involved process with the FAA Obstruction Evaluation Office. They just don't look at the height of structures, they look at radio signals that could be admitted. They look at light pollution from a proposed development that could interfere with approach lighting or runway lighting. So if that has not been done yet, I think that there's a lot of questions that need to be answered from that process. Generally, the FAA says it could take 45 days. In reality, now that could be a six-month process based on delays at the FAA level. The airport, Indianapolis Executive, is an economic driver for this area. I think I quoted \$435 million dollars of economic input, just this single airport. If they were to lengthen their runway, it's not necessarily for more capacity, it's for safety reasons based on the category of aircraft that are using the airport currently. We're not talking about airliners coming into Indianapolis Executive, we're talking about safety margins for existing aircraft and their ability to carry certain amounts of fuel off the airport.

Mr. Shawn White, if he would like to speak a little bit more in depth about the operation specific to the airport, I'm sure he'd be willing to do that. From a national perspective, even a regional perspective, the FAA, they have said many times that residential use near or in the proximity of an airport is incompatible land use. I think the planning process that plays out here should heavily take that into consideration. That's all I have and thank you very much.

Franz All right, thank you. Was there anybody else? We'll come back around. Go ahead.

Clemmer Good evening, Tyson Clemmer, 11316 Still Creek Drive in Zionsville. Thanks to all of you on the Plan Commission for allowing thoughtful and meaningful discussion on this matter. I live in the Brookhaven neighborhood south of the property under discussion. I can appreciate the concern of the current property owner to maximize their profit off the land they purchased as an investment when it was originally zoned Agricultural. As you've heard recently from many

Zionsville residents living near the airport, safety and quality of life impact from air traffic are major concerns for those living in this area. Many guidance and planning documents as discussed this evening including those from the FAA and Indiana Code note how residential neighborhoods are not compatible with air traffic and should not be placed in airports. This is most significant obviously near airport runways where the air traffic is most constant and lower to the ground. Residents within the Brookhaven, Fieldstone, and other neighborhoods near the airport have constructed homes with the required sound mitigations and were informed as mentioned earlier of the airport when purchasing their homes. As you've also heard, this is not addressed as significant concerns of property owners in this area. Keep in mind, this is for properties that are over 2,000 feet further south of the airport runway than some of the homes in the proposed development and even before the runway extension is complete that will further lower the height of air traffic on arrivals and departures. There is—I think this is an important note. There is no other property within the town that will experience a greater impact from air traffic than the property under discussion this evening. When the property was originally rezoned from Agricultural to R-3 classification, the property was as you well know not within Zionsville town boundaries. Boone County made that decision along with many others that in hindsight we may disagree with. Whether the construction that is noted of the existing Brookhaven and Fieldstone neighborhoods again which are further from the runway than the property in question, the location of the Union Elementary School which is also a major concern of property owners in this area with the airport present, or allowing Hamilton County to purchase this airport, there are many decisions we may call into question.

Also since the time of that rezoning decision, I think it is important to note that a number of things have also changed with the airport namely the amount of air traffic at the airport as well as the current active and inactive project extending the existing runway. The threat of lawsuits should not prohibit Zionsville from making the most sound and appropriate decisions on land use around airport. As clarified at a prior Town Council meeting by Councilman Traylor, the proposed rezoning is not an effort by the town to conspire with the airport and as someone living close to the airport that has as many concerns as anyone and wished that the airport wasn't there and wished that the runway wasn't extended, that's happening. Rather, I believe that this petition for rezoning is a pragmatic response to the fact that the airport is going to be in its current location for the foreseeable future, the fact that the runway extension is happening and has already started and that both of these factors have a significant impact on residents in this area. The decision around this property will frankly impact the safety and quality of life for residents in this area for generations to come. I wanted to thank the Plan Commission for your time and effort to make a thoughtful decision around this property. Thank you.

Franz All right, thank you. Was there anybody else? You wanted to respond?

Ferguson Chris Ferguson, Yasmin L. Stump Law Group. Just wanted to give a quick response to the presentation by Mr. Lewis. Having looked through the letter that he submitted to the Plan Commission, I believe it was July 16, 2021 and also his comments, succinctly all I heard was airport growth, airport development, everything that is being done in this rezoning is for the airport yet the airport has

never tried to acquire the property itself, is asking Zionsville to do it. Is asking Zionsville to deal with the legal consequences of it which I have already said could be quite costly. That's all.

Franz All right, thank you. Is there any other comments? Come on up.

Heinzen Hi. My name is David Heinzen, 11533 Wood Hollow Trail. I live in the Brookhaven neighborhood as well. I'm a pilot for Southwest Airlines. I enjoy flights and airplanes just like the rest of us but they're very low to our home now and with the extension to the south, it's just going to bring the noise and the planes lower to the ground. Right now, we're about a mile south of the airport and I can't imagine being at the end of the cul-de-sac in our neighborhood where they're even closer. To suggest that there's going to be homes between the airport and our neighborhood, it's a safety concern. There's a three-degree wide path which means where I live it's a mile south. So the airplanes are about 300 feet high when they go over our house. Our homes are what, 40-50 feet tall, so it doesn't—on a good day, the margin of error is not great then throw in maybe some bad weather or God forbid an inexperienced pilot and then you've got another problem on your hands. I know that the runway extension is happening but just for the safety's sake. It doesn't take much digging around to find out other airports in the country, the residential area that's just adjacent to it, we're not talking about half-million-dollar, million-dollar homes. We're talking about lesser value homes that will be possibly be adjacent to the homes that we have. That will lower the value of our homes. So I know we've talked about the property owner and the loss of money but there's hundreds of people in Brookhaven and they're going to lose as well if that happens. Thank you.

Franz All right, thank you. Is there anybody else?

Snyder Good evening. My name is Chris Snyder, 14153 Pledgewood Way Carmel, Indiana. I work with—I work for a company called Woolpert. We work as a representative for the Hamilton County Board in the Airport Authority. I just got a chance to listen to a lot that's being discussed and I love how some intricacies are left out. As someone who's worked with the airport for quite a number of years, I've had an opportunity to see a lot of different things. One of them is, how the airport has worked in harmony with this community over time. There's been a past where maybe that wasn't true but I can tell you that in the last several years, that's been a big commitment of the Airport Authority and it's been a big commitment of Zionsville. So I would like to remind people that there was a study that was actually undertaken by the airport and of Zionsville to find out what is the best compatible land use for its community. I want to be clear about that because there's statements here that are saying it's just about the airport. Now a land use compatibility study is about what's best for its community and how to make the community thrive. That's for the people that live in their homes, that's for the people who do business, and it's for the people who utilize it for economic growth and development. I would applaud both entities for the work that they did on that study. That study started over a year ago. I think it's really important to say that that takes time. Good planning matters. You need to make good decisions. From that came recommendations of why we're here today. So to say that, oh, we haven't brought anything up or we haven't looked at it, well, there's no reason to buy land unless you have a good reason or it's validated. So I

don't know how much you know about eminent domain but you can't just enact eminent domain. That's not how it works. You have to have good purpose and need. That's really important. To be someone in the community that has that, that's important. So this study showed that this would be the best end use. So the agriculture would be the best use, and I agree with that but I'm not the only one. neither is the airport. You've heard from your community here that says the best use is Agriculture. This aligns with compatible land use development of the FAA's requirements. So as someone who's worked at, oh geez, I don't know how many different airports in Indiana probably 20 different airports in Indiana, who watched this happen every day for 20 years, I can tell you that Agricultural is the best land use that you're going to have with this location. Anything else is going to be problematic and that's what came out of this study. That's what's recommended. I can tell you what's coming up later in your agenda and that goes along with guidance that we get from the FAA. To imply that there was some information provided by Woolpert, you were absolutely right. Woolpert has worked in harmony with the community to make sure that different parties know the critical design elements of how to make key decisions. We're good partners in that. So is the airport to make sure that people have the facts that they need to make critical design decisions. The same would go true for this Plan Commission. I want you to know that that's the most important thing you can think about tonight is your community. That's it. Thanks.

- Franz All right, thank you. Is there anybody else who would like to comment on this matter? All right. With that, I will open it up to members of the Plan Commission.
- Jones You got a question? I got a question.
- Lake Go for it.
- Jones All right. I had a quick question. It says later we have a representative from Silverthorne Homes. Is somebody available from there?
- Rector Yes, sir. My name is Christian Rector. I am the Vice President of Land Acquisition and Entitlement for Silverthorne Homes.
- Jones Just a round, estimated number, what do you think the sale price of the homes in this subdivision will be?
- Rector That's a fantastic question given our supply chain issues and the variability of price right now. That's hard to project for when we actually begin to construct. If we were building today and based on our current projections of development costs, we will easily be averaging well north of \$400,000 and probably \$500,000 for these homes.
- Jones What do you usually anticipate lot cost to be then?
- Rector Our Performa shows our lot cost, not lot price, to be approximately \$100,000 per lot.
- Franz How many homes again?

Rector Our plat calls for—I should have had this off the top of my head, 179. If you have anything else, I’m happy to answer. I did plan on speaking for our primary plat but I believe that that is a separate matter and evaluated under a different set of—

Franz Yeah, it will be.

Jones Correct.

Rector Thank you.

Jones I guess my core concern is, one, this entitlement was done in 2006 so this property sat out there 14-15 years without any real push to develop it. So while it was rezoned by the county to R-3 from Agricultural back then, there was a different group making those decisions. It wasn’t really the Town of Zionsville. Secondly, I’m going to assume the airport functioned differently in 2006 than what it’s functioning now and what the anticipated functions of it could be. You know, when they talk about airport cities, one of the things I always fall back on is that 95% of all the value of goods shipped are shipped via airplanes. While this airport will never probably have larger commercial passenger planes or commercial shipping planes landing there, there is a lot of potential for smaller jets, smaller planes doing smaller deliveries and carrying higher and higher value product. Hence, when you talk about the airport cities, you’re not really talking about residences, you know, it’s not a equal comparison to residents or people who may be living and working near to an airport that benefit from the airport to that access versus those people who live under the flight path. You know, Mr. Berg was trying to point out how this is depriving the Kato Family of the highest and best use. The problem is it’s not a comparable property to anything when you look at what the existing burdens of the airport are and what the future of them could be. The other thing is, the reason we’re up here and kept up here by the Town of Zionsville is to look after the long-term best interest of the Town of Zionsville. My belief is if this housing does go in there, my experience with housing is it’s usually an emotional purchase. People will quickly overlook things if they think they’re getting something of value or something that offsets or allows them to overlook the burden that they will be placed by being in the flight path of an airline or an airport. Once they start to kind of come to their senses about what they’ve purchased, the airport’s protected from any kind of lawsuit. So that lawsuit and those damages will be, they’ll probably seek them from the Town of Zionsville. Right now, we’re looking at some agricultural land that is being used as agricultural land. We’ve got a person that’s trying to promote that it’s got a highest and best use but I just, I don’t see it. I see it’s highest and best use as agricultural. I see as our obligation to protect the town from future issues as it’s better off to nip it now than when there are \$400,000 and \$500,000 homes on these properties.

Franz All right. Mr. Andreoli, go ahead.

Andreoli Mr. Jones, I appreciate your comments. Always enlightening and I’m sure they are heartfelt but when we did this project back for the Katos 13 so years ago, we designed this project with the specific information that the airport extension, the

runway extension, was going to be done. So this project was located and zoned according to the fact that this was going to be extended. So, it's not like somehow or another we're coming in now and it was rezoned back R-3 and somehow or another the airport now is going to extend and that's causing problems. We worked with the airport and knew the extension was coming and we designed the project specifically as is. I would respectfully disagree with your analysis that somehow or another this is an agricultural parcel. It is an agricultural parcel from its use right now but it is as it carries an R-3 zoning classification and you just simply can't dismiss that. That somehow or another you could waive a magic wand and it's not an R-3 classification. There's nothing that suggests that there's been any issues with regard to diminution of property values for the neighbors to our south by virtue to the fact that the airport's there. so it's not causing any problems or difficulties from a property value standpoint from them.

These are going to be very nice homes, very nicely priced homes. They're going to be clustered and more importantly, none of the homes are going to be in the airport protection zone which is the key area from flyover standpoint. As far as the other, some of the other concerns that were perhaps were raised, there's also an issue called the Tall Structures Act in Indiana. When Mr. Howard suggests that there's somehow going to be commercial potential there, those commercial buildings are generally much taller than the residential structures. If they're up in that potential Ag area or other areas, they're going to fall under the Tall Structures Act and won't be able to be built. These are going to be the types of homes that will be able to be compatible with the Tall Structures Act given where they're going to be located. So there just simply isn't any issue with regard to hazards and this, that, and the other. Naturally, if you're a pilot and naturally if you're the airport, you'd like to have no residential development for miles on either side of your landing strips. That's understandable. That's the argument that they're making but it just simply doesn't hold water that somehow you can disregard an R-3 classification that's already in existence that worked that up back when we understood what the airport was going to do with regard to their extension. So hopefully, I've addressed that but I do appreciate the comments.

Franz Mr. Andreoli? Mike? At the time back in 2006 or 2007 when this was first heard, was there significant opposition from the Airport Authority at that time?

Andreoli It was not. They could not go on record. I suspect what's going on here and I certainly appreciate—I respect Mike Howard, he's one of my closest friends that practices law and an excellent attorney, an excellent county attorney, one of the best in the State of Indiana quite frankly. As a practical matter, there was no opposition. They couldn't go on record saying that they wanted it. They can't go on record saying they want any residential development period as far as the FAA is concerned. That may be a little of what's going on now. They have to protect their vested interest by at least objecting and trying to put forth what they can to prevent residential development as far as the FAA is concerned. There was no opposition to this whatsoever. Nobody appeared at a meeting in opposition to it. The only opposition we got, I think it's a fair question, was to the commercial. We got pushback from some of the residents there with regard to our initial proposal to maybe zone it commercial. We got substantial pushback from them. So we looked at whether there was a way that we could develop part of the



ground in a residential maintaining the rest of it in a open space and Ag area that could not be developed that was clearly within the runway protection zone that should not allow residential development. That's how we laid it out and that's how we did it. The applicant tonight has made their petition in conformance with that particular proposal, rezoning proposal, and the commitments that were attached to it too. So hopefully, I've answered that question.

Franz So in the letter from Mr. Frye, President of the Hamilton County Airport Authority, he references a couple, I guess, people nosing around to see if there was going to be some development on the property in 2020, it looks like. Lenar looked at this and then we've got 2020 Silverthorne Homes came up. So what—which came first? You know, I mean, did you guys file before this was put forward for the rezone request? What came first of those two items?

Andreoli In terms of what? The first request we made was for commercial rezoning. Then we went to a—

Franz No, no. I'm talking about the primary plat that we've got before us tonight. Was that filed prior to the request for a rezone?

Andreoli No, but more importantly it's filed before the rezone is done. The applicant is entitled. You'll have to ask your counsel about this. The applicant tonight is entitled to rely on the zoning classification and he has. Not only that, we went to the Airport Authority. Lenar first looked at this and then they were doing another project, decided not to do it because of the sewer issue. Arbor Homes and Silverthorne were able to work that issue out with regard to sewers. We went to the Airport Authority, what a year and a half ago or so, and let them know what our plans were and let them know we were going forward with that and got input from them at that particular point in time. So all of that was done in conjunction with understanding that they were going to extend their runway. So the applicant that has filed for a primary plat approval that was recommended by staff as being in compliance with your zoning ordinance, they filed before there is a designated zoning classification on this land that's any different than the R-3 classification. They have vested rights, we believe. We believe the Katos have vested rights because they not only went ahead and rezoned this but they paid the sum of \$25,000 to the county. We made those receipts and provided those to you. So they've actually incurred costs as well as required. So in answer of the question, the applicant is in full compliance with the law in terms of moving forward with their primary plat in my opinion. It's my opinion, you have counsel, you can rely on counsel. What we would respectfully suggest that that's the law. Thank you.

Lake So I have a question for you before you sit down, Mr. Andreoli. Brookhaven, do you roughly know when that neighborhood went through its initial purchase for residential and replatting?

Andreoli The Drees Project?

Lake Yes.

Andreoli Yes. I was genuinely involved in that because they came to me with regard to what information had to be put into the covenants.

Lake So roughly when was that?

Andreoli Pardon me?

Lake When that process started, roughly what time frame was that?

Andreoli I don't know whether Brookhaven was actually started in that time.

Lake It was pre-2010 because we moved to Zionsville in 2010 and there were houses there already.

Andreoli It may have.

Lake What I'm getting at and I agree, to some degree with Larry's comment of you know, "It was sitting there for 14 years" but it kind of wasn't sitting there for 14 years because you had Brookhaven, I think, roughly around the same time was developing that subdivision. You wouldn't really have the genesis to do residential north of Brookhaven until Brookhaven took off and those homes sold. Then, you know, another home builder might come in and say, "Well, okay, that did well. Let's move north." So while, yes, there was 14 years there, I think there was a natural growth to the north over those 14 years to get to that point was where I was going with that.

Andreoli I think that's a fair comment. I think Brookhaven started but I think the way they developed Brookhaven, they started from County Road 300 and then they moved north.

Lake Yeah.

Andreoli The whole development had been primary platted and then they just moved north as the demand took over. This project could have come in a lot earlier had the issue with the sewers been worked out. There was always demand for the product and several people had looked at it. The real question is, you're not dealing with Zionsville, you're dealing with another utility. There was always some issues and some challengers with regard to that, but Arbor Homes and Silverthorne were able to work through those and figure that out to their credit. I know others have looked at it and weren't able to actually do it. At one point, Lenar had all of that land option, not only ours but all of it to 421 and decided that that wasn't going to work and they wanted to wait until after the Master Plan was done.

Lake Yeah.

Andreoli Airport master plan to see whether or not that was going to be problematic or difficult with regard to the other properties because they would have to be rezoned.

Lake I think the challenge we're having is trying to make the decision between what is legally right and what we think is right. As an architect, I think residential is horrible for that property. Everybody is going to hate it. You cannot soundproof that house enough. I've seen the extra insulation you're going to put in, that does

not reduce the noise. RC Channel, extra layers of drywall reduce the noise not the insulation. I think it's a horrible use but it's whether or not you have the right to put that use there. That's what we're discussing, I feel like tonight.

Andreoli I understand and it's—I understand completely and I understand the tugs and pulls that you have to wade through with regard to this. I would only suggest that given the clear import of the law in this area that it may be well-served to go with what's legally correct even if your heart may be otherwise. That's—certainly, I have a client to represent and that's our position so we're putting that forward. Thank you.

Franz Would you like to comment? Oh, we've got someone in the back room now.

Howard It's time to hit the real issues in this case. We agree that that property is now zoned R-3. The question is, were there commitments made that induced the county commissioners to zone it R-3? In your packet, you have a document called material representations not minor, material representations and commitments to induce zone map change. These documents were put before the county commissioners as part of this issue. The real issue here is who wants to be the person who tells people that they have made their largest investment in their life, they are ready to move into their dream home and there's airplanes flying over their house? The material commitments that are contained here and I'll go through them in a minute, were put in there to enhance the probability that new home owners in this area would have notice that there was an airport there. I kind of jokingly in a memo but I think it's true that if you do these things, all you do is increase the probability that people are going to know that their life savings is put into a house with airplanes flying over it. The best thing to do would, if you approve this, give us a sign permit to put on our property facing south there is a public use airport here and you're going to have airplanes flying over your house. That would be a fair way to do it but let's look at what these comments and representations were made to the county commissioners.

One, they would want to put the owners on notice that there's been established an airport zone. That the airport zone allows the operators to conduct airport activities including building of maintenance, hangars, taking off, landing, planes as permitted in the zone, classification subject to any reasonable restrictions. The airport is allowed as a matter of right to own, operate, conduct its business as defined in the AZ airport zone area. They would put them on notice if they may experience significant levels of airport operations in the periphery and, further, that the airport could not be deemed a public nuisance. Guess how the property owners were to be put on better notice of this? Section 2, the following language, the language that I just read to you, will be included in both the recorded plat and in the declaration of covenants, conditions, and restrictions for the subdivision. I read the covenants for this subdivision. I've read the plats for this subdivision. This petitioner did not use the word airport once. These were the things that the Kato family agreed to put, make sure that they were there. It was recorded. It was in the chain of title. So, they haven't complied with—they may have complied with your rules but the Kato Family hasn't complied with the rules that they imposed upon themselves in order to get this zoned as an A-3 use.

Lake Which pertains to the next docket item, not this one.

- Howard Yes, but the next docket question will be, are they entitled to the plat being approved as a matter of right. As far as communicating with this developer, we had a zoom call back in October. They wanted to continue to talk about things. We talked about things like detention ponds for these geese. They don't work well with fan jets. They said they'd get back to us. Since that time and until this was filed, crickets. It's all we heard. So you're right, it is the next issue but I could not allow us to say and stand up—we've done everything we're supposed to do as a matter of right so we get to enjoy R-3 zoning today.
- Lake Why did the Airport Authority not stand up against this when it was zoned this way?
- Howard At the time, we were willing to take a risk that people would be on better notice of this use if they followed these covenants. Mike Andreoli's a friend of mine, he's a smart lawyer. He didn't put these restrictions on his client's property if he didn't think he had to do that to induce change in zone map. In fact, it's in his title. Sorry.
- Lake We may not have been here today if you guys—
- Howard These--
- Lake We may not have been here today though if the Airport Authority would have stepped up, you know, in 2013 or whenever it was and voiced their opinion then. To your point, you took the risk. Risk didn't pay off.
- Howard Took the risk that there would be better disclosure and there's been absolutely no effort by this petitioner to comply with these restrictions. Thank you.
- Snyder Chris Snyder. I did want to point out I think a critical factor of this between the 2006 time and the time today. The Airport Authority uses guidance from the FAA and INDOT to make decisions. I can tell you that between that time there have been significant changes to the FAA what they call their design standards or advisory circulars, and programmatic guidance that comes out from them especially for land use compatibility. Those things do change and airports do get new guidance and it's the airports' due diligence to certainly work with their community to make good decisions even if that means to go back and take care of things and improve their situation or its communities. So I just really want to make sure that those are critical elements to be considered. Mr. Andreoli didn't say that we didn't take, the Airport Authority didn't take one position or another. The Airport Authority can certainly take a position for and against. To Mike Howard's comments, it was December 2020 that we had requested. We had not actually seen a final plan. I do want to point out, the initial plan that we saw in 2020 that was presented by the property development had significant issues. Again, being a good partner in the community, we work very hard to get through those but we never saw a final plan until this commission hearing. So just want to make sure everybody has those details. Thank you.
- Andreoli The information that was generated back in 2006 was the information that we simply used to go ahead and come up with our list of commitments. I'm not

smart enough to come up with these list of commitments. These were taken from the noise-sensitive ordinance that is on the state ordinance that requires certain things to be done if you're in a noise-sensitive area. That's where I got most of this stuff from the state statutory language. I'm not well-versed in airport language and I can't suggest that we got this particular language from the airport itself. We were pointed to the noise-sensitive statutes and that, if not all of that, most of that is contained in the noise placed sensitive statutes that you have to comply with if you're in the "noise-sensitive areas". These areas are including Brookhaven and adjacent development, even Sanders to the south given where it is, the very top of that development has commitments and those types of commitments with regard to all of the information that contained therein. Quite frankly, if it's good enough for the statute, why isn't it good enough for the Indianapolis Executive Airport? I mean, if that's what you have to do as statute, why isn't that good enough for them? They're suggesting it's not working but we had no knowledge that it wasn't working. We had no knowledge that it wasn't working when we committed to Arbor Homes. We had no knowledge that it wasn't working when we met with them in a public meeting. So, my suggestion to you is that if it's contained in the noise-sensitive area, why should anybody have to do more if the state statutory language says you have to do this and we've complied with that. This may even go further than those types of things but I would suggest if you ask the director, all of the things that would be included in these particular commitments have to be included in his covenants, conditions, and restrictions. They're included in the Drees Project. They're included in Sanders. They should be included in this one as well. I would concur with that. Thank you.

Franz                   What about the comment that the notices that were required and the material— what about the comment that the notices of airport are not in the covenants? The required notices of the material—

Rector                   I can respond to that.

Andreoli                He'll have to—yeah, he'll have to respond to that because I know they were familiar with that and they were going to have to put those in after we had our discussion. We looked at those, so.

Franz                    You can respond.

Rector                   All right. Commitment 2 that was read to you states the following language will be included in both the recorded plat and the declaration, covenants, and restrictions. So it will be on the recorded plat, not the primary though is what we are here to discuss tonight. The DCCRs that were submitted tonight are our standard blank DCCRs. They are not set up specifically for this property. It's very rare that you go through those at a primary plat. He is correct. The airport is not mentioned on the primary plat because that is not the recorded document that will be followed when the title company pulls title and puts those restrictions on your title document for your house. The one other commitment that was not read was the first one that says the following language will be included in a separately executed addendum to the purchase agreement for the initial sale and each subsequent sale of each lot in the subdivision, aircraft operations—don't need to read the whole thing about noise there but I did also want to add that that

commitment was skipped over that there will have to be a separately executed addendum to the sale of each home and in each successive sale putting the buyer on notice of the airport. That can't be buried within the purchase agreement. It has to be a separately executed addendum. It was mentioned earlier—the reason I did get up earlier for the purposes of this discussion not our primary plat, was the question about what was filed first. I honestly can't tell you on the exact filing date but we have been working on this since October. We did meet with the airport. I believe the words that were used on our first draft was this is the worst plan next to an airport we have ever seen, then we made significant discussions with them since. I believe, we met with them once a second time, got farther feedback. To that point, we had to move forward. Regardless of which one was filed first, they're within a matter of days. We had been working on this well before the April 19th City Council hearing which is where the direction for the rezone came from. So, thank you.

Franz Mr. Andreoli, again. So, you're—I mean, I'm not going to ask Dan this but your contention is that because this primary plat was filed in advance of the rezone that's going to take precedent.

Andreoli Absolutely, yeah.

Lake Wayne, if I could get some clarification. On the petition that was submitted for the rezone, it is marked received 4/23/2021 at 4:39 a.m. On the basically the cover sheet there, there is no marking as such on the next petition. So how do we know when that was received?

Andreoli Let me be clear for the record. The applicant and the Kato Family is entire—they are entirely able to rely on the zoning classification that exists on this property when they file their application.

Lake I get that.

Andreoli Okay.

Lake I'm just asking for clarification because one is marked as when it was received, the other one is not.

Andreoli Oh.

Lake I just wanted to know if Wayne knew because the signature dates for the notaries are the 16<sup>th</sup> of April on yours. Ours is the 23<sup>rd</sup> of April on the town's request but that doesn't necessarily mean that's when that was submitted. So, I was just asking for clarification.

Andreoli Yes. I've not represented Arbor Homes.

Lake Yeah. That's why I asked Wayne.

Andreoli Yeah. Yeah, I've not represented Arbor Homes officially in this, Mr. Lake. We're trying to help as best we can. We have a client that wants to sell their ground but—

Lake Yeah. I just—if Wayne can—

Franz Yeah, but I think based upon the information, the filing dates are not critical to this matter because when they filed, they filed under the R-3 designation. The rezone, when it occurs it's going to be after that.

Lake Okay. so it's irrelevant when they submitted. It's—

Taylor Yeah, Mr. Andreoli is asserting what I call a Section 1109 right. That says that when you file a completed submission, you get the law that existed on that date. Mr. Andreoli's point earlier was that we don't know when—if you recommend this rezone that's pending before you and it is ultimately adopted by the Town Council, we don't know when. All we do know is that it's later than today. If Mr. Andreoli is correct, there is a Section 1109 right then that came into being in April and that—you know, if he can carrying the day on that argument, the only date that really matters is that we all know that it was filed before today. The rezone is not going to be today.

Lake So we can approve—this is theoretical. We can approve a rezone because we—

Franz We'd only recommend it one way or the other.

Lake Yes, yes.

Taylor Yeah, there are a lot of lawyers in the room. Let's get these words right.

Lake We can recommend a rezone given that we may not feel residential is the best use there and we want to look towards this comprehensive plan that we discussed last night but that would not prohibit Mike and his client from pursuing a separate petition because he is doing that under the rezone that was there at the time. Would that result automatically in a lawsuit or would he just be able to continue down his path because he was first in the queue, if you will?

Taylor We've had a lot of threats of lawsuits so I'm not going to answer that question because I think we're the ones getting sued. Here's the way I'd answer that is that Mr. Andreoli's assertion of 1109 right if he's right then yeah, he doesn't—I don't know that he cares much of what you do tonight on this rezone because if he has it, he has it already. Then that gives his client certain rights for everything that comes later in the development process. So if he can fit into that entitlement, then I don't know that he, that that really affects him but I would say this that I also think that there are risks in down-zoning property. So, you shouldn't do it just because and, as you know from the staff report, there are five criteria that you need to look at. We've had some of this hearing, some of the next one already. So we've heard a little of this but I just think that you have to be cautious given where we find ourselves and that is that there is least an arguable vested interest here under state law which is the 1109 and then Mr. Andreoli will also, or Mr. Ferguson, one of them. I feel like we're in the trial now but somewhat I feel like—someone is also going to raise inverse condemnation arguments under federal takings law which is a little different. That's why you've heard them talk about the fact that under federal taking's law, somebody has to have spent

money. That's why Mr. Andreoli talked about the Kato Family had to make a contribution to the highway department, that they've expended money along the way. Arbor Homes has expended money. So that doesn't really go to the 1109 argument. That goes to a federal takings. So, my word of advice to you is that there is such a thing as a vested property right. It's defined by Indiana law. You can't give it to anyone. As the Plan Commission, you can't give it or take it away.

Lake                    Okay.

Taylor                So you don't rezone property. You recommend. You also don't grant permits. Okay, so if that entitlement exists, it exists already. I would exercise great caution—I mean, I would make sure about your recommendation even though the final decision about that lies with the Town Council. So you're just a recommending body so there's a little bit of weight off you here. I think whenever the kinds of arguments that have been raised here. The airport has raised serious concerns about public safety and their safety for pilots and people of the community. You have people raising property interests which is also an important interest. You should be very cautious in whatever you do next.

Lake                    Thank you.

Andreoli             I have a modest suggestion. It may be that, maybe it makes sense and it may not make sense to you legally or otherwise, and I may be talking against my client's best interest. Maybe it makes sense to continue or table the issue with regard to the rezone. Let's see if the development occurs. If the development does not occur or goes away by the wayside or is withdrawn because they can't move forward, then you may be in a position to move forward at least on one end of things not with regard to administrative plat issue. Again, that's perhaps something for another day or another discussion. It seemed to me that especially given the administrative nature of the plat, if that gets approved and they've developed then it's all moot. If they don't develop, then we're kind of back to square one and maybe things can be revisited at another date free from the burden of having a plat request being filed and you have to deal with that at the same time. Just a thought. Again, my client may not like me saying that but as a practical matter that seems like something that you might consider or might not. Thank you.

DeLong              May I step in? Members of the Plan Commission, often there was comment about the staff report and how it touched upon cluster subdivisions. Certainly, that is mentioned in the staff report. Again, back to the narratives of the topic of conversation is that staff certainly did not want as a part of this process to give the false impression that a rezoning to Agricultural would eliminate the probability of a subdivision. Your zoning ordinance facilitates something called a cluster subdivision hence that's why that language is in the staff report. So, I wanted to provide that clarification for you as to other items that have been discussed this evening. Certainly, Mr. Andreoli's idea is something to consider. Certainly, may want to consult with your legal counsel up here. I mean, this is unique in that you have your Town Council requiring you to have this hearing and so to then continue it for an undefined period of time to let the ministerial process work its way down through the chain of discussions may not be looking



to meet the objective of the Town Council. Certainly, the Town Council, this process as the attorneys practicing in this room tonight know who have represented petitions in front of the Town Council, this hearing tonight as all hearings go is the first hearing in a rezoning process. The Town Council has no obligation to take further comment or any comment. So this tonight is the moment whether it is conversation. So only the Town Council has the ability to take three-minute comment, adjust its rules, but we're not here tonight to make decisions for the Town Council on how they operate their processes. This is the—this action tonight is the first hearing in a multiple step process with the rezoning. So, I wanted to provide that clarification for you. Certainly, again, staff's recommendation is based upon as indicated tonight the two-year effort to review this area. The compatibilities of concern for the staff hence the recommendation and support of the plan as it's been put together but certainly the discussion this evening is all very germane in terms of time and vested rights. To answer the question, May 10<sup>th</sup> is when the plat petition. Check was cut the 9<sup>th</sup>. We have the date stamped as the 10<sup>th</sup>, the one that appears electronically and in the file.

Lake Thank you.

DeLong Certainly.

Franz So, I'm just going to ask. To continue it indefinitely, that's completely in our discretion? No? I'm just—I want to understand what the request, what his suggestion was and what that means.

Taylor I think his suggestion is to continue it and make a decision on the plat and then that might negate the need to make a decision on the rezone. I don't agree with that. I mean, I think that the Town Council has asked you for a recommendation. You should give them whatever recommendation it is you believe you want to make. You don't make any decisions on the rezone. That keeps that process moving. When you get finished voting on what your recommendation would be, then you'll consider the next case which just happens to be that primary plat and you'll then shift gears and move out of the legislative recommending mode and move into your direct activities finding whether that plat meets your ordinances. I think that just as the petitioner in the next case has rights to be heard and be a part of your process, the Town Council just because they're the petitioner, they have the right to be heard too.

Franz Okay. I just wanted to understand what the suggestion—

Taylor I don't think the two are inextricably linked in the way that one might think. I think that—I mean, I just think that you should make your recommendation and let the Town Council do whatever comes next. They're not bound by what you do anyway. They can make their own decisions.

Franz Any further comments, questions for anybody?

Lake Wayne, are you representing just the staff or also the petitioner this evening?

DeLong Staff is here tonight representing staff.

- Lake Okay. The only reason I ask is because we really haven't heard from the petitioner in this case.
- Franz I don't think we've really in the past on rezone, we've heard anything, any discussion or any comments from the Town Council on those matters, so.
- Lake Yeah, I'm just—
- Jones Yeah, but this is different. The Town Council is the petitioner.
- Lake Yeah, it's interesting that they—
- Franz They instruct us all—they technically instruct this. If you want to come forward, please.
- Lake Interesting that it's—
- Traylor Brian Traylor, 10319 East 100 North. No, I have nothing additional to offer that hasn't already been said. To answer your question, I'm happy to answer any questions you may have. I was the one to make this recommendation. It's strictly based on a common-sense approach. I have no vested interest in the airport. I have no vested interest in this property. I don't know the petitioners, have nothing against them making some money. My issue is one of a community well-being. I don't feel like the best interest of the community is to have a neighborhood at this property. Seeing the friction that has already been put in place with Fieldstone, Brookhaven, we have proven track record of this—I would say friction is the worst word. It's not awful but you move further north and the airport moves further south which we can't control, it's going to be worse exponentially.
- Franz All right, thanks.
- Traylor I'm happy to answer any questions you have. I'm not avoiding anything.
- Lake No, no. I appreciate that. It's just rare to not have a petitioner speaking on their own behalf.
- Traylor Well, I don't believe in my six years on the Town Council, we have ever done this. So, I'm new to it, too.
- Lake Yeah. I've only been on the Plan Commission for six months, so.
- Traylor Right.
- Franz All right. We have another person standing up. Do you want to speak to?
- Metzler If I could please.
- Franz Sure. I just want to make a notice that Cindy Madrick is on the Zoom call and has been participating via phone. So, she is attending the meeting virtually.

Metzler My name is Jim Metzler. I'm not a lawyer, I won't sue. I just happened to be—the petition here—address is 11281 East 200 South. I'm 11280 East 200 South. I'm across the street. So, I can't imagine that this plan is going to impact anyone more than it's going to impact me. I have to say when I listen to the different comments and things back and forth, I've been there since 1989 so I was there before the Executive Airport. We talk about noise and we talk about those kinds of things, I was out there when it was gliders and we would go out with our baseball team and we would watch the gliders come in. So that's the kind of noise I like, you know. Obviously, that was overruled and the airport was sold. I'm more concerned about—we talk about all the rules and if everybody does what they're supposed to, everything's fine. They don't. They don't. The folks who are flying the planes, there's not a day goes by that someone doesn't zoom over my house. They take the shortcuts. They take the shortcuts. Talking about the housing addition across, the speed limit of the road is 10, 15, 20, 30 miles an hour is the average speed for those people. I'm sad and I get it, it's the real world. It seems like all we talk about is money and the people that, what money's going to be made and what money's not going to be made. What about the children? What about the safety? What about the folks in the community? I don't know if you know it or not, but that is a bike path and that is a haven for bike path. It won't be. You add 179 more homes across the street and the traffic and the, you know, things that go on there, it won't be. It won't be the same and maybe it's progress, okay. I guess, I'm confessing I'm getting old but I'm sad because we're not talking about kids, we're not talking about safety. We're talking about dollars and it is not a good use. Agriculture is a good use for that property. This is a money grab in my mind. Thank you.

Franz All right, thank you. All right. At this point in time, I'm going to close the public hearing and then let's talk up here on how do we want to proceed on this matter. We really have three directions: favorable, unfavorable, or no recommendation. So, a motion open for suggestions. Your vote may determine which way we go anyway, but—I see both sides of the fence on this thing. I get it but however, I think the issue that I see is the fact that, you know, they filed with R-3 and then the fact is they're requesting a downzone post staff and it's, you know, it's—to me, that's not correct. I mean, by law, it's not correct, so.

Lake I'm with you in that I don't support the use, but I agree with the right to the use.

Fedor I 100% agree.

Walker Yeah, I do too.

Fedor It's—I don't think I'd want to live there but I'm not saying somebody doesn't have the right to try to do it. It's a mess. I don't think it should have ever been R-3 to begin with, in my opinion. It probably should have been something else.

Lake Are you listening?

Jones Oh, you know. I buy law by the bushel basket anymore. So, you know, it really comes down to the other side of the coin is that, does the Kato family and their representative really feel that they can go and recover some sort of value for this

by saying it's being deprived of its highest and best use? The family in requesting the rezoning from the county who made a series of agreements that the airport has a right to be the airport which relieves the airport of responsibility and it also resolves the issue that I had with Zionsville being put on the hot plate. You know, there's a known issue out there. This was all done 14 years ago. I think applying a little common sense, airport use has become more intensive so there's going to be more of an impact than even what the people who agreed to these commitments 14 years ago could have anticipated. So if we pass along a recommendation to the Town Council that we should go ahead with the downzone, then it's the Town Council's choice whether or not they expose the town to a lawsuit over it. You know, yeah, there's probably going to be some blood on the sidewalk but the petitioner, you know, they have their own burden to actually prove that they're being deprived. We can make the statement we're helping them with the best business decision they could make. The cost to develop these lots is going to be 'X'. You can't do it for a half or a third because it's close to the airport. Like everybody says, the housing prices are also going to be only 'X' because of the existence of the airport. We have done our due diligence on one hand on making sure everybody's going to be put on notice on it. If we just take it one step farther and approve the downzone, then it's everybody else's job to figure out how they want to do it. Town Council doesn't have to listen to us.

Franz I understand. Back when they got this in 2007 or 2006, obviously the airport extension was planned. You know, at that time, you know, I think with an extension being built, I think it's easy to state that we anticipate the traffic is going to be heavier. So, you know, I realize it was Boone County that passed this or gave them the zoning but at that point in time if Mr. Andreoli's telling the truth which I believe he is, there was no objection. Now, 15 years later, there's an objection and I—you know, there's a subdivision to be honest, the one south are probably more in the direct flight path than what this one's going to be. So, I mean, yesterday, you weren't hear but we had the airport plan and they talk about residential in different forms right adjacent to the flight paths. They say "Well, it's different. It's apartments." You know, so it's, you know, they—it go, I mean, they're kind of on both sides.

Jones I read through that report even though I was missing in action. The gist of that is that residential, that commercial, all those businesses will have a direct benefit to that access to the airport. The people moving into these homes are going to have no direct access to this airport. It's not like, you know, a pilot would live next door. If a pilot could get out and walk over to his plane, that's justifiable. Then he's going to know the risk of being near the airport. People living in these houses aren't going to hop out and—

Grabianowski We have a pilot right out there that lives in those neighborhoods. So, I think you're wrong, Larry.

Jones Well, but—I'm sorry. All right.

Lake Southwest going in and out of that airport we've got big problems.

Walker As it stands right now, [redacted] at that airport.

- Franz Well, no, we've already closed the public hearing so can't, no more comments.
- Lake I think where he was going was the airport runway won't support bigger planes anyway which we heard last night. It's a weight thing not a distance thing.
- Franz All right. So how do you guys want to proceed?
- Jones I'll make a motion. Let's get it rolling. I move that Docket #2021-21-Z to rezone 160 +/- acres from the R-3 Rural Residential District as modified by Instrument #200700001388 to the Agricultural AG District receive a favorable recommendation based on the findings in the staff report as presented subject to the execution of a written zoning commitment prohibiting cluster subdivisions on the subject property with the recommendation being certified to the Town Council for adoption or rejection.
- Franz All right. So, we have a motion for a favorable recommendation. Is there a second to that?
- Lake Do we have anything from Cindy?
- Franz Cindy, are you online?
- Lake We're going to need her up as we vote anyways, so.
- Franz Yep.
- Taylor Not unless you've got Cindy to second that. Not unless Cindy's going to second that.
- Walker Right now.
- Taylor She's not going to second it online, is she?
- Franz I don't know. Cindy, can you hear us?
- Madrick Can you hear me?
- Franz There you go. We can now.
- Madrick Okay.
- Franz Are you interested in seconding the favorable recommendation?
- Madrick Yes, I am.
- Franz All right. So, we have a second. So any further discussion before we take a roll call vote? Okay. so an "aye" will be for a favorable recommendation. A "nay" will be for a—
- Taylor It will just be against the motion.

Franz Against the motion. All right. Wayne, would you please take roll?

DeLong Certainly. Mrs. Grabianowski?

Grabianowski Nay.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Walker?

Walker Nay.

DeLong Mr. Lake?

Lake Nay.

DeLong Mr. Fedor?

Fedor Nay.

DeLong Mrs. Madrick?

Madrick Aye.

DeLong Mr. Franz?

Franz Nay. All right. That motion is defeated, 5-2. So would anyone else like to make another motion on this matter?

Fedor Let's see. I move that Docket #2021-21-Z to rezone 160 acres from R-3 Rural Residential as modified by Instrument #200700001388 to Agricultural District receive an unfavorable recommendation based upon the findings in the staff report as presented with recommendations being certified to Town Council for adoption or rejection.

DeLong I would note that the staff report is supportive of the filing so certainly your motion may want to—

Fedor I'm sorry.

DeLong Mr. Fedor's motion may want to—

Fedor Yeah, with the removal of the statement on staff report. Is that sufficient? Okay.

Franz We have a motion. Is there a second?

Walker Second.

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Franz All right. We have a second. Is there any further discussion? Wayne, would you please take roll?

DeLong Certainly. Mr. Jones?

Jones Nay.

DeLong Mrs. Walker?

Walker Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Fedor?

Fedor Aye.

DeLong Mrs. Madrick?

Mrs. Madrick Nay.

DeLong Mr. Franz?

Franz Aye.

DeLong Mrs. Grabianowski?

Grabianowski Aye.

Franz That motion carries, 5-2. So, we will forward this to the Town Council with a negative recommendation, unfavorable recommendation. All right. Next item on the Docket, we're going to have a lot of the same people here on this one.

Jones So wait a minute. It's a—

Franz Unfavorable.

Lake Unfavorable.

Jones All right. You—

Franz I said negative, and I corrected the unfavorable.

Jones To deflect, well, no—

Franz I said negative recommendation and then I corrected the unfavorable so it's unfavorable.

Jones All right.

Franz All right. Next on the Docket is #2021-21-DP Union Woodlands 11281 East 200 South petition for primary plat approval to provide for 179 lots in the Rural R-3 Residential Zoning District. Petitioner present, please state your name, address, and begin.

Rector My name is Christian Rector, Vice President of Land Acquisition and Entitlement for Silverthorne Homes, 9225 Harrison Park Court Indianapolis, Indiana. Had a presentation. I'll admit after all the discussion, I'm not sure it's necessary or if even I can get the HDMI cable to plug in here. Is that—I've done this a lot of times. I've never done it immediately after a petition on the same piece of property. So, I'll be brief in my overview here because it's already mentioned. We are Silverthorne Homes petitioning for primary plat approval of 179 lots for the Union Woodlands subdivision. We are Silverthorne Homes. We have been referred to as Arbor Homes a few times here tonight. We are the same company. However, Silverthorne is what has traditionally been called a move up product. I would argue in today's pricing world, Arbor is quickly becoming a move up product and Silverthorne is beyond that. Company has been in existence and managed here locally since 1994. In 2018, we had the opportunity to join the Berkshire-Hathaway family of companies. This is the piece of property we have been discussing the entire time. I would be remiss if I did not mention that everything we've discussed here tonight is of a concern. We would not be doing our due diligence if we did not go out to the property, listen to the planes. I've mentioned that the cost is not insignificant of developing this property. These are not what would traditionally be called entry level housing. These are substantially priced homes and we have a duty our due diligence in making sure that we believe that there is a market for that before we make the substantial investment to develop this property.

Our core values: family, opportunity, our customers, our all five of our tenants. We don't take the safety conversations lightly, however, safety is a tough subject to discuss. Around 400 kids a year, die in residential pools. Every single one of those is terrible, there are laws about fences and pool covers to try to prevent that but I'd be willing to bet several people in this room have a residential pool. It is a risk that we make and as it has been discussed, there are commitments on this piece of ground. We'll have to disclose the airport to our customers. It gives me even further confidence knowing that a pilot is comfortable living in a neighborhood immediately south of it. As the staff report says, we are in compliance with zoning. The R-3, we believe actually despite all this discussion, the parcel to the north is already zoned Agricultural. Any other designation was in error when the reorganization was done. The commitments on the property state that that northern parcel remains Ag and that 35 acres be dedicated to the town for park space. You can see the rest of our statistics there. The 179 grosses out the 1.1 density across the entire parcel. I believe we are just under 2 when you subtract the space that we are dedicating to the town. These are some pictures of our homes. We have 12 floor plans each with a substantial number of elevations to provide a variety throughout the community. As has been discussed, we have a positive recommendation from staff. Primary Plat is ministerial in nature. We are in compliance with the zoning. If we need to make an additional commitment with the approval of the plat, then we will absolutely comply with all of the zoning commitments that run with the property. The notification to the



buyers and the addendum, the DCCRs including the language noticing it as well as the language on the secondary recorded plat, and the fact that the buyer's are noticed it's not a nuisance. We are happy to—the development suspenders that so that it's also a condition of a primary plat approval just so that everybody is certain of that. I'd be happy to answer any questions but I feel like we've discussed this at length already.

Franz All right, thank you. At this point in time, is there anybody in the public that would like to comment on this matter?

Howard Mike Howard, attorney for the Airport Authority, 694 Logan Street Noblesville, Indiana. I would like the record for this petition to incorporate my comment, my prior comments and I would suggest that even though this plat may meet the rules of your subdivision ordinance, it doesn't meet the rules that were in place when these people entered into contract to purchase the property. We've got a petition here that's several hundred pages and it was in their title work that they would make the disclosures that Mike Andreoli made to the county commissioners to induce the to get the R-3. I know about the Doseman 01:48:39 Case and I know about the fact that if it is zoned that way and they meet the plat requirements but there were rules for this property that were voluntarily in place the day they filed this. With all due respect, when you have such a detailed list you must do, not to include them in the 100 or so pages and let people know that we are going to comply with all the rules, they have not complied with the rules in the plat. I respectfully suggest that this, "Oh, we forgot and it was preliminary and it's not a big deal" and go ahead and make it a condition of the plat approval. This petition is before you as submitted, and it is incomplete. We ask you to deny the plat as submitted. Thank you very much.

Franz All right, thank you. Is there anybody else?

Chope My name is Tom Chope. I live at 119050 East 200 South right down the road from Mr. Metzler pretty close to the end of the runway, too. We are very concerned about two issues. One, almost beaten to death but I'm going to cover it anyway. Firstly, something that hasn't been mentioned that we are very concerned about, vehicular congestion. I don't know whether that's been covered with anything before. I know it was mentioned, the previous meeting. You've got something there? Okay. the thing that concerns us is 179 houses on 161 acres and that the houses will be built on about 52% of the land that they've apparently purchased or would like to purchase. Concern is 179 houses boils down to 716 vehicles trying to get out of that subdivision and back into that subdivision every day through county Road 200 South which is a county rural country road, two-lane and it's not capable of handling that kind of traffic. Secondly, majority of those 716 vehicles are going to have to get out onto 421 and there is nothing there or I've heard of nothing being planned to make that an intersection that's going to be able to handle 716 vehicles going through it. Some of the vehicles could filter going east to the Boone County/Hamilton County line road but that road which is in my vernacular 1200 East is even narrower than 200 South, the road that I live on. If you've got two dump trucks coming at one another, both of them have got to put wheels on the shoulder in order to get by. None of that takes into account the damage and the disruption that all the construction traffic is

going to do to a country road. That just by the way, was just recently repaved within about the last two months.

? Two weeks.

Chope Well, yeah, they just painted the stripes on it today. We've got enough tri-axle dump trucks and I've been in the dump truck business and I worked for Allison Transmission for 46 years. So, I know a little bit about trucks. A few years back, the Pittman Organization tried to build an apartment complex across the street from us. The residents rebelled against that because of congestion and either they withdrew the offer or what, I don't know but the issue died. So, I'm now concerned about trying to get out of my house, get onto the road. Once I'm getting onto the road, to get onto either 421 or 1200 to go someplace. Now, I'm retired. I've been retired for 15 years but I still like to go places and I think you do, too. So we request that this plat for 179 homes on 161 acres be denied.

Secondly, the subject that we just ended up talking about. It's really about the safety and the noise issue like it's been brought up. I'm just telling you, I'll bring it up again. Everybody said everything that I was going to say especially that gentleman over there talking about being able to have the planes go over his house at 150 feet. You can see the peoples' faces in the planes as they're landing. Now, they don't go right over my house but they don't go very far from my house. I will go back to—since we all like to go back to 2006 or 2005, a letter from the Hamilton County Airport Authority, recommending that Union Elementary School not be built there because of the noise, the danger, the pollution. There's 40,000 operations and I presume an operation out of that airport is a takeoff or landing. There's 40,000 of them in 2018. I don't know about 2019 or 2020. The figures that I got were on a INDOT database. Do we really think this is a good place to build a neighborhood especially of \$400,000 homes? I don't think so. Thanks for your time.

Franz All right, thank you.

Emerson Good evening. Emily Emerson. I live at 2486 Still Creek Drive. I'm also a Brookhaven resident in Zionsville. I would just like to reiterate, I think, a lot of the concerns that my neighbors have stated about, well the expansion which we know is happening. I have two little girls. They are going to be at Union Elementary School. I obviously have concerns about that. I have concerns because the planes fly very low over my house and yes, I did, I signed the, you know, I signed the disclosure when I bought. These people in the houses are also going to presumably sign the same thing but I also have concerns that my pilot neighbor also raised about our property values in Brookhaven and you know, this should all be stuff that's taken under consideration. I'm curious about what the representative from Silverthorne Homes was representing with respect to the price of these homes. I mean, we're concerned about having, you know, low value homes that are placed north of us. I've searched through Zillow while we're doing this. I haven't seen anything over \$400,000 that are in these communities. These are not high-end homes that are being proposed here. I mean, I'm looking at Flagstone Ridge, Stone Grove, Carlton Heights. These are topping out at about \$350,000. This isn't—I mean, I think that's something that really needs to be considered here and it wasn't what was being stated earlier. So,

I had concerns there. I also had concerns when I saw the plan that was put up there with a big retention pond. I can tell you that in Brookhaven we've got a ton of geese in our ponds. So going even further north, I know geese and planes don't mix. So, I just have a lot of questions about this planned development. Thank you.

Franz All right, thank you.

Frye Hi. My name is Bill Frye. I'm representing the Indy Exec Airport at 11329 East State Road 32. I'm also President of the Hamilton County Airport Authority so I'm speaking for the authority as well. I wanted to clarify a few things that were said tonight considering the history of this particular project. Mr. Andreoli stated that in 2006 that he discussed this original plot plan with the airport. That's not entirely correct. The engineers who work for us or engineer airport has also retained Mr. Snyder at Woolpert and they looked at the plot plan mainly to provide advice regarding a safety of the area as well as things like retention ponds and so forth. The fact that the Airport Authority at the time first of all was probably still a board of commissioners then but none of the present board members were on any of the boards then. So we can't say for sure what transpired but no objection does not constitute support of this project.

Secondly, there was no zoning study done by Boone County which authorized the rezoning request to understand the implications of the rezoning and putting homes down in that current spot. Moving more recently within the last year, the Airport Authority and our engineer were contacted by and met within our homes and their engineers, American Structurepoint, in March of 2020 when they first presented plot plans for this particular property. We expressed our concerns over their plot plan which showed homes extending all through the part of that property that zoned as Agriculture and showed homes going up to and along 200 East, 200 South. We were contact—we had several conversations with the people at Lenar and Structurepoint. We expressed our concerns over not only the density of housing and the proximity of the housing to the airport but also to the retention pond that they showed which were right in line with the runway. That as the previous speaker talked about, geese are attracted to water and to standing retention ponds and geese and jet engines rarely make a good combination.

We were contacted again in September of 2020 by a representative at American Structurepoint on behalf of Arbor Homes, Silverthorne Homes regarding a new proposal for homes in that same piece of property. The plot plan we saw was dated 15th of October 2020 and also showed homes in the Ag listed area or the area still retains an Agricultural zoning, and also showed retention ponds that were directly in line with the runway. We expressed concerns over all these issues and made the recommendation. I think the comment also came up that our engineer said that was the worst design near an airport he had ever seen. In December 2020, we requested the developer to give us an updated idea of what the new plot plan was going to be. We never heard from them at that time. In May of this year, Producers Realty filed for plot approval for a development called Union Woodlands on the property in question. While the 2021 plot plan excludes homes on the northern part of the property which is now zoned Ag, it does contain retention ponds that will attract waterfowl. You saw from the diagram that was shown up on the screen, the largest retention pond in that

proposed development is in direct line with the center line of our runway. The current plan is close to that proposed in 2006, however since 2006 a number of things have happened. First of all, as Chris Snyder reiterated, FAA standards have significantly changed in that period of time. So some of the requirements, recommendations are circulars by the FAA that were in place during the 2006 design are not valid. Economic growth in this area has resulted in a common growth in business jet traffic at TYQ relative to what was there in 2006. There's been no change in the 2000 current plan to the 2006 plan regarding wildlife. The current plan now shows a large retention pond less than 4000 feet from the end of the runway and in line with it. In about 2018, TYQ conducted a wildlife hazard study that highlighted waterfowl dangers both onsite as well as in the surrounding area and we were told to take active steps to reduce both on and off airport property. There's also a circular by the FAA that concerns retention ponds. Correct me if I'm wrong, President, 10,000 feet from a runway? No retention pond should be within 10,000 feet of an active runway. Another, just one last thing, a question that came up between about a residential. There's a specific difference between single-family houses and they're proposed in this development versus the apartment-type houses they're proposing in the airport village. First of all, apartments by definition will have a higher average noise ratio just because apartments tend to be in many cases young and noisy. You tend to find a lot more background noise in an apartment complex than you would get in a residential area. That's all I had to say. Thank you very much.

Snyder Chris Snyder with Woolpert. I will be brief. Since we have met with the developer on some of the critical concerns and the design standards, they have made several changes. So this is reflecting what has been submitted. There is one significant issue and it is big. So, I will try to clarify this is that most accidents and incidents that occur in the air at airport occur off the ends of the runway in the immediate proximity of the approach. That usually happens because of land development that's in that area and that is when it becomes more catastrophic. I tell you this not to scare you. You guys had a big night already. So, I'm not here to threaten. That's not going to get anything but I will tell you that they do plan on putting in a wet detention pond per the plan. We did express those concerns in looking at dry detentions or something that would drain in a reasonable amount of time. That is not what is being proposed. So, I would ask you to give serious consideration to the drainage proposal on this project. Thank you.

Franz All right, thank you.

Clemmer Hi, again. Tyson Clemmer, 11316 Still Creek Drive in Zionsville. One point that I do think is important to clarify. I thought I may have heard a comment about homes within this neighborhood will not be directly within the flight path or closer than any existing home within Brookhaven. I think what I briefly saw on the plot plan, there would in fact be homes directly south of the runway closer than any existing home within Brookhaven. So per the prior discussions, I do understand the apparent obligation to entertain potential residential development in this area but I do think it is very important to consider the safety implications as just briefly noted of residential homes directly within the flight path and so that's safety impact for both the residents but also the location of retention ponds and the implication to pilot safety as well. So, obviously you need to entertain the petition but I do think there are serious safety concerns as presented to you today.

Franz All right, thank you. Is there anybody else?

Traylor Good evening. Brian Traylor again. So I wanted to give a little bit of background on maybe why I'm so passionate on this. My—I grew up in a aviation family. My father is a retired pilot. He also managed the FBO which is essentially the working office of a small community airport when I was a child. So I have a pretty good knowledge just shy of perhaps of our airline pilot in the room of airports, aircraft. In addition to that, in 2002 I was working in Lexington, Kentucky for—I'll get to why I remember this so well. I was working for a company called Robert Haff. We had a nice high-rise office and I saw outside of that window an airplane come off the end of the runway in Lexington, Kentucky. That has stuck with me for my entire life, because I saw the explosion. The reason it stuck with me so much is because at that time, they announced what kind of aircraft it was and that was it. Happened to be the same type of aircraft that my father was flying in and out of that same airport. So it kind of stuck with me because there's not that many of that particular aircraft going in and out of that airport. Seeing that happen, witnessing it first-hand, it doesn't happen often. It's not likely to happen but it can happen and it does happen. Putting a neighborhood at the end of this runway is extremely dangerous. Had I been on Town Council, you know, in prior neighborhoods when they were recommended, when Union Elementary was recommended, I probably would have been standing here in the same position lobbying against it as well. That is not the case. I am here today because I can do something about this and not make the problem worse than it currently is. So, I would ask for this to be denied strictly on a safety, you know, on the case of safety. It's just not a good idea to have a neighborhood at the end of the runway. Even if they're giving, you know, land as a park, do we really want an airplane if an accident were to happen—if somebody were to have to ground the airplane at the end of the runway, is it any better that it go into a park? That's it. Thank you.

Franz All right, thank you. Is there anybody else that'd like to comment on this? Sure. We'll come back around, so.

McGurney My name is Garret McGurney and I live at 1134 Glen Avon Way. If you look at the map, well, if you look at the plot of Brookhaven, our street was the last one developed and backs directly up to this 160 acres that's been debated all night. Now, just a couple points. First of all, Mr. Jones asked earlier that, you know, what about the profiles and prices of the homes? Well, the home beside me just sold for \$850,000. The home right across from me just sold for around \$800,000. Okay? These homes that are being suggested are basically starter homes. I mean, they may have a few amenities on them. There's lots of those over at Whitestown if you would like to go over there but we have a beautiful community there at Brookhaven. That whole street was here at the last meeting when you gave a continuance so those folks were at some of the meetings last night that were held and they didn't think anything was going to be debated tonight so they didn't show up. I will tell you that most of those folks—that street was just finished over the last two years. Most of those folks are in shock because they didn't realize what was happening behind them. So the gentleman back here that was debating saying it wasn't really—yeah, a lot of people just didn't know about whether the airport and expansion plans and things like that when they bought

the home was exactly right. The other thing is I have family that teaches up at Union School. That school from what I understand is pretty much maxed out. So what's the Town of Zionsville going to do with 179 homes? Bless their hearts, they're going to have a lot of young people over there and that's an issue along with a lot of other infrastructure issues as well as the roads and things like that. So, I just wanted to say that if you—well, if I understand it correct, you just made a motion that you're going to recommend the rezoning not go through. So if you put homes there, at least put homes there that are equal to what's all up on that area of town which are very nice—which are big homes anywhere from about 5500 feet to 7,000 feet and that are comparable because the land values are going to go down if you build a bunch of starter homes. They don't like to refer to their homes as starter homes but that's exactly what they are. So, I'm just asking that you consider that. Thank you so much.

Franz All right, thank you. Is there anybody else who'd like to comment? Would you like to respond?

Rector Yes, sir. There's been a lot to discuss tonight so I'm going to try and make this quick because I've already said we are in compliance with zoning. I would like to point out that zoning under R-3, I believe, has a set density but the zoning commitments on this property allow us to go up to I think it's 240 lots. The minimum lot width is only 50 foot and a lot size of 5,000 square feet. We are way above all of that. We are in full acknowledgment that this is Zionsville. The market value of the land that hopefully we aren't ever debating beyond our negotiations to purchase the property does not support our traditional Arbor product. We could have, under the current zoning, come in here with Arbor, met the zoning, maxed out the \$240 but we were not doing that. Market capitalism, market economy wouldn't allow us to do that because of the price of the land. The numbers I gave earlier are rough estimates. We've never built in Zionsville before. The numbers that were quoted, they're from Zillow. I'm not sure how accurate they are but our starting pricing in McCordsville which is where Stone Grove that was mentioned is posted online. Our starting pricing for Flagstone and Carlton Heights which are in Noblesville is posted online. That is our starting pricing. We usually have at least \$80,000 dollars of options put into homes beyond that because we do have a design center. All of our buyers come in and meet with a professional designer as they pick out their cabinets and furnishes within the home.

Traffic has been mentioned. We've done a traffic study. The FAA has come up a lot. We have heard enough from attorneys, I think, hopefully. I don't need to, I don't want to go into the difference between circulars, memorandum, and federal regulation. Those are all different things. We will have to meet all federal regulations. I think the only one of those that was mentioned tonight was the AFT permit that we will have to file to demonstrate that we are below the maximum height. That is a process that we will have to go through because of our proximity to the airport. We've already run our preliminary topographic study to ensure before we got to this point that we were fully comfortable meeting that with all of our homes. At the end of the day, this is a ministerial approval and it's my understanding that under 1109, we are entitled to the zoning as it is. If our application does not pass, we are entitled to be given notice as to why it was not so that we have an opportunity to amend that. I believe in

agreement with staff that we do meet the requirements and would ask you to follow the law and give us a approval of the preliminary plat. Thank you all for your time tonight. I know with last night and tonight that's been a long few evenings. Thank you.

Franz All right, thanks. I guess with that, Wayne, I'll ask for the staff report.

DeLong Certainly. As discussed, the petition that's in front of you this evening is a preliminary plat. Conversation relates to 170 lots, 179 lots subdivision. The charge of the town and the staff is to review the project and the proposal against the subdivision control ordinance as well as the zoning ordinance that's in place at the time of the filing discussed previously. Staff finds that the project proposal is in conformance. We do mention some items throughout the staff report and certainly the engineering letter. Certainly, this traffic has been a topic. The Town of Zionsville requires in all cases filing a traffic study that is a part of the filing. Certainly, recommendations and comments are found within that document. Additionally, this particular subdivision as well as all subdivisions will be paying into the road impact fee fund which is a fund that then is used to facilitate roadway improvements throughout Zionsville and specifically this area. Again, staff is supportive of the petition as it's presented and we're happy to answer any questions.

Franz All right, thank you. At this point, I'll open it up to members of the Plan Commission. Questions, comments?

Lake There were several comments made about dry retention. What are staff's thoughts on incorporating that to aid in safety versus a wet basin?

DeLong The town engineer has reviewed the project against the drainage ordinance. If that's certainly as safety has been discussed, if there's items that can be done to enhance the safety. Certainly, if that's definitely advantageous however, the town is bound to review the project against the subdivision control ordinance and if it does not necessarily or it's in the town's drainage ordinance which does not take other issues into play that may have been discussed this evening in terms of water elimination of ponds of water because of birds and potential issues with plants. The petitioner can speak probably more eloquently to that topic.

Lake Yeah, I'm just trying to understand where our obligation goes beyond what is stated in that stormwater requirement to protecting the safety of the residents because we see a known problem that may not exist in 99.5% of the rest of the acreage of Zionsville that happens to exist in this 0.5% and addressing that as part of the review. Is there an obligation to do that above and beyond the drainage requirements?

Franz I don't think we can require them to do something that is not in the ordinances.

Taylor Right. I think maybe I would address it the other way around and that is that when you have a rezone or a planned unit development proposal before you, you can address almost any issue you want in that dry detention, alternative stormwater measures, what the price point is of the house, what the exteriors on the house, where the roads are going to be, what the park's going to look like.

Those things are all fair game. Those are all fair game. If a petitioner brings to you a submittal and they are requesting waivers from your ordinance, that frees up a little bit as long as you can show a nexus, a connection between the waiver and what you're talking about. In a preliminary plat, your job is to simply say, have they met our ordinance? Now, your zoning ordinance or your subdivision control ordinance could require developers who are within a certain radius of the airport to use dry detention. It doesn't. So at this stage, at this particular moment when you're looking at this particular submission, as the staff report says, you're supposed to look at three things. I'm going to paraphrase them a little bit for the sake of brevity but essentially that is, are the lots drawn correctly, is there an adequate provision for roads which complies with your road standards, are the roads the right width? Do they have the right radii and so forth on the turns? Then, does the plat provide for the adequate provision of the extension of utilities? Are the utility easements on the plat and so forth? These kinds of cases are really pretty simple and this case may show a need to amend a zoning ordinance to talk about dry detention but you don't have the ability to require anything of the petitioner that the ordinance doesn't require. It is really—

Jones I want to ask a quick question, though. Aren't regulated drains part of the municipal services that benefit the entire Town of Zionsville?

Taylor You mean a legal drain?

Jones Legal drain, you know, correct. The creeks and the regulated drains and any of the other swells, grading done to move water from one portion of the town to another.

Taylor Well, regulated drains are designed for the benefit of everyone in the watershed.

Jones It's a municipal service?

Taylor Well, it's—it can be and it can be private, too.

Jones My concern is the retainage pond that we're looking at here is not really adequate for our town's needs and that it is creating a what appears to be a public hazard and that's of concern. So we don't think—I don't think he's met enough of what you just said. There's three items we check: lot size, adequate provisions for widths and grades of the road and then adequate provisions for the extension of water sewer and other municipal services. If the extension of those other municipal services we perceive that's going to create a hazard, I'd like to see that vetted out a little better.

Taylor Yeah, I'm not going to argue with you. I'd just say that you have a stormwater ordinance that imposes all sorts of obligations on developers for what the town expects. I'm just saying you can only hold them to your ordinances. That's all I'm saying.

Jones Okay. That's—I'm just trying to get some clarity. The other question too popped up and we keep talking around it. There's different comments about homes in the flight path. There's an Exhibit 3 in here that I guess I'm struggling to understand.



when you talk about flight path and homes in it, it appeared that there's homes in it unless I'm not understanding what this Exhibit 3 is showing me.

Franz I think on the original documentation that actually Mr. Andreoli provided, I guess there's a kind of like a no-fly zone for lack of a better word. So they build houses up to that line and then that—I mean, the houses are built, yeah, they're in the flight path but they're not in that section where they're recommending that there's no planes.

Lake It starts right here.

Jones Correct.

Franz Is that correct?

Howard I'm looking for the Exhibit 3.

Jones The colored.

Howard They're not in the runway protection zone.

Franz Yeah, that's it. that's it, runway protection zone.

Jones So how far does the runway protection zone extend off the end of the runway?

Franz To the back lot of those houses probably.

Howard We believe that 02:25:20.

Jones Does anybody know what that is? Am I missing a point?

DeLong Uniquely, that information is contained within the airport study that is online. Certainly just for reference here page 24 is the existing runway protection zone illustrated. Certainly, Mr. Howard here might be able to speak to that what that looks like when it's extended if it's extended due to the runway extension project.

Howard The runway protection zone talking to our engineers this is not in the runway protection zone where anything would be prohibited. That would be an area that we on the other end we use eminent domain to take down some trees and so forth but this is not in runway protection zone. It is in the noise-sensitive area. Two different standards. The noise-sensitive area is a disclosure issue. The RPC is a thou shalt not. None of these homes are in that area.

Lake So, I'm going to respect Mr. Taylor's comment before but I'm going to ask this question anyway even though I can't enforce it. Do you guys have a copy of the noise exposure map for the airport?

Rector I believe we do.

- Lake Do you know what the decibel level is over your property where your residences are?
- Rector I do not.
- Lake Do you know what decibel level HUD deems acceptable for over residences?
- Rector I do not. Like I said, I've been out there and listened.
- Lake Do you know if your construction of your houses gets your interior decibel level to 45 decibels which is considered acceptable by HUD?
- Rector I know that we will have to do that. One, there's state law for the noise-sensitive area that has been discussed and we have to follow. We will be in compliance with HUD.
- Lake I know there are some covenants in the original document that was signed but those won't get you there so just FYI.
- Rector Thank you.
- Lake That should be a concern of yours. If you don't have that information, you shouldn't be moving forward with the project until you do and you understand it.
- DeLong Just certainly, about Page 28 within the draft study illustrates the future runway protection zone, again just for your reference.
- Franz You know, people had questions about the traffic. I'd say to be honest, this is probably one of the best traffic study reports I've seen, I mean, compared to the stuff we've seen. So, I think traffic based upon this is not going to be the issue that people are going to anticipate it would be. You know, the other thing is there's, you know, there was a question about the covenants not reflecting the required declaration. I'm going to assume that, you know, we'll make that a condition of this is that the covenants do reflect appropriate requirements, material requirements as stated.
- Rector Yes, absolutely. The recorded plat and recorded covenants will.
- Franz Okay.
- Lake Wayne, since you brought it up, Page 28 of that document, do you know if that future runway is the 7,000-foot runway or the 7,700-foot runway? The reason I ask is because right now that runway protection zone stops right at the edge of these houses. If it's the 7,000-foot runway and they add another 700 foot, it wipes out those houses.
- Franz Mr. Andreoli, do you have a comment on that? You might be able to clarify it from the original.
- Andreoli Yes, I might suggest that all we knew and all the neighborhood knew years ago that was that the airport was going to increase their runway when we did the

zoning ordinance and zoned this acre, the 160 acres, to an R-3 to 7,000 feet. We were shocked when we went and understood that they increased it by another 700 feet. That was never the plan back then and it does go right to the edge of the housing but it doesn't go into the housing itself. So, it's very close.

Lake With the 7,700-foot runway?

Andreoli It still does not go into the housing.

Lake I was just trying to make sure this was showing the longer runway length and not the shorter runway length.

Andreoli Yeah. That was not part of the original commitments. That wasn't part of the original understanding. If you look at the map that was furnished to us previously, it was a 7,000-foot runway they were going to move an additional 1,500. Then, when we met with them a year and a half ago, we determined that they apparently for whatever reason decided to bump that up. They understood that was all they were ever going to need is 7,000 but apparently they bumped it up another 700 feet. Doesn't change what we were going to do because we left that whole area Ag which we can't do anything with anyway, so.

Lake Okay.

Franz Thank you.

Andreoli At the time—I might even suggest this, at the time we suggested that if they even needed some of that ground depending on who the entity was that would take it for light stanchions or anything like that from a safety standpoint, that we would work with them in that regard to try to make sure those things were located in that Ag area that was in the runway protection zone. They've not requested that, so I suspect that we'll just move along with the original plan but we indicated we'd be happy to work with them with regard to lighting if they needed it at some point, so.

Franz All right, thank you.

DeLong Just for clarification, on Page 26 of the draft study that was discussed last evening that was referenced to figure 3.3 and 3.4 which is Pages 27 and 28 in the study. Page 27 illustrates is Figure 3.3 which speaks to the RPZ, the runway protection zone in a Phase 1 pattern. Page 28 is illustrative of a Phase 2 of the future runway protection zone. Phase 2 correlates to the language on Page 26 which is referencing a 7,700-foot-long runway.

Lake Thank you.

DeLong Certainly.

Franz All right. Is there anything further?

Fedor Wayne? So if this sits for—I don't think this is a long shot but if for some reason this sits for another 10-15 years like it did with the zoning, do our sunset laws

kick into place on this where the plat would be removed after a certain amount of time or—I can't remember how we had this set up. In other words, if this did not get built out for some reason and we had this plat laid out, we can pull that plat down the road so we don't end up having with, you know, having to address this again in 5-10 years with a different developer or something?

Taylor Well the 61109 entitlement that we talked about earlier does have a time limit. So it would be that entitlement that could go away if the property were rezoned. There is a way that an owner can lose their entitlement if they don't take action over the number of years identified in that section. So it might be. Your ordinance has a couple of deadlines where approvals expire as well.

Franz All right. With that, is there any further discussion? If not, would somebody want to make a motion on this matter?

Grabianowski I move that Docket #2021-21-PP petition for primary plat approval to provide for 179 lots in a Rural R-3 Residential Zoning District be approved as presented.

Franz With the condition—

Grabianowski Yes, with the condition.

Franz That the material with the plat, the recorded plat and the covenants comply with the commitments. Would you accept that?

Grabianowski I accept that, yes.

Franz All right. Is there a second on that matter?

Fedor Second.

Franz Is there any further discussion, comment? Wayne, would you please take roll?

DeLong Certainly. Mrs. Walker?

Walker Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Fedor?

Fedor Aye.

DeLong Mrs. Madrick?

Madrick Aye.

DeLong Mr. Franz?

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Franz Aye.

DeLong Mrs. Grabianowski?

Grabianowski Aye.

DeLong Mr. Jones?

Jones Nay.

Franz All right. So the motion carries, 6-1. The plat's approved. Onto the last item of the night, hopefully. I'm pretty sure it is, two items. Keep our friends at Holliday Farms always waiting, those poor guys. Let things clear out here and then we'll finish this up. Okay. We're going to take a five-minute restroom break for some people up in the dais.

There's nobody left in the audience. All right. Are they on? Okay. bring up the items on Docket #2021-24-PP and 2021-25-DP Holliday Farms Section 7 petition for primary plat approval with waivers to provide for 38 lots, 19 single-family residences, 19 commercial lots in the PUD Planned Unit Development Zoning District and the petition for development plan approval to provide for the development of a 64.17 +/- acres divided into 38 lots, 19 single-family residences and 19 commercial lots in the PUD Planned Unit Development Zoning District. Petitioner online? If so, please state your name, address and start.

Sundling Can you guys hear me now?

Franz Yep.

Sundling Good evening, Members of the Plan Commission. For the record, Phil Sundling here with the Henke Development Group. As always, we really appreciate your time and certainly your consideration this evening. I typically like to provide you all with updates on where we stand on the development as a whole but since we were just here a few weeks back and it's been a rather long agenda, I'll aim to stay brief tonight. In front of you for consideration is Holliday Farms Section 7 which we are proposing 19 single-family detached lots of varying size along with 19 commercial lots, all of which is on just over 64 acres. This portion of the development is located in the northeast corner of our property east of Hole 12 and generally bound by US 421 to our direct east. As a recap to our discussion from the public hearing back in June, a few items were noted to be addressed on our end. First, prior to the June meeting, we had just wrapped up discussions with INDOT a couple days before. They had requested that we adjust our access points onto US 421. We reduced, we pulled off a right out only just south of our main entry which is known as Rogers Parkway. Additionally, we pulled off or we moved a right in, right out just north of that main entry as well. We're actively working through INDOT through their permitting process now and we'll have their approval in conjunction with the construction documents in approval with the town when the time comes. The latest version of the site plan that you guys have now is what we work through with them. Can you guys see my screen?

Lake Yes.

Sundling

Okay. Mr. Jones, I believe you specifically requested at that meeting in June for some additional detail on how things will actually look when we develop this area. I pulled a number of photos along with a projected site plan for a user that we're currently actively working with. Our architectural style will mimic much of what we've seen in New Albany in Ohio. I don't know if you guys have ever been there, incredible community, very high-end. This photo here is actually from our visit there in New Albany. We will require in this area heavy built-up masonry. We'll have trimmed out built up store fronts as you can see here with very high-end trim details. Again, a very classy Williamsburg like feel, very similar to what you see on our gate house at our main entry. We retained David Rausch from Rausch Studio in Zionsville to perform detailed architectural reviews on all of our commercial building submittals. He's done a number of those already, preliminary submittals, with some of the groups we've been working with. His understanding of our vision and obviously his expertise high-end architecture is off the charts. We're excited to lean on him as we start getting some of these projects going in what we're calling the marketplace.

Additionally, Mr. Franz, I think you requested that we incorporate wayfinding signage on all of our public trail system within Holliday Farms. We're absolutely on board with that. We've actually started on it. We're currently working with some branding folks now for some trail signage. We will incorporate this into our construction docs for Section 7. Obviously, we'll carry that on throughout all of development. We've built a portion of the turkey foot already, I think, in Section 2. We built most of the Holliday Trail in Section 1. So, we'll make sure we get the wayfinding signage carried really throughout the entire development. We'll be sure to work with, I think his name is Garrett Logsdon from your guy's Office and Parks Department. We'll work with him to make sure he's comfortable with everything that we put out there. Then also regarding the trail system—let me rip through some of these photos. I'll kind of show you this exhibit here. This is also from New Albany. Again, mimics the architecture that we're envisioning for the commercial users there.

I think one of the biggest items and it shows up in staff's report is regarding the trail. I know we talked at length about it back in June. We feel very strongly that it should go internal. We feel like you all agreed in the June meeting but I think Wayne, in his staff report, they feel strongly that it should go along 421. Again, our preference from a safety and interest in quality standpoint is to put it along the internal street system. This photo here kind of shows how that would interact. If you could see on the right side there's a really wide path. It would function very similarly. You'd have—you may have some outdoor seating at one of the buildings and just outside of that you'd have kids on bikes, moms pushing strollers, whatever trail users in front of these stores. We think again, limiting the interaction between motorists and users of the trail is a key component to that not to mention the interaction with some of the cool features at Holliday Farms. So again, we feel very strongly that should go internally. I know staff feels differently. They feel strongly that it should go on US 421. If your desire, if Plan Commission's desire is to put it along 421, we're onboard. We'll follow suit. We do a lot of high-end developments. We visit hundreds of developments across the nation. We go to a lot of sites. I feel like we're, Steve especially, is an expert when it comes to this kind of stuff and he's pretty adamant about it running

internal. Again, if there's a sentiment from you all that we need to put it on 421, obviously we'll follow suit. So, I just want to make that clear. The last item of discussion was public versus private streets. I think we've gotten that worked out with the staff. We've worked with Lance Lantz and his group along with the Boone County Highway. We've delineated proper areas to separate the private versus public, all the residential obviously will remain private. We've made commitments to Zionsville and to Boone County that we will maintain it through the winter. We'll salt it, we'll plow it, we'll maintain all the landscaping. We've also committed to build the infrastructure above and—we will meet or exceed the town's or the county's requirements whichever are more stringent. With that, we are excited of course to keep the momentum going at Holliday. We've got a lot of momentum. It's incredible the success we've had here. It's been—it's a testament to Zionsville really. It's a great community. People want to be here. It's gone really, really well. We're excited to get some of the commercial going. It's a very well-planned, very thought-out commercial area. I think you guys will all be proud of it. I'm happy to answer any questions you guys have. Thank you.

Franz All right, thank you. I'll ask this question in case there's somebody online but is there anybody in the public who'd like to make a comment on this matter? Oh, we got a person. Pardon? All right. So, he's still sharing a screen. Go ahead, state your name, address, and begin. Check to see if you're on mute, please.

Gressel Sorry about that. I was on mute. Can you guys hear me okay?

Franz Yep, we can.

Gressel Great. Yeah, hi. My name's Brad Gressel, 3668 Evergreen Way. To Phil's point, I was one of the individuals—I had some comments about the pathways specifically. So, I still feel the same. I do, I personally strongly agree with the staff's position to require the pathway to be an outer frontage. I think there's a clear distinction between like a connected pathway system and some of the internal sidewalks that Phil has kind of showed in that—that development in Ohio is in a very different community. It's a very kind of meandering just by design. So, a lot of these kind of off the beaten path routes make a lot more sense in that area. There's a Zionsville comprehensive plan for a network of pathways and connectors. There's a reason why all new developments in Zionsville require to have frontage paths on the outside. That's to eventually connect into a system that residents can take advantage of. This specific area as it continues to grow residents are certainly going to walk and bike up and down to the village and want to connect to the existing Willow Road path. I just don't see any necessary reason why they can't do this as well other than just kind of preference not to in the current, you know, wanting to have more interests.

I just, quickly, I wanted to kind of break the Section 7 into two areas to discuss. The top portion of the route that runs through the commercial portion, there is a Holliday Farms pedestrian network plan that was produced as Henke as part of this development. It, at the time at least, clearly showed a straight frontage path along Michigan Road in this area. Obviously, now they've pulled that now behind these commercial buildings to the west. Their proposed path would also come to an abrupt 90-degree wall essentially at the north end where the original farm would be which is not convenient. I just, I would encourage everyone to

kind of visualize what that experience would of a non-straight path would be like. I see they have sidewalks on both Frederick Place and Rogers Parkway that run perpendicular off Marketplace Drive but then they terminate before they reach 421. There will be an eventual traffic intersection at one of these as far as my understanding, so having these sidewalks is good for that eventual crossing. I just believe the developer should be required to extend frontage paths off of those. I know they've mentioned that cost wasn't a concern for a high-profile project like this. As you look to the southern portion of Section 7, one of the, I would say, problems now is that the Commission kind of previously approved a variance for Section 4 to allow for a small section of the pathway to be installed into Holliday Farms at Holliday Farms Boulevard, I guess. The developer was very specific about the look they wanted for their entrance and this was for the path not to run in front of it, not to remove trees. This was approved, so that part, I guess, is done. So now the Commission is kind of, you know, there's sort of a tough spot because this approved variance has happened in the past, so you know, why not again. It's just that this variance request is asking to pull the path even further in, in my mind, even more meandering. I just think variances and deviations to pathway requirements should only be considered when deemed like necessary, we don't have any other options not just because of preference or some of those things I've mentioned.

To me, the proposed path in this lower section around the gate here almost certainly at least intentionally or unintentionally seeks to avoid building a pedestrian bridge over 421 where Fox Creek runs. If the developer did a frontage path as required, they would have to build this bridge here. I believe the town should require this to be built and paid for by the development while they still can. There's plenty of space to bring this now diverted path from Section 4 and run it directly back towards 421 on the south side. You could build that bridge and run it straight up 421. Yes, there'd still be a bypass around the gate because I guess that's going to have to be there but it wouldn't be as significant as far back as broken up. I've walked what's now in there, you know, nice paths, very scenic, I agree. It's just, it's very far back in there and what they're asking for is even further back in there and to use a path that's already built right along that first model home on the north, the Wedgewood Model, it's right on that house. So, you would have to—I mean, this is way off the path. So, you could keep that path there. The cemetery access, which I know is a concern is already back in there. I just, I think they should try to pull everything back along 421 as required.

Traffic speeds were obviously mentioned but if that was the case, I don't see why the proposed path actually runs back up to 421 after that diversion. So, I don't see that as a true reason for that. If you look all the way down to like Target, I don't see other developments having problems with doing that frontage line. Finally, I just, you know, I live in the development right across from this interest. That's why I have interests in this. I would like to have access to these paths. I know in the last meeting there was one of the members mentioned that if somebody really wanted to get up and down 421, they thought there'd be a straight path on the east side of Michigan Road and that they could just—if somebody wanted to do that, it's available to them. The problem is, that doesn't exist. There isn't any surround—there's not one planned. So for now and for the foreseeable future, this western path as part of this project is the only route that residents are going to have available to them. I just believe that they should be



able to tighten this up closer to 421 and as a frontage path. So, thanks for your time.

Franz All right, thanks. Mr. Sundling, would you like to comment?

Sundling Yeah, let me pull up. This is kind of a trail network map. First of all, I appreciate those comments. I'll try to address. There's a couple things I wrote down here. I'll try to address each of these. I think you mentioned the safety and why do we pull it back onto 421 on the north end and the south end? Again, that's to meet the town's requirement for the network to basically connect all the developments to the north and to the south. So, I don't know if you guys can see my mouse here but Section 4 is here along 421. It routes internal, again like Brad mentioned, the goal there was to preserve our entry to mimic the old Holliday Road. Here, the old historic roadway there will route along this side, up through here, and into the commercial area. We did some rough math. I think I made note of this last time. It adds about 18 seconds to a person's trip to route through there. I think what—I think the point Brad may be missing is the major reason we're doing that is to eliminate this crossing here on the south side. It eliminates this crossing here on this side and it eliminates this crossing here. It's mainly for safety. I think it, obviously, it adds interest and I think that's a huge, huge point. The purpose of that is to eliminate some of those interactions with motorists, uncontrolled interactions. You've got left turns coming in off of 421 into this area here. You may—a signal will be warranted at some point, who knows when. Until that time comes, it's going to be certainly a very dangerous situation. To the point about it going internal, I think, Brad, you may—I'm not sure if you are aware. This is the old—this is the Holliday Trail here. It's a public trail that interconnects to the turkey foot. So, I think you mentioned concerns with getting inside. We do, and we tout having a great trail network that connects to the turkey foot and ultimately down to the 03:00:17 part down there. So that's intentional. That's all part of the trail network planned, our master plan. It's something we feel strongly about. Obviously, a huge amenity not only to our residents but really to all of Zionsville. I think that addressed most of the—I don't if there's anything I missed but happy to answer any more questions.

Franz All right, thanks. Anybody else have any comments? Anybody else online? All right, Wayne, can we have a staff report, please?

DeLong Certainly. Staff is supportive of the petition. Certainly, you know focusing on this specific trail conversation topic. When this project was first vetted by the redevelopment commission, a trail was illustrated along the 421 frontage. Trails as we know in Zionsville are a very important component of our quality-of-life initiatives. It certainly, it's Pathways Committee. Other groups serve to consider and talk about the maintenance and extensions and the livelihood of items that the town looks to leverage in these conversations about sustainability. Certainly, putting this pathway in this particular location, it meets objectives. It could be that future TIF dollars are used to put the pathway in along 421 if a waiver was granted. Certainly, I'm not here tonight to say that will happen but the town's pathway system illustrates a pathway along 421. Pathways are more than just a pedestrian connectivity from Point A to Point B. They are going to be serving a larger multi-modal type component that someone is looking to achieve may not be what they're looking to find, you know, finding their way through this

particular commercial area. Hence, this is where staff is coming from as far as supportive of the pathway along 421. It's contrary to the town's adopted plans not that—that's why the waiver conversation is happening this evening, however I wouldn't want to foreclose this conversation if a waiver is granted from the town still moving forward and putting the pathway in along 421 and utilizing the TIFF District to facilitate that. Setting that aside, staff is not supportive of granting the waiver. Certainly, appreciate the petitioner's, you know, creativity and certainly view and strong ideals and passion for what they're doing. They are very successful but this is just one of these items that the staff is not agreeing to.

Franz All right. With that, I'll open it up to questions from any of the commissioners.

Grabianowski Safety everybody's been talking about tonight and isn't that—my question, not to insult them but is it really safety or to get people walking and biking through their shops so they'll go shopping. I mean, that was—I'm cynical. That was the first thing that came to my mind. I don't care, but—

Franz I guess, I would defer to the plan that parks has put forward.

Grabianowski Yes, they couldn't lie about it though.

Franz Doesn't seem like it's that much of a leap to go from Michigan if you want to go the shops, so.

Lake Did the plan contemplate three curb cuts in a matter of 300 feet. I mean, that's—I do—as somebody that bikes, you know, and quite often actually gets people that try to turn into the bike lane as I'm riding down the bike lane, you know, they're not looking for me. They're looking for their next chance to make the cut across the road and they're looking at the cars. So, they make that cut and you know, I've got to be watching for them not them watching for us. That is a safer route. It is a less ideal route if I'm a biker trying to use the trail to bike 20 miles. I probably don't want to slow down and meander through there and then come back out. You're probably going to have more kid bike collisions in that commercial district where a kid runs out of the shop with his ice cream cone and hits this bike screaming by. That's going to hurt a lot less than a bike getting hit by a car. So, I mean, I do have a little bit of a safety concern. You know, how many—how much perforation of that trail was contemplated when it was originally put along 421 in that location?

Jones So, you guys heard me down here rail on Appaloosa Trail for the last umpteen years. It's not that I have anything against Appaloosa Trail, what I have just I'm tired of seeing is just strip retail commercial development. The downside of what I was hoping and one of the pieces I'd ask for to see was just a little better rendering of with these lots that are along 421, where exactly the parking's going to be. My experience has shown me as much as I would like to see a more inward facing commercial development, they just don't do well. We've talked about this. You know, the Villages of Clay West, they're stuff, Stonegate, yeah. They're just—as much as you might like it, it doesn't work. So, what's the happy medium? So what I was hoping to see is something along the lines kind of showing that primarily the buildings are going to be more internally facing but they are going to need some sort of visual representation out there on 421. I'm all

for pulling the trail inside the development specifically to get people off of 421 and into these shops, and just for a different path. As someone who's been downtown and watched the City of Indianapolis put in what we call the "golden sidewalk" which is a combination of cultural trails and Monon Trail and the Pogue's Run Trail, these things are boom for business. They make a difference. I bought a building in Fountain Square ten years ago, the Murphy Art Center and just got dumb luck that they put the cultural trail, that Brian Payne pushed it all the way down there and it quadrupled the value of that building and every property down there having that trail in front of it. People are smart enough to figure out the walking on the one side, biking on the other. You know, you've got scooters, you've got—you've got everything. There's still, yes, there's going to be more interaction between people and bikes, blah, blah, blah but collectively it's still a lot better and a lot more interesting in going up and down 421 where you're, you know, whatever 20-30 feet away from people doing 60, 70, 80 miles an hour. So, finally, I think as part of the whole 421 development, there is going to be eventually a trail on the east side a little straighter shot. It's on the Appaloosa Trail piece. There's parts of it, I mean, it's not collectively all attached and it's got separations and breaks in it but this one is going to connect the commercial areas of Holliday Farms, you know, down to Willow Road down to that trail. That trail just runs on one side of the property and it runs back and forth through Austin Oaks. It, you know, it works. You know, it—so, I'm all for what they're doing and bringing it in. Yeah, it does get a little odd there on the very north end where it makes that hard 90 but I'm assuming it's because they haven't quite come up with a plan for the old house. Is that what's happening up there? It does make that hard, funny 90 back out to 421.

Sundling      Yeah, Larry. It's Phil here. Yeah, that's something, I mean obviously we could look at softening those radii to make them a little bit more comfortable but yeah, that's the old historic home. We're trying to highlight the historic home there so you're going alongside it. Yeah, if that's something that's a concern, we can—

Jones            Is there a plan for the use of that? There's kind of the—the road kind of dead ends up there.

Sundling      Yeah, that's uh—I think we're planning there a multi-family project at some point that will tie all into that on the north end.

Lake            Yeah, I do think trying to swoop that out a 45 instead of a 90 so you've got two 45s. I mean, on a bike taking a 90 is not real ideal.

Sundling      Understood, yep.

Franz            Any other questions, comments?

Jones            I saw some notes in there about a wood rail. Is that what's going along the pond beside the trail?

Sundling      Yeah, that's correct. That will go along the entire length of that pond.

Jones            Okay.

- Franz Any further discussion? So on the primary plat, we have four motions, a motion for each waiver and then a motion for the primary plat itself. Somebody like to begin?
- Jones Do we do 21, 24 first or—
- Franz Yeah, 24 so it's Page 5 of 24-PP.
- Fedor That's the PP first, right?
- Jones I move that Waiver #-is that what we're just reading through that, the design speed standards?
- Franz Yeah.
- Jones Okay. I move that Waiver #1 design speed standards be approved based on the findings of facts as presented, #2—
- Franz I think we have to do each one individually. Is that correct?
- Taylor You can combine them—
- Franz All right, so.
- Taylor You just have to do the waivers first.
- Franz Okay.
- Taylor Let's get that out of the way. Larry, could do all three if he wants.
- Franz All right, the only—I would do one and two together. I'd do three maybe separately just in case there's different votes.
- Jones Okay, got it. I move that Waiver #1, Design Speed Standards be approved based on the findings of fact as presented, #2 Street Blade Standards be approved based on the findings of fact as presented. I move that Docket #2021-24-PP—
- Franz No, we've got to do waivers first.
- Lake We've got to do the two waivers first.
- Grabianowski Yeah, I second the motion he made for the waivers.
- Franz The two waivers.
- Jones Okay.
- Franz So, we have a second. Any further discussion? Wayne, roll call because Cindy's online.
- DeLong Mr. Lake?

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Lake Aye.

DeLong Mr. Fedor?

Fedor Aye.

DeLong Mrs. Madrick?

Madrick Aye.

DeLong Mr. Franz?

Franz Aye.

DeLong Mrs. Grabianowski?

Grabianowski Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Walker?

Walker Aye.

Franz All right. So, Waiver #3.

Jones I move that Waiver #3 alternate transportation plan be approved based on the findings of fact as presented.

Franz All right. Is there a second?

Lake Would you accept an amendment to adjust the trail at the north end?

Jones Yes.

Lake To soften both turns away from 90s?

Franz All right. So he accepts that. Is there a second?

Lake Second.

Franz All right. So once again, any further discussion? Wayne, would you roll call please?

DeLong Certainly. Mr. Fedor?

Fedor Aye.

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DeLong Mrs. Madrick?

Madrick Aye.

DeLong Mr. Franz?

Franz Nay.

DeLong Mrs. Grabianowski?

Grabianowski Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Walker?

Walker Aye.

DeLong Mr. Lake?

Lake Aye.

Franz All right. That carries, 6-1. That waiver's approved. Then, now the docket itself.

Jones I move that Docket #2021-24-PP petition for primary plat approval with waivers to provide for 38 lots, 19 single-family residences and 19 commercial lots in the PUD Planned Unit Development Zoning District be approve as presented.

Franz Do I have a second?

Walker Second.

Franz Any further discussion? Wayne, would you please take roll?

DeLong Certainly, we'll start with Mrs. Madrick. Mrs. Madrick?

Madrick Aye.

DeLong Mr. Franz?

Franz Aye.

DeLong Mrs. Grabianowski?

Grabianowski Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Walker?

Walker Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Fedor?

Fedor Aye.

Franz All right. That motion carries 7-0. That plat is approved, and then onto the development plan.

Jones I need my beauty sleep. Come on, somebody make a motion.

Fedor I got it. I move that Docket #2021-25-DP development plan petition to provide for the development of a 64.17-acre site into 38 lots, 19 single-family residences, 19 commercial lots in the PUD Planned Unit Development Zoning District be approved with conditions as noted in the staff report upon the findings as presented.

Franz All right. Is there a second?

Walker Second.

Franz Is there any further discussion? Wayne, would you please take roll?

DeLong Certainly. Mr. Franz?

Franz Aye.

DeLong Mrs. Grabianowski?

Grabianowski Aye.

DeLong Mr. Jones?

Jones Aye.

DeLong Mrs. Walker?

Walker Aye.

DeLong Mr. Lake?

Lake Aye.

DeLong Mr. Fedor?

Fedor Aye.

DeLong Mrs. Madrick?

Madrick Aye.

Franz That motion carries, 7-0. Development plan is approved. Thank you very much.

Sundling Thank you guys. Have a good night.

Franz Anything further, Wayne?

DeLong Just very briefly, for your next agenda, we'll be adding a policy discussion about conducting electronic meetings. That's just something to move forward. A lot of things we've learned from the pandemic in terms of operating an electronic meeting. Clarifying for the week of September 20, are the weeks that we're talking about the zoning surettes that we'll be hosting across the community. Larry's looking at me like I don't know what you're talking about and that's very true. You weren't here last night. So for a part in conformance with our forum-based code efforts, we will be hosting community wide meetings the week of September 20. That's our plan and we'll be in each township and then ending that conversation here at Town Hall to talk about what we learned. More news on that here soon.

Franz All right. Thank you. Is there a motion to adjourn?

Lake So moved.

Franz Second?

Fedor Second.

Franz All in favor?

All Aye.