



MEETING RESULTS ZIONSVILLE BOARD OF ZONING APPEALS
Wednesday, August 4, 2021
6:30 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 WAS PROVIDED IN THE ANNEX PUBLISHED WITH THIS NOTICE.

The following items are scheduled for consideration:

- I. Pledge of Allegiance
- II. Attendance **5 of 5 members attended. (All in-person L. Jones, S. Mundy, J. Wolff, C. Lake, L. Campins)**
- III. Approval of the July 7, 2021 Meeting Minutes **Continued to the September 1, 2021 Meeting**
- IV. Continuance or Withdrawal Requests
- V. Continued Business

Docket Number	Name	Address of Project	Item to be considered
2021-13-SE	Brickyard Solar LLC	Refer to Site Plan (Union Township)	Denied as presented & filed w/exhibits & per staff report 5 in Favor, 0 Opposed Petition for a Special Exception to permit a Solar Power Generation Facility on multiple sites within Union Township; all parcels being zoned Agricultural (AG).
2021-19-DSV	Nicholson Orthodontics	95 E. Oak Street	Approved as presented & filed w/exhibits & per staff report; subject to having a signed parking agreement in place for the 9 additional spaces; revisions made to parking agreement as discussed in the meeting; providing parking to the general public for the on-site spaces on specified hours; and not permitting retail or restaurant. 5 in Favor, 0 Opposed Petition for a Development Standards Variance to reduce the required amount of off-street parking in the Village Business District (VBD).

- VI. New Business

Docket Number	Name	Address of Project	Item to be considered
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2021-25-DSV	N. Meyers	10665 E SR 32	Approved as presented & filed w/exhibits & per staff report 5 in Favor, 0 Opposed Petition for a Development Standards Variance to permit: 1) A new accessory structure which causes the square footage of the accessory uses to exceed that of the primary; 2) A new accessory structure which will exceed the height of the primary; zoned Rural Low Density Single-Family Residential (R-1)
2021-26-DSV	M. Deloso	40 S. Second Street	Approved as presented & filed w/exhibits & per staff report 5 in Favor, 0 Opposed Petition for Development Standards Variance to deviate from 1) minimum side yard setback; 2) minimum aggregate side yard; and 3) exceed permitted lot coverage in the Urban Village Residential District (R-V). <i>*Also reference to 2020-40-DSV: The petitioner is now requesting to do an attached garage and not a detached garage; previous setback variances are not changing and lot coverage is slightly decreasing.</i>
2021-27-DSV	S. Kerr	1937 N 750 East	Approved as presented & filed w/exhibits & per staff report 5 in Favor, 0 Opposed Petition for a Development Standards Variance to permit an Accessory Structure which results in accessory areas exceeding the square footage of the primary structure in the General Agricultural (AG) Zoning District.
2021-28-DSV	Ford Centre – Commercial Building	1466 W. Oak Street	Approved as presented & filed w/exhibits & per staff report 5 in Favor, 0 Opposed Petition for a Development Standard Variance to permit a reduction in the area and amount of foundation landscaping in the Urban General Business District (B-2).
2021-29-DSV	Altum’s Produce Stand	795 S. US Hwy 421	Approved as presented & filed w/exhibits & per staff report; subject to conditions outlined in Exhibit 4 – Petitioner’s Narrative; and planting two trees in the island off Taylor Avenue subject to owner approval. 5 in Favor, 0 Opposed Petition for Development Standards Variance to: 1) Permit a Temporary Roadside Produce Stand to sell non-agricultural items; and 2) Permit additional structures on the site to support the operations of the Temporary Roadside Stand; being located in the Rural General Industrial Zoning District (I-2) and within the Rural Michigan Road Overlay.

VII. Other Matters to be considered:

Docket Number	Name	Address of Project	Item to be considered
			Electronic Meeting Policy
			Unsigned Findings of Fact

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

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

August 5, 2021

Zionsville Board of Zoning Appeals
August 4, 2021

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

Staff attending: Wayne DeLong, Suzanne Baker, Roger Kilmer and Darren Chadd, attorney.

A quorum is present.

Wolff The August 4, 2021 Board of Zoning Appeals Meeting. The first item on our agenda is the Pledge of Allegiance.

All Pledge of Allegiance.

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

DeLong Certainly. Mr. Jones?

Jones Present.

DeLong Mr. Lake?

Lake Present.

DeLong Mrs. Campins?

Campins Present.

DeLong Mr. Mundy?

Mundy Present.

DeLong Mr. Wolff?

Wolff Present. Thank you, Mr. DeLong. Full house, very good. The next item on our agenda is the approval of the July 7, 2021 meeting minutes. Fellow Board members, those are still in review so they are not available for our approval. So we will see those again on our agenda for September 1st, I believe is the date. The next item on our agenda—actually before we move on to continuance or withdrawal requests, I would make a note that we have allowed the continued use of standard mail. I there a motion to waive our rules to allow for standard mail for notice.

Lake So moved.

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

Campins Second.

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

All Aye.

Wolff Those opposed, please say nay?

[No response.]

Wolff Motion carries. All right, that moves us on to item #4 on our agenda which is continuance or withdrawal requests. Are there any members, are there any people on our, excuse me, petitioners on our agenda tonight who wish to seek a continuance or withdrawal? Please come forward. Are we aware whether all of our petitioners are participating in person tonight?

Koenig There are some participating virtually but all the presenters will be here.

Wolff Okay, so seeing none, that moves us onto item #5, continued business, which brings us to Docket #2021-13-SE The Brickyard Solar LLC. Will the petitioner please come forward? Seeing how there is probably some interest, I would like to review the lay of the land, exactly where we stand. This petition was continued from our last meeting. At that time, if you review our rules and procedures, we typically allow 15 minutes for petitioners, 15 minutes for remonstrators, 5 minutes for petitioners and 5 minutes for remonstrations. As we discussed last week, this is an important project and we sort of allowed that to exceed. So, what I'm going to ask for tonight is that we move, um, instead of having the five minutes we will allow the petitioner 20 minutes and we will allow remonstrations of 20 minutes. Additionally, I will also allow, open up for public comment so that those who are either for or against this particular project will have an opportunity to speak as well. With that, please state your name and address for the record.

Melda Zach Melda, Juno Beach, Florida. Thank you for the opportunity tonight to continue this conversation on the Brickyard Solar project. We'd like to just start by talking about some of the additional items that we provided since our last meeting, in particular, the project support. We have sent along, and I believe it was forwarded to you, the 57 letters of support. These were sent directly to the Board members, um, and they have a very consistent theme with them. One is ah, it's good for tax revenue. The second is a reduction of carbon fuels and then, third, is it's great for the schools. I would like to pause right there because we do have some students that we were just made aware of, have an opinion on this project and I think that their testimony is of great importance for the Board to hear and, since they have school tomorrow, I'm willing to give some of our time so that they can come right now and give their testimony.

Wolff If you've got students that want to participate in local government, I'm all in.

Melda Great.

Wolff So, this is, the way we work, this is a public hearing, so I'm glad you are participating. Thank you for showing up. If you would, just state your name and address. That way we can officially record who you are and that you participated.

Noelle Um, Noelle Michael, 937 Saddlebrook Drive.

- ? Thank you. [inaudible] 25 Baxwell Court.
- Naomi Naomi Michael. 937 Saddlebrook Drive.
- Wolff Thank you. And your thoughts on this petition?
- Noelle Hi, my name is Noelle. This is Naomi and this is [inaudible]. We are high school students in Zionsville and we would like to say a few reasons why the solar panels are important to us and why we believe we should support [inaudible] installation in Zionsville. One reason the solar panels are important to us is because Brickyard Solar panels would increase the funding to Zionsville Community Schools without adding more students. The value of homes in Zionsville directly correlates with the value of education the public school system provides. Therefore, more funding for the schools would improve the school system and, in turn, could benefit property values in the town. This solar project, this solar panel project will approximately provide \$50 million dollars over the lifespan of the project which could be used to improve roads, schools and other services.
- ? Um, another reason we support this project is because of the rise in renewal energy and the creation of potential STEM careers. According to the national solar job census by the Solar Foundation, the solar industry creates more than any other sector in the United States. This project here in Union Township would create more than 200 jobs working with renewable energy. Um, according to the International Energy Agency 2020 report, renewable energy is expected to grow by 50% and solar energy will be leading this.
- Naomi We also believe that solar panels are important because they would be a step in the right direction to help improve our environment and slow the impact of climate change. Climate change has in the past and will in the future affect Indiana. According to the Purdue Climate Change Research Center, Indiana can expect in the future increased heat waves, increased in both occurrences and intensity, as well as flooding, droughts and degradation of air and water quality. Climate change is one of the biggest problems emerging in our world today and many people agree with this. According to a study done by Indiana University, more than 77% residents in our region of Indiana believe that climate change is a pressing issue. Our town also supports this issue which was shown when the Council and the Mayor united to create a climate action plan that would allow Zionsville to double in size while keeping carbon emissions stable. It is because of the funding to our schools, the creation of jobs and the benefit to our environment that we support the Brickyard Solar panel project. Thank you.
- Wolff Thank you for participating. You did an excellent job presenting your thoughts.
- Melda Thank you. And, just to continue. The reduction of carbon fuels. So, this directly complements the climate action plan that was adopted by the Town of Zionsville which was written December 2020 and approved unanimously by the Town Council on February 16, 2021. I love the quote on the front of this. "Our town has the collective ability to take meaningful and immediate steps toward the changes that will protect our future." And, if you look in here, the strategy 1.5 is advocating for local utility services to transition to renewable energy. So, the

Brickyard Solar project, I think, is a great complement to this climate action plan that the town has already set forward. I know we are discussing this project tonight but there have been other government bodies that have actually reviewed and approved this project. That is, the Indiana Utility Regulatory Commission. They have looked at it from two different angles. One is from a project standpoint. And, they say, okay, how is this project being developed and can a developer do it? And, if they can't, then the IURC has to exercise a jurisdiction over them. So, the conclusion of that is, "Consistent with Indiana Code 1-8-2.5, this Commission finds that they are declining to exercise jurisdiction over Brickyard Solar. This will facilitate moving forward with the construction of the proposed facility and add generating capacity in Indiana benefitting the public utilities that may indirectly have access to the power produced. Their customers and the state of Indiana as provided under Indiana Code 8-1-2.5-5. In addition, the petitioner, in this case, Brickyard Solar, has demonstrated that it has the technical, financial and managerial capabilities to construct and operate the proposed facility and also has shown that the wholesale market for electricity in Indiana and its market entry is reasonable." So, this is a review by the IURC declining jurisdiction over Brickyard Solar and declaring us a quasi utility. And, this is Case #45424, approved May 5, 2021.

Now, the next one that they looked at, the IURC, that is, is how the energy is actually being used. This power purchase agreement, how, how does this relate to the overall energy in the state of Indiana? So, the conclusions of that—"We find the evidence of record in this proceeding supports approval of the solar power purchase agreement and the proposed methodology of its cost recovery. The solar PPA's terms and costs are reasonable. They provide needed energy diversifying the supply portfolio, provide environmental benefits [which again goes to the climate action plan, a great complement] and defend against fuel cost volatility. These attributes provide direct benefit to all stakeholders." So, this is the IURC's Case #45403, approved January 27, 2021, right about the time that approval for the climate action plan came out.

Next, we have, want to talk about safety of the project and we've enlisted the help of UL, Underwriters Laboratories who tests everything from microwaves to dishwashers to solar panels and are really considered the gold standard in the industry. And, with us tonight is a representative, who is a subject matter expert joining us via Zoom. Is he on?

Doty Yes, I am.

Melda Good to go? All right, if you could provide your conclusions for the solar panels.

Doty Yes, so good evening everyone and thank you for the opportunity to present tonight. My name is John Doty. Yes, can you hear me?

Melda Not coming through.

Doty Can you hear me now?

Melda Sure, we can come back. Because another point that we want to make is, before we get to property values, I do want to touch on the landscaping plan that we

were going back and forth about. We presented a landscaping plan, double row hedge and we understand listening to the community, the uniqueness in Zionsville. So, what we have prepared to offer is to landowners that are within 400 feet of the project will be offered a payment equal to 10% of the assessed value of their home. That way, they are able to screen however they like or if they're fine with the view of the solar panels, they are able to do with it what they will. So, again, our offer is a payment of 10% of the assessed value of their home. And, we will, of course, pay for that assessment. It is within 60 days?

? It's within the conditions. It's actually condition #11. We tried to map out exactly how that would work but that's in writing. Thank you.

Melda So, onto property values. We have a representative from CohnReznick with us this evening. Pat, if you want to come on up?

McGarr Sure.

Melda So, she has a lot of great information. Again, the piece that she has written is not an opinion piece. This is actual interviews from tax assessors. So, Pat, please.

McGarr Hi everybody. I'm Pat McGarr. I'm a real estate appraiser.

Wolff Would you please state your address for the record as well?

McGarr This is going to be challenging. Um, yeah. My address is 200 South Wacker Drive, Chicago, Illinois.

Wolff Why don't we hang on one second? Got to love technology.

Doty Hello. This is John Doty, can you hear me now?

Wolff Let's continue. Okay.

McGarr Okay, um, all right. So, I'm should I just talk loud?

Wolff Well, we do want to record this for the record.

McGarr Um, I'm Pat McGarr. I'm an MAI which is a Member of the Appraisal Institute. Um, it's the highest designation you can get as an appraiser.

Wolff Hang on again, I'm sorry. And, again, this is not reflective of the petitioner. No problem, John.

Doty Can you hear me now?

Wolff Hey, I work in IT. I've done it. It stinks.

Doty Should I continue then?

Wolff Now may be a good time to suggest that if anyone is uncomfortable, there's an overflow room upstairs. But, it's also having audio issues.

Mundy It's having audio issues as well.

Wolff So, you can have a similar experience up there or down here. Wherever you're more comfortable having this experience. We're good. Okay, I'm sorry. So, I think you were just introducing yourself and explaining your credentials.

McGarr Yes, so, um, I'm an MAI which is a Member of the Appraisal Institute which is the highest designation an appraiser can have. I am a counselor of real estate. A counselor of real estate is an international group of real estate specialists, not just valuation but developers, finance, architects, landscapers, everybody that has anything to do with development. It is by invitation only. The third credential I have is that I am a fellow of the Royal Institution of Chartered Surveyors. On a global basis, they refer to surveyors as what we would refer to as appraisers. It allows me to appraise real estate anywhere in the world. I am the national practice leader for CohnReznick, one of the top ten accounting firms in the United States. I am the practice leader for the valuation practice which is not only real estate but business, um, machinery and equipment, um, debt, derivatives. We value everything. So, that's a little bit about my background. My niche specialty over the past 30 years has been property value impact studies. I have studied all types of concerns for detrimental conditions and have evaluated whether they have positive, negative or neutral effects on adjacent property values.

Um, let's see, up here on the screen if you can see, um, the methodology that I use is put forth by the Appraisal Institute and their text book, *Real Estate Damages [Real Estate Damage Economics]* written by Dr. Randy Bell. We are told one of the methods, the most successful method in doing, studying whether properties adjacent have been influenced by property values is to do a matched pair analysis. And, in this type of specific matched pair analysis, it is an analysis of a target group which is an area physically contiguous or adjacent to what you're studying and you do the same with sales in a controlled group which are as similar as possible but physically removed from any influence. In this case, it would be solar farm influence. We then break that data down to a unit of comparison. Generally for homes, it's price per square foot of living area. For farmland, it's price per acre. And, when we compare those two data sets, if they are consistent with one another and are not showing any measurable difference, it's inferred that there is no negative influence being caused by the adjacent use. If there is a measurable and significant difference, it will be demonstrated by the data.

Over my 30 years of doing this, I'm going to tell you that I've seen things that negatively influence property values; I've seen things that positively—and especially residential property values—that positively impact them. I can tell you that things that negatively impact property values seem to have one consistency and that's that they physically damage property. I've seen levies that had to be built to address flooding of homes in a subdivision where half flooded and the other half didn't. Um, and putting in a levy to shore that and then going back five years later to see the difference and see properties that were selling for 50 thousand dollars below what the rest of the subdivision was and turning over every 18 to 24 months because people didn't want to live there. Within five years, the values of their homes popped right up and matched the rest of she

subdivision. I've also seen quarries, limestone quarries that have blasting because they can cause cracks in your foundations, windows aren't plumb, things fall off. Physical things. Physical things that impact property, those are the things that I consistently see negatively impact property values.

What is the thing that most positively impacts residential property values? And, I've actually studied this. Being in a highly rated school district. Being in a highly rated school district will have a bigger impact on residential property values than just about anything else. Um, the number one thing highly rated school districts all have in common is that they are well funded. And, I'm seeing a consistent theme here with the comments and that the girls came up and talked about, that's something that should be a consideration. With regards to a solar use, um, this is the type of use that doesn't—not only just doesn't address the revenue being generated by taxes, but it doesn't generate more students or infrastructure burdens, roads. It doesn't impact police and fire, all the things that normally come with the costs associated with getting that benefit, this type of use doesn't have that.

So, in my study here, I looked at six existing solar farms—I tried to stay in the Midwest—I looked at several in Indiana, one in Illinois, Michigan and then also one in Minnesota. Um, --

Lake Can you clarify something for the record for us? Did any of those have a similar home value, similar median income or similar population to Zionsville?

McGarr Let me switch to the next one. There you go. Um, similar, yes. For example, similar with regards to the properties that I'm studying. I was not engaged to study this specific site. I have not—that was not part of what I was charged with.

Lake So, you didn't look at how this solar farm would affect this community? You looked at how solar farms generally affect communities as a whole?

McGarr Yes. Yes.

Lake Okay. So you're—

McGarr And, price point's fairly consistent. And, I can get into that once I get through.

Wolff I would encourage you, we are on a time limit so keep moving forward, please.

McGarr Okay, so with that, I've got the six studies that I've done there. Each breaking them down. Indy Solar is just outside of Indianapolis. That was a really good solar farm for us to study because it's adjacent to a starter subdivision and in the starter subdivision, the reason why that's relevant, is there's a lot of sales. So, there's information, there's a lot of data for us to research and compare. And, when we did that, we did it over two different periods of time and compared the control and target areas. When we did that, I don't know that you can see this because this is so small, and I for sure can't see it without my glasses. What you're showing is that, um, the difference in unit prices were generally 0 to 2% positive. There was no negative influence on it. We saw the same thing with the Portage Solar Farm, the Franklin Solar Farm—these are all in Indiana, again,

reflecting no impact. The Grand Ridge Solar Farm, again, reflecting no damage. North Star, North Star Solar is a significant study for us because it was 100 megawatt facility on a thousand acres. And in that study, we were able to look at not only control sales and target sales, we interviewed the brokers that sold all those properties. We talked to the developer of the solar farm himself. In that study, there was about half a dozen houses in the middle of a 100 megawatt facility that were surrounded on four sides by solar panels. He acquired all of those houses to use because he thought he was going to expand into it. And, at the end when they finished building it, he decided to sell those houses. And, each one of those houses sold at its market value, higher than its appraised value and sold within the two-month period which was the normal marketing period.

We have all this information in the formal report. But, um, we interviewed brokers of all of the houses going around. None of them could identify any concern from potential buyers with regards to concerns about the solar farm. They had no comments. They all sold in the typical marketing periods. They all sold at market rates. We have not been able to, in any of the studies that we've done, determine any negative influence in marketing periods, in sale prices. Um, and in addition that that, in testifying to so many boards, we've had a board ask us to do a before-and-after analysis. We were able to do that in two of our studies where we could study homes adjacent and the control, target and control, for five, six years prior to construction, the period during construction and then the five years since construction and since it's been in operation. And, again, we matched that up against the federal housing index so that it accounts for the current economy and the two lines for the control and the target and the home index followed the same pattern going up and down reflecting that there's no—there was a down pattern because it's the bubble. So, when the bubble went down, property values overall went down but then they all went back up. So, we haven't been able, we haven't been able to determine any negative influence on property values on the studies that we've done.

In addition to that, --

? pause but you've run out of time.

Wolff One question about that information you just provided on the previous slide, it was price per unit. What is the unit? Is that square footage?

McGarr Yes, price per square foot. And, this is just a summary from the prior report that led up to it so I'm trying to do this without going through all of the individual studies. We talked to all the assessors in Indiana that have solar farms in their communities that they are doing valuations adjacent to them. All of their names are identified here. None of them have seen any negative influence on property values. Uh, the assessor for Chisago County, which is the large solar farm that we're talking about, the 100 megawatt, he did his own study and, um, three years after the facility was built, he did not find any measurable impact on property values. And, in addition to doing my own work, my own research and my own interviews, the next step we take is look at published, um, reports and studies that have been done. And, real quickly I want to finish off—I'm sure you've seen the property value impact study done in Rhode Island and Maine, um, I know the person who wrote this study. We've talked many times during the process of him

preparing this report. It is still being vetted in peer review but it's relevant to note that he identifies very quickly, there's a difference between suburban/urban areas and rural areas. He identifies rural areas as being, as having a population of 850 people per square mile. Um, 850 people per square mile and below is rural. In his report, he specifically states, "Taken together, these results suggest"—let me get up here, yeah, "suggest that the effect on rural areas is effectively zero, statistically insignificant and that the negative externalities of solar arrays are only occurring in non-rural areas." Boone County's population per square mile is 164. Union Township is 94 people per square mile.

The largest city in the county, Zionsville, is 421 people per square mile. So, this effectively, is considered to be, based on the study performed by the University of Rhode Island is that this area, given its density, um, not only will have zero impacts caused by the solar farm but it radiates out into the larger area including township and the county. I think that it's relevant to note with regards to a question previously, um, Chisago Minnesota is the largest solar farm that we were able to study in the Midwest because it's the only one. And, that property has a population of about 140 people per. Both, very consistent in size and density to Boone County. One is 142 square miles, one's 123 square miles. The median household income in Boone County is just around 73 thousand dollars for this year. In Chisago, it's 84 thousand household income. So, they're very consistent and similar. Now, in Minnesota, yes, you are seeing houses that sell in that—generally, in Indiana, we're looking at 200—

Mundy Could you repeat that, please, the median income?

Wolff It was for Boone County.

Mundy --for Boone County and for the Minnesota.

McGarr Sure. The 2021 median household income in Boone County is 72,972 dollars and in Chisago County, it is 84,537 dollars.

Mundy Okay, thank you. That's not for Zionsville; it's for Boone County?

McGarr It's Boone County, that's correct.

Mundy Thank you.

Wolff A quick google says that the median household income in Zionsville was \$137,000. I'm not sure if that's right.

Lake For 2019?

Wolff Yes. Again, I would encourage you to keep moving forward. We are running out of time.

McGarr Yeah, in Chisago County, the houses in that area surrounding that area were in the 200 to 450 thousand dollar range. Um, that was consistent with a number of the solar farms that we looked at in Indiana. So, price points were considered.

Um, I guess, I should wrap that up. I know it's got to be abbreviated. Thank you for your time.

Wolff Thank you.

Melda John, are you on?

Doty Yes, I'm here. Can you hear me now?

Melda Yes, by all means, please take us through your study of solar panels.

Doty Sure, thank you very much. Thank you for the opportunity to present this evening. I'm sorry I'm unable to be there in person tonight. My name is John Doty, D-o-t-y. I am a solar engineer with UL Renewables group. My address is Osgood Hill Road in Westford, Vermont. Um, UL as many of you know, is a fire and safety, fire safety and electrical safety company. Many of your electrical appliances in your house including dishwashers and coffee pots have been certified to a UL standard which shows that the equipment when used under typical normal conditions will operate safely and in the event that they fail will fail in a safe condition and not cause a fire. UL also creates standards for industrial equipment and generation equipment including all of the equipment that is used in a typical solar plant. There are standards for the photovoltaic modules, for the inverters, for the wire that is used within the plants, the combiner boxes and everything. In fact, the National Electric Code specifically states that all equipment used in a solar plant and used in any electrical installation in the United States must have the UL certification. It doesn't have to be certified and tested by UL. It has to be certified by any nationally recognized testing laboratory of which there are probably about a dozen such companies within the U. S. All of these requirements help to ensure that our PV plants are safe. But, safety extends beyond just making sure the equipment is safe. Safety for photovoltaic plants starts in the design phase. In many cases, the designers will work with local fire officials to ensure that access roads are sufficient for emergency vehicles. They will bring first responders onsite to give them an opportunity to ask questions and to see the plant when it's in a normal operating state. This is all done before the final project design has been completed. That way if there are any concerns or issues, they can be addressed during the design, final design phase of the project.

Furthermore, for the plant's safety, groups like UL project renewables, Renewables Project Services, will be hired as an independent engineer. What we will do is we will work through, we will review all of the equipment that's being used, we'll review the contracts, the environmental impact statements, the safety procedures, the operation and maintenance procedures, everything that is required to build the plant and safely operate the plant. And, provide a large report that presents the plant characteristics and our opinions of the plant's safety that is then used by the developer and the finance groups to obtain financing and to build the project. We are also involved in regular plant inspections during construction to ensure that the equipment that is being installed is what was included in the design and that the installation by the contractor is done according to generally accepted good practices, good installation practices, that the project is installed in a safe manner and that the project will function safely.

So, those are all done beforehand and during the construction. During the operation of the plant it is vitally important that the operator of the plant operate and maintain the plant. Not only because an unmaintained plant is not operating as efficiently as it can, but also because an unmaintained plant is an unsafe plant and can cause issues. Several of the things that are done are a regular basis are vegetation management. It's important, both from a plant performance standpoint and from a safety standpoint to remove vegetation from around the modules. This is typically done by mechanical removal with string trimmers or standard lawnmowers or, in the initial design installation of the plant by planting low-growing local vegetation. Many of the popular options now are to plant pollinator friendly plants under the PV modules which encourages bees and butterflies to nest in the area as well as growing local native vegetation that grows to a low height and requires very minimal vegetation management. In addition, all plant workers are trained with the national electric safety code as well as the national standard for electrical safety in the workplace. They are all considered to be qualified electrical workers and most, in fact, are journeyman electricians that have been trained by the local unions in safe electrical practices.

As far as fire safety at the plant as I indicated at the start, it's important, and most developers do, involve the local first responders in the design phase to get that input on turning radii and access for vehicles as well as to provide training opportunities for the first responders in the event, in the highly unlikely event that an incident occurs at the plant. Keeping the plant safe during its full life includes designing the project according to the code requirements and industry standards, installing appropriately rated equipment—you don't install equipment that is not going to work well in those conditions, installing appropriate warning labels to identify areas where hazards exist, ensuring all the equipment that is installed is used appropriately, that it has the appropriate UL listings, layout of the PV plant to allow access to all areas of the plant for operations and maintenance as well as for first responders. All plants have data management and data acquisition systems installed. This allows plant operators to monitor the entire plant at one time. As you know, these are large plants and cover a large amount of area and the data acquisition system monitors all the components within the plant from a central operation center that's typically staffed 24 hours a day, seven days a week. That way, if an issue were to occur, the network operation center can dispatch technicians to the site to mitigate any issues that occur. And, it's important that the developers will continue to develop and maintain appropriate system documentation onsite, system signage and allow first responders onsite for regular training activities as well as fire inspections. It's important to keep the first responders involved and up to date on any changes within the plant. Um, that's pretty much all I have to say.

I have provided NextEra with, and I think they have provided you with, several studies and reports that have been created by both UL as well as International Energy Agency on various methodologies for fighting fires. One of the things that I learned when I was teaching fire safety on PV systems which I did for New York State for approximately 10 years is that the fire fighters are very excited to learn about these systems. They are concerned but it's a new technology. And, as their training has progressed they become more and more comfortable working around these projects. It's important to note that training is important for first

responders. They're trained how to deal with, um, automobile crashes. They're trained how to deal with fires in gas stations. Both of which I would claim can be more dangerous than a fire in a photovoltaic system. So, open lines of communication and training opportunities and just, you know, just keeping up to date with the latest issues and latest fire fighting techniques is always a good way to minimize and mitigate any fire risks on a PV plant.

Melda John, can you really quick, comment on your firsthand experience with these systems dealing with a Category V hurricane?

Doty Yeah, sure. Back in 2017, um, we were hired by several clients to visit sites in the Caribbean shortly after the two Category V hurricanes struck the U. S. Virgin Islands and Puerto Rico. I've been involved in restorations of several projects down there as well as the development of new best practices guidelines for designing and maintaining systems. The project that I was involved in most recently was on St. Croix that had been hit by both Hurricane Maria and the one that had hit the island about two weeks before which I cannot remember the name. Um, this, the island suffered catastrophic damage. Um, the PV system that I was involved with had been installed according to good standards, had been well maintained. It had experienced some damage mostly due to the racking system flexing, caused modules to crack. Um, some of the inverters were damaged due to water infiltration but that's a whole different issues. But, in general, we were able to get the project back online within about six weeks with minimal damage and minimal repair requirements. Um, like I said, there was module damage but most of the module damage was due to debris that was flying into the project and very little debris had exited the project. Um, the buffers around the plant were sufficient to keep anything within the fence line and none of the neighbors had reported any damage from photovoltaic equipment.

Melda Thank you. Even though we don't expect any Category 5 hurricanes here in Zionsville, these systems are built to last. Thank you, John.

Doty They are designed, the trackers and the mounting systems are all designed to withstand the wind loads as required by the local, local building codes. So, when the project gets built in Zionsville and Boone County, the system designers will use the local wind design speeds as well as snow loads and seismic loads to design appropriate mounting systems to keep the modules in place.

Melda How are we doing on time, Mr. Chairman?

Wolff Real, real close.

Melda All right. I'll just wrap it up. And, so, we understand that we have a lot of work to do especially with the area planning commission and the development standards that we need to work with them on but we cannot even get to that step without the support of this BZA allowing us to use the land. Um, you've heard from the students. I think this project is directly in line with the climate action plan that the town has adopted. The IURC has approved this project, both from an energy standpoint and from a developer standpoint. You've heard from UL talking about the safety. You have the reports there to review. And, we've seen support in the community and you had those letters of support out there. Lastly,

we meet all findings of fact. If Mary, not right now, but is glad to go over all of those with you. So, thank you for your time tonight and we hope to continue down this journey with you. Thank you.

Wolff Thank you. Are there any questions for the petitioner at this time?

Mundy I'll wait.

Wolff Okay. So, what we're going to do now is if there are any members of our public—we're going to divide this up—so now, we're going to open up for public comment again per our rules of procedures but to keep it organized, I would ask if there are any members of our public who are in favor of this project, and you could also be online, so we need to ask for those members who are online—please come forward, state your name and address and please share your thoughts as to why you're in favor of this project. If you're not in favor of this project, please be patient. You'll have an opportunity to speak in a few moments, okay?

Snodgrass Good evening, thank you for the opportunity—

Wolff Oh, I'm sorry to interrupt. I should have done this earlier—I apologize—As always, full house, lots of conversation. If you could be as concise as possible and try not to be repetitive. And, you can only, you cannot be repetitive because you're our first, so go ahead.

Snodgrass Wow, that's lucky. My name is [inaudible] Snodgrass. 605 Morningside Drive. I'm here as an educator. Um, the last 10 years of my career is education for sustainability working for the U. S. Department of State in school districts around the country. More importantly, I'm here as a mother, a grandmother and a resident. Um, the economic benefits we've heard about, so I probably won't go into as deeply, I did used to—I did work for the Zionsville School System and participated in the two efforts to get referendums passed to have enough funding to adequately maintain the standards that we're known for. That's just been since 2015. Having the Brickyard Solar project would contribute millions of dollars without adding more students and buses and resources to our school. With the changing enviro—world and it's increasingly complex, schools need to do a lot to change their pedagogies, their curriculums and that kind of things and these resources would allow our schools to do what they need to do and maintain those wonderfully high standards. With the vast increase in the number of housing developments, oftentimes there's new students sitting in classrooms and the tax dollars from property taxes that follow them don't come for a year or two later which puts stresses on the system. As you have also already heard, there is a great deal of data from the, you know, Brookings Institute that on the average housing costs are nearly 2-1/2 times higher near high-scoring public school districts than near low-scoring districts and every dollar spent on public schools in a community increase home values by 20 dollars in comparison.

The second reason I'm in support of the project is the preservation of farmland. There will never be more land. According to the American Farmland Trust, we lose three acres of farmland a minute. One doesn't have to drive very far to witness all the new housing developments that used to be farms in Zionsville,

Whitestown and Lebanon. Just nine new subdivisions and I'm not sure I even have a complete number in just the last five to six years. The Henke Group who continues to develop the Holliday Farm who, I must say, had a rare high quality forest with a host of native plants and animals has recently purchased hundreds of acres both south and north of Lebanon that will allow—that will effectively increase the population of Lebanon twofold as it will double. What happens when big, you know, subdivisions go in with their golf courses is that other subdivisions want to be nearby to benefit from that, the elevated value and then comes along the strip malls, gas stations and other things to support this increase in population. Once that kind of development goes into farmland, it can never be returned for agricultural purposes. The benefits of the solar panel is that it can be removed and the ground can be returned once again to agricultural purposes. Um, there's a wonderful Yale study that shows and the gentleman just previously mentioned this, by adding native plants to these installations, it will increase crop yields, benefitting neighboring farms. It also has additional benefits of reducing carbon, of course, by avoiding emissions, savings and reduce soil erosion and the value of additional ground water recharge.

The third out of my five reasons is ability for the project to reduce greenhouse gases or GHG. And, again, we've heard that the town has already made impressive progress on its commitment to maintain the levels but we're going to have to take action quickly. Um, the climate change that is going on, I think the earth is screaming for our attention from fires, floods, record droughts, violent storms and central Indiana is not exempt from climate change. Participating in the move to renewable energy is not only good for Zionsville but this state and far beyond.

The fourth reason is contamination from coal plants. The air quality in Indianapolis is the 13th worst in the country. We have 30 coal plants and two of the top 20 most toxic plants. A utility company, Duke Energy, plans to continue using coal plants. The recent milky skies that we have seen in the last week as a result of western fires is a visual reminder of how pollutants from coal plant air and the toxic particles in it continually travel over our homes. Solar energy does not pollute the air that we breathe. No energy source is perfect. There's a 105-page study by the Public Interest Energy Research Program that shows that there are risks of leaching—this was mentioned at the last meeting—leaching of trace materials from modules during manufacturing of the solar panels and if they're not properly recycled but not during the functioning of the finished panels. In talking with a staff member of the very large solar installation by the Indianapolis Airport because their panels were built with the expectation of hail and other weather events, they reported that there has not been breakage or any seepage of chemicals into the soil. And, as evidence of the interest in solar installations, a January 19 *Indianapolis Star* article reported that just a small part of the airport solar installation was purchased by another U. S. solar company for 24 million dollars.

But, finally, the most important reason that I support the use and development of renewable energy is because of our children who our town, our children are the town's and the country's greatest resource. Students as young as elementary children not only around Zionsville but around the globe that I work with understand that there are serious environmental problems and they are facing a

very uncertain future. It turns out that humans are very effective at destroying the environment. I'm fortunate to work with bright and passionate students here in Zionsville and you heard from several of them this evening. There were others that wanted to come but with the start of the school year and sports tryouts they weren't able to join us tonight but they are also very motivated to try to make change. Of all the wicked problems facing us, we know how to create a sustainable future. So rather than seeking the courage to fight climate change and the changes necessary to address it, we need to find the courage to see and act on the commonsense solutions such as renewable energy that are right in front of us. Ensuring that future generations can live happy, meaningful lives should collectively be our highest priority.

In conclusion on behalf of my children, your children and our neighbors' children, I urge you to approve the Brickyard Solar project so the next time one of our residents says, "Mrs. Snodgrass, why aren't grownups doing more to give us back our future?" I can answer, "We are." Thank you.

Bair

Hi. My name is Leslie Bair. My address is 11553 Clarkston Road in Zionsville. I've never been to one of these meetings before. I'm sorry, I don't have any prepared remarks. Um, just from my experience. I'm coming straight from Indianapolis Hiking Club today, meets 4:30 in Zionsville for a hike every Wednesday and five of the six members were vocally supportive of the Solar Panel project. The other guy is just quiet. He doesn't ever say much at all so I don't know his feelings on it. Um, I think that it's a lot easier to, more people tend to come to this kind of meeting if they are in opposition and I don't have that sort of anger or disdain that I'm seeing around the room right now, um, by some of the people here. Um, I will just say that I returned from Washington state recently, the Olympic Peninsula and did backpacking in Olympic National Park and also visited Mt. Ranier and we were in Hoh Rain Forest and it's, it's dried up. Our trip luckily was scheduled for after their heat wave broke so we weren't there during the 100 to 105-degree days that they were experiencing in Seattle and on the Olympic Peninsula but I can tell you I saw the effects of that. They have a drought and it was not very rainforest-looking. It was dried up. There were areas of burnt plants.

I'm not here to argue climate change but I will say that the bar seems flipped for me. So, it seems very difficult to get anything passed that is environmentally beneficial whereas we're able to accept all sorts of things that benefit the fossil fuel industry. So a pipeline through Austin Oakes and Coventry Ridge, we're just like, sure, bring it on. We're the first house off Michigan, can't open the windows soot will settle and, you know, dust, more than ever. Fine. That's fine. Almond farmers in California have to share bees and cart their bees because we're killing bees, that's fine, but I still spray Round Up on my yard because I have a few weeds. Building another plastics plant in Louisiana in Camphor Alley near New Orleans. That's been incredibly easy to do. It's been very hard to fight building an additional plastics plant. But, for something like solar, it has to be perfect. Um, we get these air pollution warnings all the time about the air quality in Zionsville and the particulate matter and because my daughter has asthma, I get those text message warnings. That's fine, bring it on, but no solar panels to reduce, you know, that's, you know, the problem is the, you know, a little bit of pollution during production, I just, I don't understand that kind of mentality.

Well, that's not going to help enough. That's our excuse for not doing something that's environmentally responsible. Or, that might be a little bit bad in this way so we're not even going to try to make an improvement. And, Zionsville does have a climate action plan and I would be proud to live in a community that flips that bar and makes it so that we do the responsible thing and add another option, which is more solar power to reduce carbon.

Wolff Thank you.

Bell Good evening, Mr. Chairman and Board members. My name is Keith Bell. I'm an attorney with the law firm of Clark, Quinn, Moses and Grahn in Indianapolis. I'm here today on behalf of the Artman family who are supportive of the project. And, out of respect for the Board's time and other members who want to come up to speak to you tonight, I have prepared some written comments to make it a little bit easier to expedite matters. With your permission, I'd like to share the written comments.

Wolff Thank you.

Bell In recognition that some of these comments have been touched upon earlier this evening, I won't read this entire statement but I do want to provide a little bit of background. I don't typically appear before these types of boards in these types of matters. My background is more dealing with utilities. I've been in the utility regulatory business for over 30 years now, both with regard to rate making as well as plant iting. I even go back to the days when we were fighting over sighting new coal plants. So, uh, it's kind of refreshing to see this change in the industry that's occurring. Um, as I said, I'm here on behalf of the Artman family, ah, who obviously are supportive of this project. They have land that's, that's right at the center of the project but they also have taken quite a bit of time to research solar energy and look at this project in detail and, and I would refer you to some of our written comments that go into a bit more detail on that and what they've done. They didn't go into this lightly. They took their time. They've been in this community for, as a family, for over 150 years. Um, this is near and dear to their hearts. Not just the project but the land that some of this project is going to sit on. Um, one of the things that they've looked at, that we've looked at, is the Town Council's adoption of the climate action plan that was mentioned earlier. I won't go into that in detail but I did provide a copy of that resolution that was adopted earlier this year. We submit that that climate action plan significantly supports this idea of having solar here in Union Township.

I've also provided some information and I know we've had an expert speak to this in detail earlier tonight about property values but there was an [inaudible] analysis that was done. There's a fact sheet attached to those written comments that shows two studies that they looked at as recently as 2019 here in Indiana and Illinois, more appropriate to compare to this project, showed not just that there was no impact but in those two studies as you'll see in the comments there was actually a 2 percent increase in value because of solar farm being close by. The final thing I just want to touch on briefly, I know there's been some concerns raised about decommissioning and what will happen at the end of this project's life and whether or not the county will be stuck with paying for the cleanup of that. I mentioned in, in, in the comments that we provided tonight, the IURC, an

area near and dear to my heart, has previously reviewed this project and they are requiring—while they have not exercised complete authority—I will correct the earlier speaker on that issue—they did retain some jurisdiction over this project, there's some oversight still by the IURC. One of the requirements as you will see in the comments I quoted paragraph 8 of that May 5 order—I have also provided each of the members here with a copy of that order at the end of our comments—requires that there is essentially a remediation plan put in place and funds set aside to make sure that the land is returned to the condition that it's in now. Ah, so, ah, I'm not saying the IURC—well, it certainly helps but—and I believe the petitioner here, Brickyard Solar, has proposed a decommissioning plan, um, so I think a lot of those concerns should be greatly alleviated. I'm sure this group or the planning commission can put further requirements on that but I don't see that as an issue. Certainly, the IURC is going to keep track of that issue as well going forward with this utility scale project. Um, again, out of respect for some of the other folks that want to come up and speak tonight, I'll leave it with that. I encourage you to review those comments. I'm happy to answer any questions that I can answer with regard to the utility process. Otherwise, I just want to note that the Artmans are obviously fully supportive of this plan and believe it would be good for the community.

Jones I would like one little bit of clarity on the, on the decommissioning issue. One of the concerns, I'll bring it up later and I'll bring it up now, is there an agreement between the Artmans, the property owner and the solar firm regarding the decommissioning, the cost of the decommissioning?

Bell It is contractually part of the lease.

Jones Okay.

Bell So, yeah, I would say there's three levels of protection. There's contractually, through the leasees, the landowners, there's the IURC oversight of that issue, and then there's this Board's ability to—

Jones So, the portion that's included within the lease, is that the same fund that we are seeing here or is there a separate fund?

Bell Uh, uh, I think they're supposed to be the same fund, as long as it's provided. I don't think there's going to be two separate funds.

Jones So, who bears the cost of determining if the fund is sufficient for the decommissioning if it is needed?

Solada So, may I answer that, Mr. Jones?

Jones Sure.

Solada Again, for the record, my name is Mary Solada. I'm [inaudible] attorney based in Indianapolis. So, we have presented to the case file a draft decommissioning document. It's a unilateral document. The town doesn't have to sign it. We will sign it. The Board, I think we say in our proposed conditions, makes approval and signature of that document a condition of approval. What it provides for is

that a third party engineer determines the decommissioning cost at the time of improvement location permit and then throughout the life of the project, that bond which by the way is adjusted, third party security bond is provided. Every five years, it's reevaluated and there is notice provided to the town so that the bond essentially never lapses. If the town has any concerns that the bond amount isn't correct, it can make a claim. So, this process has been established. I can tell you this document has been reviewed by a number of attorneys around the state with other solar projects and other big law firms, this has been signed off in the sense that it's a best practice document to ensure that the town, town taxpayers, area residents, landowners are never on the hook for the decommissioning costs.

Jones Chairman Wolff, is it okay if I kind of jump around for a minute? Not physically, but you know what I mean.

Wolff Yeah. I would prefer if you did not physically jump around, but yes.

Jones All right.

Wolff Well, hang on a second. We are, who would you like to address?

Jones These two.

Wolff Is it regarding the decommissioning plan?

Jones Correct.

Wolff Okay, than yes. Please proceed.

Jones Okay, my concern with the decommissioning plan is for some reason the Town of Zionsville is listed in the middle of it. And, I'm not familiar with any other situation where we don't own the land. Why are we involved in both 1) determining the amount of monies that will be in the fund, 2) somehow managing that the letter of credit, bond or whatever will be maintained, 3) I'm not particularly happy with that while there is a gross amount stated, it starts out as only 25 percent of that amount for the first five years and then is supposed to ratchet up, which then again puts a burden on the Town to make sure that's being maintained and then, and then finally, like I said, you've seen the Town in this kind of situation where if the landowners determine that the Town has agreed to an amount of money that is insufficient to clean up the land at some point, who makes up the difference? So, once again, as much as I appreciate there's this decommissioning plan that's been vetted by everybody, between terms about the limited amount of money they actually have to put into it, two that we have to determine what that amount is and hold them to it, and then three, there's a lot of language in the back that they can basically change ownership of the company, of the solar, how do I describe that? The company can change ownership and, once again, we're not really allowed to kind of get in the middle of that but then, again, we're put back in the situation of making sure that whoever the new owners are, in whatever form, that they have the funds to actually continue to pay for it. So, I, I, I just don't quite get why we're in the middle of it, the Town of Zionsville. I do understand why we want to make sure it's there and I think we ought to have the say on it. Um, and while we're at it, the same thing goes for the

insurance. I think last time we asked to find out just what kind of insurance they're going to have. Same thing, we got a paragraph saying it'll be a swell group of guys that will provide insurance. Not a whole lot of detail. So, how do, how do we protect the Town of Zionsville?

Bell May I comment on the one?

Jones How do you protect the Town of Zionsville but keep us out of the middle?

Solada Well, I can just tell you about my personal experience. In the last 2-1/2 years, I've been to, I would say, eight Indiana counties who have considered this document, this decommissioning document. Everyone of those county commissioner groups, county attorneys have insisted on a decommissioning agreement that looks very similar to this. By the way, full decommissioning security is provided at year 10 and the reason, and Zach can address this—he just provided this same document over in Jasper County, Indiana—is that there's actually, the salvage value is worth more than the cost of decommissioning in the first 10 years. We can get into those details. I guess I would suggest with all due respect, Mr. Jones, that you have your attorney comment on this. We're happy to pay for that legal review. We're happy to have a couple different law firms look at this. The point is, that I will, under oath before you today, tell you that this document has been vetted by a number of law firms in the state and a number of communities and has been deemed to be satisfactory. So, I, I, I don't know what else to say about it other than I stand by it.

Wolff Thank you, Ms. Solada. Thank you, Mr. Bell. So, again, we are looking for members of our public who are in favor of the petition. Come forward, state your name and address, please.

Ott My name is Matt Ott. I live in the 6800 block of East 32. I really can't say more than the first lady did other than the fact that, the question I have for everybody in this room, the electricity we're using today, does anybody really know where it's coming from is somebody's backyard? And, if everybody had said what I'm hearing tonight, what I heard a month ago, not in our backyard, we'd all be living back 100 years ago with nothing. So, Zionsville, whether you like it or not, is going to be leading. We have our choice of which way we're leading. We can lead pro-solar and do what we can for the environment and climate change or we can say, the heck with it, let's burn up the environment, let's kill the earth. But, one way or another, Zionsville's leading because we're one of the first ones in the area, in the state to face this issue. And, the rest of the state and the rest of the country is going to be looking at this issue.

So, when I was a child and kids of my generation, a frequent question was, "Dad, what do you do during the war?" And, it was referencing in World War II. Because everybody did something, my parents' generation, to fight the war. My grandkids, your grandkids, are going to be asking, "What did you do for the war on climate change?" And, do you really want the answer to be, "Well, I fought against the solar farm." You know, I don't think that's what we want to do. With farming today, they're dumping hundreds of gallons of Round Up and other chemicals, fertilizers, into our ground water. Nobody is saying anything at all about that. You got the algae bloom in the Gulf. Round Up is a known

carcinogenic. There's already been lawsuits that they've lost on it. As the one woman stated earlier, during production, solar panels do not pollute. I'm just not getting it. I think this is a good project. It's a low impact on our infrastructure. It's a low impact on schools. It's a high impact on the taxes. It's a no-brainer to me. Thank you.

Wolff Thank you.

Eberle I'm so glad somebody else started with old people stories before I had to get up here. My name is Steve Eberle. I'm executive director of a statewide organization called Hoosiers for Renewables. I spent my professional career at Purdue University. Also spent a career in county government, spent 35 years starting—as a township trustee. Also, have a, what's called a Hoosier homestead farm, 200-acre cow farm. My grandkids are six generations on that farm. My dad drilled the holes in the baseboard when that home was electrified back in the '30s. And, so, we've seen a little bit. My career with energy started back in '08 when our county, the third smallest county in the state, Warren County, was courted with ethanol and we looked at that as an opportunity for the county for investment. It was change. We use a lot of corn which is a good thing for ag people. Um, later on, we also looked at wind turbines. Our county is home to 150 tower project called Jordan Creek. It did bring forward some nice economic benefits. The tough part about, the tough part about these, and I've sat through many, many hearing during my career in county government and I so respect the folks up here, I totally respect both sides of the discussion. Everyone has something in here that is either what they are looking to have or what they're not looking to have. The one thing that's common in this room and I think it was mentioned.

We all like this. We want it. We panic when it's not on. And believe you me, when we talked a while ago about population density, we have about two people per square mile out there, which also means when the lights go out, we're not really in the highest of priorities to get them back on. So, we have to learn how to be resilient. Projects like this, projects like this—and it's easy to fall into the trap of point counting. You know, this says that we'll do this, this says that we'll not do that but the fact of the matter is, when I started up this organization back in the late '19, we did some survey work, um, focus groups. Four different areas in the state and it's interesting and I'll reflect backwards just a moment. Because as the oldest kid in the house and also with a real tiny small farm that I was too stupid not to let go of, I have to deal in pragmatics. And, the pragmatics of the fact are when we did these focus groups, folks in the Evansville area are fearful of their air. And, that is also home to the drainage of the Wabash River which there are now numerous, numerous. I think almost all coal-fired plants have announced modification in their portfolios. They have not done this because they got up this morning and thought it was a good idea. It's being demanded by the public. It's being demanded by shareholders of major corporations. I can't talk and do a Power Point at the same time but I do have a nifty little slide that you can find on our web page that shows that at least 10 of the major corporations in America, they're now demanding renewal energy as a portfolio. I've attended the 21st century legislative hearings discussing how we're going to deal with power. There's no plot to take over the world with wind turbines and solar panels. The move is diversification, to try to figure out how we're going to keep that on, keep it affordable, keep it healthy, keep it safe. I think it would be fun to run a survey

if you looked at the, I think, five or six methods that we generate electricity in this country. Which one would you really rather have next to you? And, that's an interesting debate. I'm not going to cite, I'm not going to cite wild statistics but a week ago on *60 Minutes* the nuclear disaster in Japan generates currently 150 tons of contaminated water per day. That's a bunch.

I mention the fact that I'm a farmer. I use nitrates on my farm. I also happen to be past president of a 19-county organization representing all counties that touch the Wabash River. The Midwest is the single largest point count polluter of the Gulf of Mexico with nitrates. Nitrates are very important for corn. Corn is, if you see corn in the cornfield, it's real yellow, it's because it didn't get a drink of nitrate. A project like this, that land will be rested. That land will be rested and it will not be necessary to use that material on that. We talked about degradation of lots of farmland and while I will grant subdivisions is not a big issue in Warren County, but the fact of the matter is Indiana has 14.9 million acres of farmland. My organization, we travel tirelessly, myself and two other individuals all over this state. I was in southern Indiana last week, Posey County. And, it just all common that way. These projects are not going to eat up all of the farmland in this state. There's an old joke in the coffee shop where he says, "I sure pray for a drought in Iowa because it's going to raise the price of corn here." And the fact of the matter is, this technology will fit, this technology will fit safely, this technology will enable, and particularly as a livestock farmer my entire life, it will enable folks that have moved to the country, they have a small plot. They are so proud to take their animals to the fair no matter what they are and you will raise better kids.

The last thing I'll say in terms of the economics and the point that was made about school referendums, we also created a new program in our school, one of the first of the vocational programs that we had. Out of 13 kids, we sent one to Johnson & Wales culinary school for a culinary program. We are the only culinary program in three counties in rural Indiana. And, yes, I know a lot more about rural Indiana but I'd like to offer my agenda a little bit about human nature and with 200 million dollars, there's got to be a project somewhere that somebody could take some advantage of and be just a little bit flexible here and let a little more change come. Last thing is we are the host for a display at the Indiana State Fair this year. We all hope you'll come. It's at the Normandy Barn and we've had a number of interest there already. Thank you very much for your time this evening.

Wolff Thank you. Do we have anyone online?

? You need to check with John.

Wolff I'm sorry. John, do we have anybody online who wants to--? That's a no. Thank you, sir. Okay, let's transition. So, we have heard from members of our public who are in favor of this project. Let's transition to members who, of our public who have concerns. If you would, please come forward, state your name and address. Again, I will ask, please be concise. Please don't be repetitive. Thank you.

Andreoli Thank you, Mr. President. For the record, my name is Mike Andreoli, 1393 West Oak Street here in Zionsville. I represent, as you know, a large group of citizens

in not only Union Township but Marion Township in opposition to this particular proposal. I made a supplemental submission to you. There were a number of documents in there. I'm not going to go through all of those. I'm going to try to be brief because others would like to speak.

I'll touch upon a couple of them. But, they deal with the environmental concerns and a number of other concerns that we have been able to document. The more that we've gotten into this, the more that that we've learned that the solar arrays are not exactly what they're portrayed from a short- or a long-term situation in terms of some of the studies that have been done. And the studies that I have submitted to you are not necessarily studies that are being proposed by an industry or a group of individuals. Many of these are academic studies that try to look at both sides and try to reach conclusions in some type of empirical or sensible manner, at least the studies that I've seen and submitted, seek to do that. I'll talk a little bit about just a couple of them as to property values.

It's interesting that the applicant tonight invoked the Town Council's support for the plan that has been adopted by the Town to encourage environmental consciousness and I think that's a good plan and I think it's important and I think communities need to weigh in on that. But, but, if that, in fact, was the case, perhaps they should have talked to the Town Council. As part of your packet, it includes a unanimous letter save for one recusal, asking you to either table this or to deny it. Of course, that's purely within your discretion. But, at least that's another entity that has weighed in with regard to that. It might have been a good idea for the applicant to go talk to the Town Council about this if they're going to go ahead and use them and cite them as approving this environmental conscious plan that we have which I think is a good plan and suggests that everybody ought to take maybe personal responsibilities, do some solar panels on their houses, do a number of other things in terms of waste reduction. It has a number of different components to it, all of which are good and we applaud the Mayor as well as the Town Council in moving forward with that.

I have included in your packet that I sent as far as the supplemental, the staff report that was issued by Rachel Cardis, the Executive Director of the Boone Commission Board of Zoning Appeals. I wish to suggest to you—I did not do that in any way to try to circumvent Mr. DeLong or anything else, it's just another individual who weighed in—that you will give weight to some of her thoughts and comments as it relates to Marion Township. But, I would share with you, we have one of our members up there because they met tonight as a Plan Commission, Boone County Area Plan Commission, with regard to the, a report to the Board of Zoning Appeals and that my understanding from uh, from our clients is that they issued a negative report, that the applicant's proposed project, Brickyard Solar, does not comply with the Master Plan. And, that was a unanimous vote that is sent on to the Board of Zoning Appeals, Again, not determinative for this board at all and I don't mean to suggest that it should be. You'll make your own independent decisions. But, it's, it's another piece in the puzzle that may or may not be valuable for your consideration here tonight.

It was interesting to hear one analysis that this particular project is going to preserve farmland. And, I'll talk about the obvious concern that we have with regard to that statement is that if you, if you remove farmland, productive

farmland for 30 to 50 years, I don't know how that's preserving farmland. And, the reason I say that is, currently, as part of your Master Plan, you cannot have a major residential subdivision in the Ag productive ground. It is prohibited. You cannot do it by Special Exception. The only way you can do that is to go to the Plan Commission, get a recommendation and then go to the Town fathers who would have to make a decision as to whether they would oversee the Plan Commission and adopt that rezoning proposal. So, we're not going to have urban sprawl out in those areas unless the Town wants it or desires it because the Town Council will have control of that particular process because you can't do it as a matter of right or by Special Exception. And, that's extremely important because it ties in with the fact and our arguments that under no circumstances has this petitioner met their burden that this particular proposal in any way complies with the Comprehensive Plan. It certainly doesn't and at least the Plan Commission found it didn't in Marion Township but we don't believe that it does as part of your findings that you have to make here in, in Union Township. We just don't believe it complies. For the obvious reason: you're taking productive farmland out of the, out of use for 30 to 50 years. Uh, and that's contrary to the approach taken by the, by the Comprehensive Plan.

The other issue that was raised tonight was a suggestion that—and I may not have heard it correctly—and I apologize to the petitioners if I did not—it seems to suggest that in lieu of some type of landscape or more detailed landscape plan, they are just offering money. And, quite frankly, with a couple of my clients over there, they leaned over and said, “This is insulting.” Not everything can be purchased just simply by writing a check. People have moved to the agricultural area as a matter of choice. For the most part. Many of them may have inherited land or maybe even grew up on some of the land there. But, they, they essentially live there as a matter of choice. And, if, if it's their choice to live and I would suggest that the approval letters, look at the addresses and see where those are. Most of those will be not in the areas that are immediately affected. And, it's important to have those addresses and I assume that they have their addresses when they issued a letter of approval. Most of those are in Zionsville proper and therein is the tug that's presented to you as well as the Town Council in terms of this particular process and whether the people in Union Township are going to feel protected, welcomed as far as the process in Zionsville so that they—when they voted to do the reorganization that their voice carries some weight and still matters. We trust that you will give that consideration that you think is warranted. But, certainly, that's a very important point.

As far as property values, in the written testimony and the analysis done by Professor Corey Lang, from Rhode Island that we had submitted in our first submittal, he talked about the property values in Union and in particular, Marion Township so that he understood what those property values were and he looked at the property values that were sent out in some of the Comprehensive Plan work. And, then, then, reached conclusions that, given some of the homes there, and if you've driven around Union Township, northern Union Township, you will see that there's a lot of large estates out there. There's a lot of, I would call typical farm houses, but there's a lot of really large estates out there and these people are going to be impacted by this particular development. And, you, any, you can bring in all the appraisals in the world but there's more than just a dollar impact to these folks that we have been arguing about. There's also a quality of

life impact in terms of what they seek to enjoy when they moved out to the country. That is not an insignificant impact on their values or their lifestyles. And, we would ask that you respectfully consider that when you reach your conclusion.

We consulted with Dr. Herbert Eckerlin who is Professor Emeritus, North Carolina State University and, and has a substantial resume in the area of energy and energy use. He was able to get us to an appraisal done by Mary Refossy Clay that was 100 pages in your, in your, uh, packet, uh, but Dr. Eckerlin, Professor Eckerlin was kind enough to go ahead and summarize some of the more important parts for us in order to try to streamline that and it was, it was clear that, that this appraisal that I'm citing to you and have included in my packet took exception with the CohnReznick analysis and how they went about their appraisals and found significant diminution of property values in many of the areas that they looked at. So, we believe that at, at worst that there's going to be significant diminution of property values in the area if this would go in. Uh, at best, there's confusion as to that and we should not take a chance with regard to the property values and the lifestyles of those folks out there.

One questions with regard to the—Mr. Jones asked a question about surety bond—and I don't know the answer to his, maybe I haven't delved into it as comprehensively as I should have, but with regard to the surety bonds, are they going to require full cash collateral in an account? Because if they're not, have you ever tried to collect—because I was county attorney in this county for many, many years—have you ever tried to collect on a surety bond or on a performance bond? It is a nightmare. You do not just write a letter and say, "Okay, give me the money so we can go in and help with mitigation with what was caused with regard to this project." It's a nightmare from a legal standpoint and collections standpoint. It is not an easy process. And, applicants like to say, "Well, you know, we'll just do this" and with the wave of a magic wand, that money will be available. No, no. They're not going to, they're not going to—if it's a bond issue—they're not going to let loose of that money. It's going to be litigated and it will be a nightmare for the Town in terms of trying to be in the middle of that and trying to collect that. It just will not be an easy proposition.

And to that end, one final comment. We believe so strongly that this applicant has not met even the initial burden of suggesting that they are in compliance with the Comprehensive Plan. If you disagree with that and you approve this project, I would respectfully submit to you that you'll never have another ability to turn down another project in Union Township again. And, if you think this may be the last one, if this gets approved, I think we're just kidding ourselves. And, the reason is if, in fact, this particular project meets the Comprehensive Plan, it's virtually impossible to suggest that any other project similarly situated would not meet the Comprehensive Plan. Normally, these things are not precedential in value and in adoption, but in this particular situation I would take a strong disagreement with that and suggest that this will carry precedential value because you found, in our opinion, without sufficient facts that this complies with the Master Plan, you will not have an ability to turn down another one suggesting it does not comply. So, another thought. You'll give it the weight that you feel it deserves but I did want to mention that because that is a concern that I voiced in my second submittal. Thank you.

Wolff Thank you, Mr. Andreoli.

Brownley Hi, my name is Dan Brownley, and I'm at 7317 East 100 North, directly across from the impacted area. Appreciate your time. I spent hundreds of hours over the last couple of months trying to understand what we would be engaging in should this move forward. I don't think—I think there's a perception that we're opposed to solar. I don't think that's the case. I think solar in the appropriate areas is well founded. However, taking up Zionsville's prime land and putting solar panels on it just doesn't make sense. And, this isn't really about solar anyway. This is about big business. This is about NextEra and NextEra's shareholders. So, it's about federal tax credits and federal tax dollars in lieu of the property value of the residents.

Property value's been highly debated. I've raised concerns to you in your letters, in letters to you, and I've continued to do my research. You've been presented by NextEra with one study from CohnReznick that says, "Ah, there's no measurable impact." However, as Mr. Andreoli has just told you that in your packet we've submitted four different studies, in fact, by four different individuals that say it has an impact ranging from 7 to almost 30 percent. So, how can this be? When I said this was big, about big business, it's about big business. So, if you take the six case studies that are in the CohnReznick you can throw out five of them because they're in size not even relative, from 13 to 365 acres are those five studies. So, we're taking a magnitude of five times that of the largest level and the smallest and ranging from 1 milliwatt to 48.38 milliwatts. Again, a fraction of what we're talking about. A look at these puppies, a look at these properties on several of these, you can do this in Google Maps if you want to, you can see the actual solar fields and you'll find that at least about half of them are in very rural with very limited residential housing around them. So, can you really say that the impact to property in Zionsville and Union Township is equal to that? I don't think so. I think Mr. Lake's question regarding median income as well as the overall property value is very relative to the impact of the, the property value.

Regarding the North Star analysis which is close but it's still only 60 percent of the project that's being proposed, in respect to that, what you don't see in that report, and the lady from CohnReznick admitted that, the energy company bought seven of those properties at somewhat close to market value. What your report will go into detail, if you haven't had a chance to review is that somewhere after that report, those properties were sold about a 22 percent decline in what they were purchased for by the, by the energy company. That's a decline of 22 percent. I'm sorry, the dollar value there was around just over 629 thousand dollars for those seven combined. So, there is an impact to property value. The details there are very public. In fact, starting down that trail myself before I found Mary Clay's report and I will also add Mary Clay is also a registered MAI so we are dealing with credible, credible reporting.

Many have written to you about their view and I think sometimes it gets a little skewed in what they're saying. Now, that's often called the view scape. Undebatable that a property's view scape has an impact on the property value. The view scape is one reason why property on beaches, oceans, lakes, golf courses etcetera comes at a premium. Drastically changing the view scape of

Union Township to a sea of steel and glass, not a pond but a sea of steel and glass will have a negative impact and the energy company knows this. That's why they offered one of our residents about half the value of his land to actually acquire it sometime ago.

Additionally, Alcoa Energy is a solar development company. One of its owners, Thomas Mellon, is suing the United States Department of Interior in an effort to halve the development of an 800-megawatt wind, offshore wind farm off the coast of Martha's Vineyard. In one appeal that he filed the Complaint claims that the proposed wind farm will have a well-documented and specific and substantial alteration of the direct view scape from Mellon's property in Nantucket Sound and he was worried about the value of his property decreasing. And, that's coming from one of the founders or the owners of a solar company. This is a documented article in the *Renew Economy* on July 28, 2021. It makes me wonder how many of those who have supported this initiative have taken the initiative themselves to put solar panels on their property and take the risk and lower the value.

Beyond view scape, property values may be impacted by soil and/or water contamination. NextEra provided a report by UL on the toxicity of the panels. UL states in normal operations there is no risk. Well, what is normal operations? When is a panel is not operating normally? What is the risk then? The gentleman from Yale referenced your appliances all have UL ratings. Well, sometimes they catch fire, too. So, there's no guarantees that go along with a UL approved device. There is still risk. Does normal operations include the damage from high winds, hail and tornadoes that can impact panels? More importantly, the UL report states that at least three times that more research is needed regarding the toxicity elements and the impact to the environment. The UL report is very generic to the industry and not specific to any specific panel or manufacturer. We all know there are different quality of products for any product in a given market. Has NextEra provided the specific manufacturers of the panels to be used as requested by this board and the community for some time?

We have already seen a Union property owner pause his building plans waiting to see if it's worth his time and investment or if he needs to try to sell and move on. Others wish they would have known prior to recently purchasing the property so they could have chosen another property. If you haven't driven through northern Union Township, I would request that you do that and find the amount of opposition against this. It is very strong and very prevalent. It is part of your community and we ask that you consider that. There's been lots of conversations today about the funding for schools and the revenue that it's going to bring to the schools. However, at last month's meeting, there were questions about the model that was used to establish that 50 million dollar which is actually 35 million dollar which keeps jumping around because we really don't know how much revenue is going to come up. And, I don't know that we have a solid answer on that. Nor did we get a solid answer on if an abatement would be filed which will negate much of that revenue. So, in the interest of time, I will stop there, but I do ask that you seriously consider the property value and the impact to the members of your community.

Wolff Thank you for participating. Hold on, one second. In the interest of time, I'm going to limit public comment to those who we have standing in front of us. So, thank you.

Schultz Okay, well thank you for taking comments. I'm Julia Schultz. I'm currently living with family in Austin Oaks while we build our home in Hunt Club. I'm one of those transplants from California. We escaped from California to get away from a lot of things and this is one of them. California is a poster child for solar. California has the largest amount of solar production, 29 percent. The next closest is Texas. It's less than 7 percent and we all know what happened in Texas recently. The maximum efficiency rate is around 26 percent. But, I know from experience because we've lived it. I've lived there my entire life. You guys have no idea what a gem this Town is for people like us that come here. I love Zionsville. It's beautiful. The farmland is gorgeous. I loved being surrounded by beans and corn and I love it. I don't want this destroyed. This is my forever home. This is where I plan to be forever. I don't want it destroyed. We left a town that started out rural. It was avocados and orange groves, one of the few areas left in southern California. It is no longer. So, please, I'm begging you, do not destroy this town. It's hard to find anything like this here anywhere else.

At any rate, sorry, I digress. California has almost 365 days a year of sun. And, we have probably at least half of the year over 80 degrees. We fell for the solar thing and we put the solar panels on our house. My husband was retiring. Several years afterwards, knowing he was going to use shop equipment more, we added panels. In addition to after they did their whole analysis, here's what you're going to need. It's going to cover everything you have. No, it didn't. It, okay, it's about 80 percent, okay, it's 20 percent efficient basically. So, let's say your income was taxed 80 percent and you only got to keep 20 percent. Would you consider that a bargain? Because that's kind of what you're getting with the solar. Hey, this is great. They do a great job of selling it. I'm telling you. They do a great job. And, we fell for it. But, it did not cover our energy. In fact, our electric bills went up because of the solar. Guess what happens? Here's an unintended consequence. The electric company is now no longer making the revenues that they were making so guess what? Your rate has to go up to cover the solar stuff. When we were selling our house and left California and escaped, um, we got a bill from the electric company because now you're not using enough electricity so now we're just going to bill you more. Like, what? I'm not even there using it.

Okay, so these are things that come up. Unless you have a battery backup system, you're losing a ton of what the solar would be producing anyway. Okay, what are batteries? They're toxic. So, now you have more toxicity that you're going to put into the land. You think this is the panacea for saving the planet? No, it is not. I guarantee you it is not. There's maintenance. If the panels aren't kept clean, they are not running efficiently. As they degrade over time, they're not efficient. The inverters fail. The panels break. And, my husband talked last time about hail. This is the biggest hail that I've ever seen in my life. We all thought somebody was shooting at the house, it was so loud when we heard it. So, yeah, that can break the panels. As far as the vegetation, um, you know you do need to maintain it. But they're talking about, "Oh, well we'll put pretty stuff around it so it will look really nice." Um, you can still see them. The panels are ugly. Unless you

have stuff that's tall enough to completely keep it out of view of everybody, it's not doing any good. Now, if you do that, guess what? You don't get any sun. Now, think about it. In California, with all those solar panels, all that sun, how come there's rolling blackouts all the time? How come they're begging people with electric cars not to charge their cars? There's not enough electricity. The grid can't handle it. Not only solar but California is fifth largest producer of wind energy. So, now you combine all of that and there still not meeting it. Had they not done that, quite frankly, I think that we would have been better off.

Um, California is also the most polluted state. So, all of that solar, all of that wind power is not cleaning the air. Think about it. And, it's been brought up, who is benefitting from this? It's not Zionsville. I think it was, it was Chairman Wolff that asked the question, what the energy company was and where that power was going? It is not Zionsville. It's not here so why are we destroying our land for this? Zionsville's going to get a solar wasteland, reduced air quality because it's basic science. When you have more plants, like farmland with plants, your air is cleaner. That's a whole process with photosynthesis. It cleans your air. Solar panels aren't going to do that. The solar company is going to be the biggest benefactor and they're going to leave us with an eyesore, basically.

I talked about some of the unintended consequences. There's one more thing that isn't really on the table here yet but it's something that ended up happening where we were after all this went in and that's called smart meters. Now, that they've put the solar grid in there, now they're connecting to the solar grid, appliances need to have information telling you what appliance it is, now these meters are tracking everything that you use in your house. They are tracking your peak usage. So, it's not no longer, it's no longer the peak usage of the day; it's the peak usage per person and your rates will go up in your peak usage period. So, if you think you're going to save money, well, I'll just use it later at night like they say to use it, the electricity, you're not. That's not how it's going to work. Um, let's see. It's also a—this is really a political thing. Everybody cares about the town. We, everybody wants to do the best, what's best for our town. We disagree on how to do that. This is one of those feel good choices. Look how good I am. I care so much about the planet because I'm going to do, use solar. It's not going to save the planet. Um, sorry. I am not anti-solar. I do agree with the gentleman that spoke before me. There are uses for it. But, this is not it. I beg you, do not take away this beautiful farmland and put these solar panels here. If you want additional uses, then put it like on a parking structure, put a roof cover over it and put the panels on top of the roof. There are applications where it makes sense but this does not and um, so I can't read that far down there. The gentleman on the end. He mentioned the decommissioning and when the lady spoke about, um, well all these other places are doing it, okay, I'm just going to leave with this for those of you who remember it—there was a place called Jonestown and everybody drank the Kool-Aid. That turned out to not be a good idea. Please vote against that.

Wolff Thank you for participating.

Schultz Good evening, Greg Schultz, Zionsville resident.

Wolff Mr. Schultz if you spoke last month, would you like to give the opportunity for someone else to speak?

Schultz Absolutely.

Wolff Thank you. I'm sorry. I want to be clear on that. That's not fair to Mr. Schulz. He took the time. If you spoke last time, please offer somebody else the opportunity. We want to avoid repetitive comments and we want to add breadth and depth to our conversation. So, I'll leave it there.

Grinstead I spoke last time. I'm not going to repeat anybody else's comments.

Wolff Okay.

Grinstead Andy Grinstead 9400 East 300 North. I received a letter, fire fighter from Westfield. You probably know, Westfield has a mutual aid agreement with Zionsville. I'm not going to read that letter to you but I am going to read three sentences out of his letter verbatim. Not my words, the fire fighter's words: "Imagine a hot dry August day with a 15 to 20 mile an hour wind and that dry vegetation under these solar panels combusts and catches fire and then causes a solar panel to combust and start to burn. The amount of smoke that will be produced alone will require massive evacuation from residences." Skip down a little bit more and I'll read another sentence: "There would be no doubt in my mind that my agency would be called to assist, not just with the suppression of such a large fire but transporting of inhalation victims to area hospitals pronouncing the death of potential victims that were overcome by the toxic smoke but also the hazardous air monitoring that would be caused by the combustion of solar arrays." Skip down to the next sentence and the last sentence that I'm going to read from his letter: "When fire melts these elements, it carries a fire high health hazard smoke. I dread the day as a fire fighter or a resident that this solar project goes up in flames."

I'm not going to address property values. I'll skip it. I do want to address the Comprehensive Plan. The specific Zionsville Comprehensive Plan. I'm going to read a few goals from that comprehensive plan. "Goal 10: Retain the small town atmosphere of Zionsville but encourage well-planned design developments that complement and enhance the overall scale, density pattern and architectural integrity of the community. Goal 12: Preserve the natural environment as an asset and unique attribute of Zionsville. Goal 16: Encourage the development of tourism facilities that improve economic diversity of Zionsville without adversely affecting the unique character of the area and the quality of life enjoyed by the residents and visitors. Goal 17: Minimize the effect of future land uses that have potential for adversely impacting the environment and character of an area."

I'll also read one excerpt from the environmental and open space overlay that's part of the Comprehensive Plan: "Both the Town of Zionsville and Boone County recognize the importance in maintaining and preserving open space in environmentally sensitive areas. Open space and the unique natural resources and unique nature features of the planning area establish an image of the quality of

life in the town for visitors and residents alike. Preservation of this natural beauty is required to enhance the general welfare and character of the area.”

From the Comprehensive Plan amendment that was adopted in 2014, specific to Union Township: “The desirability of the rural smalltown character and quality of life of the area combined with the ease of access to town townships, has created a brisk real estate market for new residential development. Many new homes in the area surrounding Zionsville tend to be high-priced compared to other areas of the county. Public input strongly supports new residential development and should respect the unique rural and natural character of the area. A variety of open space preservation techniques should be employed to ensure that new development respects the existing scenic features of the landscape.”

It’s very clear that passage of this project would not meet goals 10, 12, 16 and 17 of the Zionsville Comprehensive Plan. It’s very clear that passage of this project would not protect open spaces within the community. It would not preserve the quality of life for the community. It would not respect the natural character of the area nor preserve the scenic features of the area. It would not protect the rights of adjacent property owners. What this project would do– would dismantle the morale of the community. It would alter the quality of life for those actually living in the community. It would decrease neighboring property values. It would create grave safety concerns for the neighborhood. And, it would basically eliminate the desire to live here.

Sarteen Hi, I’m Tammy Sarteen. I live on uh, I don’t live on but I have land on 950 North 800 East. My husband and I purchased this property to build our dream home. Um, we wanted our kids to go to Zionsville schools and now the dream is destroyed. I have 10 acres and I don’t want to live here because I don’t want to live directly across the street from a solar field. Um, we live in Danville, Indiana right now across from a cornfield. And, I love it. It’s beautiful. I don’t know if anybody has ever thought about what happens to these solar panels after they’re gone? Where do they go to? Landfills? A study by *Harvard Business Review* has said that by 2030 our landfills will be filled with these solar panels. So, who takes these solar panels to these landfills? Huge trucks. They have to have gas. So, are we protecting our environment at this point? Um, and then the solar, um, company says hedges. Well, how tall are these hedges going to be? We’re going to look directly in front of us. Are they going to be three foot tall in front of our house if we ever build? So, please think about this when, I mean, our house we were going to build was going to be, you know, a beautiful home, million dollar home. Now, you guys don’t get any of these houses that people want to build on these properties. So, think about that. Thank you for your time.

Wolff Thank you.

Wesler Hi. Victoria Wesler 6906 N. Caldwell Road, Lebanon, Indiana. Solar companies would have you believe that solar power is the energy of the future. One of our speakers said tonight that it is the commonsense solution to our energy needs. We talked last time that the early adapters such as Germany, the UK, Australia, California, New Mexico and North Carolina believe that the solar energy is the energy of the past and solar energy makes absolutely no sense. Solar’s star

continues to fall. No too long ago, China declared its desire for world dominance as the Chinese often do with regard to the use of solar power as the country's primary energy source. The Chinese are quick studies. They know what works and they know what doesn't. And, they have confidence to make changes in the face of new and compelling information. They don't sit in their mistakes and they deal in pragmatics. In April of this year, the deputy secretary general of the National Development and Reform Commission of China said the following with regard to their abandonment of their aggressive solar embrace. "Because renewable energy sources such as solar power are intermittent and unstable, we must rely on a stable power source. We have no other choice." The article from CNBC goes on to talk about how they will be abandoning their aggressive stance with renewable energy and going on to other energy that is more reliable. Energy that keeps the lights on. Once the Chinese knew better, they did better. They saw solar fail in their country. They rejected the instability of solar energy in favor of their country's safety and security. I ask this evening that you do the same for Zionsville. Thank you.

Wolff Thank you for participating.

Riley Hi. My name is Matt Riley. 7317 East 100 North, Whitestown. I'll speak for the younger side of the room that is not for solar in this area. My background's in Informatics and security, cybersecurity. I've done a lot of studying and a lot of development work with urban informatics and how we can generate better uses of power and implement technology all through buildings and urban developments, architecture, whatnot. We found in our studies that solar panels really work great as supplemental energy on the top of skyscrapers and buildings where they are out of sight. It's not being used for other purposes. That space is dead space in a city. No one's looking up at it. It really—birds aren't really living there. That space has already been void of its native species.

Another thing we heard a lot tonight is that solar is the energy of the future. When you look back and you see the history of how power plants have developed and we've gone through all these different resources, the same proposals were made to different businesses and zoning appeals boards or whatever were in place at that time to get these things there. They were guaranteed safe and all these benefits, tax money. But, as we're looking at now, we're looking at an issue with energy and renewable energy and protecting the environment. Talk about Evansville. There are a lot of people there and they're suffering from air quality. That wasn't a pro of that proposal. It wasn't a known at the time as to exactly what was going to happen. Nuclear energy was proposed as the energy of the future because it was safe. That's a joke now. Is really the lack of answers and the lack of reassurance by NextEra what you're going to make your decision on the future of Zionsville, a city so close to Indianapolis that has a bright future? Does this really fit into it and are you really going to risk destroying the culture of Zionsville on what ifs and lack of assurances and a lack of answers?

Wolff Thank you, Mr. Riley.

Brownley Nancy Brownley, 7317 East 100 North Whitestown. And, I'm a part of the consortium on that side of the room. And, I just want to say that we care. We care about the environment, we care about climate but we care about our community

as well. Drive down our roads in Union Township for evidence of that. We care about raising quality crops and livestock that feed the world. We care about our property. We care about our health and our safety and our well-being. We also care very much about one another. We are neighbors. We are good friends. We are family. We are extended family and we are a very thriving and philanthropic community. Prior to July 7, 2021, there were close to 130 letters submitted to you and approximately 175 notarized petitions posted online opposed to a solar farm in Boone County. There were close to 20 letters in support of a solar farm in Boone County including letters from those who would financially benefit from it. Post July 7, even NextEra mailing prepaid postcards to Zionsville town residents, there were less than 50 that were returned and, unless I missed someplace ongoing, Zach said that there 57 letters. They were prepaid postcards. There were about six emails and there may have been a couple of letters in there that I missed that were written in support of solar and approximately 30 more people opposed with the cards with a few additional letters written as well. Of the almost 50 postcards in support, only one lives near our impacted area.

The meeting room last month was full and it's even more full this month. With a number of constituents also viewing the meeting online, no count was taken but many were there to oppose. There are over 1200 pages of letters, reports, expert testimonies and journal articles online right now. Countless research hours have been put into this project by us, the local residents, because we care. We care and we feel strongly this project will be a detriment to this thriving community for years to come. And, I just have to add because I'm a right fighter that I think it should be mentioned that not only, North Star in Minnesota, not only did the energy company (and I recognize it wasn't NextEra) but not only did they buy the houses and then resell them, they also invoked good neighbor contracts with people to be quiet. They paid anywhere from 5,000 to 20,000 dollars for their silence. I don't know if that's going on in this room in my community but I think it's worth mentioning. I speculate that none of us anticipated being indoctrinated to the pros and cons of large scale solar installations on prime farmland in the last nine months, especially you all but this is where we find ourselves because of large power lines installed years ago.

Upon my review of the online information again last night it occurred to me that the Ford Center petition, which is supposed to come up for discussion tonight, submitted more quality detail and specifications than I have seen regarding Brickyard Solar unless I've missed something. Which has much—The solar project has much greater impact on my home and my community than that project. I am puzzled by this especially in light of the fact that 650,000 solar panels spanning 4.2 square miles over 30 years (maybe) will be a living, breathing thing which has the possibility of impacting us daily in multiple negative ways. It doesn't just get built and exist like a building and we get used to it. It has the life like very few of the projects you probably vote upon. To be honest, it feels as if the voice of NextEra is louder than ours. Maybe that's a misnomer but that's what it feels like. But, my question is, should it be? Research and experts indicate we may be dealing with an energy industry that is desperate at best. At best, this project has maybe a 50 percent chance of saying what it will be if you review the documents online. My question is, is it worth the risk to your community? Some may say Zionsville is being progressive and looking big picture by approving this project, and we've heard that tonight, but my

understanding is that the BZA's charge is protecting its constituents while responsibly overseeing growth. What if history proves the progressive move is to deny this project? To enable future growth bringing many more benefits to the Town and to our county than a solar farm in the future? What if you demonstrate wisdom and denying this project based on that data? What if you are one of the first BZAs to go beyond the smoke and mirrors and deny this project? Personal agendas and politics aside, we once again respectfully ask you to continue to consider the data and unanimously deny this request.

Wolff Thank you. Okay, at this point, I'm going to close public comment. We've heard lots of wonderful testimony. Thank you all for participating in our conversation. Fellow board members, we typically would hear the staff report at this time. Do you have any questions that you would like to ask the petitioner at this time? Seeing none immediately, Wayne, may we have the staff report?

DeLong Certainly, this project certainly as we indicated this evening, it's very unique. Certainly, a Special Exception review within an Area Plan Commission is, is different than an Advisory Plan Commission. Certainly, Mr. Andreoli spoke to that in part earlier this evening. Certainly, staff has reviewed the petition as it's been filed based upon the information that's available to us. There have been some questions in the staff report. The petition is—or the staff report—is supportive of the project. I do want to speak to the Special Exception review just generally. The zoning ordinance itself outlines many different land uses that are permissible by Special Exception in the Ag District. It could be a residential home, a cell tower or a utility installation. So the scale, the breadth, the depth isn't necessarily something the ordinance speaks to. It's very black and white. Is this or is this not a utility? Is this or is this not a cell tower? Is this or is this not a home? Therefore, the staff is reviewing the project based upon on how the zoning ordinance dictates how that review is to be conducted. That's what's being discussed this evening. As the staff report reads, again, the staff report is supportive of the project. I would be happy to answer any questions.

Wolff Thank you, Wayne. If I may try to put some color onto your statement, we have often discussed that as the staff you have the opportunity to review this petition or any petition in 2D and our discussion allows us to gain a third dimension and see more color and more depth. Is that what you were driving towards?

DeLong That's a pretty strong analysis and an accurate one. I mean, after 25 years of doing this type of work, 21 years as a public planner employed by municipalities, that's the generalization a planner would make and certainly the, the information, the additional information that's being shared this evening, while wonderful, it's not necessarily, all this detail isn't something that the staff would have the opportunity to incorporate into that two-dimensional review. I mean, certainly the Comprehensive Plan is that living, breathing document that's been mentioned this evening and certainly, if the analysis was so narrow to which, the things that have been said this evening that, you know, such uses, if this, for example, if this use was approved, then everything would have to be approved from here on out, that is not the case. Each case, each petition is unique. There are standards that are applied in each case. The Comprehensive Plan is, is definitely a part of your three-step findings that the character of the district is being maintained, that the Comprehensive Plan is being looked at, adhered to, read, applied and certainly

when you find utility installations all throughout the United States, Boone County, 421, here in town, there are substation, cell tower, those items are installed where they're needed, where a special use says they are desired for a variety of reasons and then the public process then debates, you know, the final granular points that are being expressed in this room this evening. Again, your analysis is very strong and I'm happy to answer questions.

Wolff Thank you, Mr. DeLong, and I would also before we move on, I would like to thank you, the staff, everyone, a tremendous volume of data and information has come in and I know it's put a lot of strain on your group and so I appreciate all of them processing this and getting it to us in an organized manner so we can make an educated decision. So, thank you.

DeLong Certainly happy to serve.

Wolff Um, Wayne, I'm going to ask you before we turn it over to our group for discussion and the first one, very generically, I'm not aware of anything in our zoning ordinance that addresses solar specifically. Are you familiar with anything that—

DeLong No, there is not. I mean, this is, when, this is also very common in areas that have zoning ordinances that are 10, 15, 20 years in their original formation as this, as this group knows and certainly as the Plan Commission, the two members that are here who are on the Plan Commission, you did see edits from time to time, you know, every year and a half to keep things updated but certainly solar, alternative energy, climate action, these are terms that have not found their way into the zoning ordinance yet as, as you know, we've kicked off a year-long process with the form-based code to work on these things among others and certainly, in this staff report, we referenced the model code that's available to us to compare this project to so there's comments back and forth, pros and cons as to who wrote that, where's it generated, what's it doing but that is a book that is vetted and available and is what we've added to the context for this evening.

Wolff Thank you, sir. And, I would add that, you know, assuming that a Comprehensive Plan or a zoning ordinance could cover every single instance is naïve and that's why we have these meetings, that's why we have these discussions, is for these nuances. So, with that, any other questions for staff at this time? Quiet group.

Discussion amongst the group. So, um, I will say this publicly. I know you are all familiar with it, but for the members of our audience who are fairly new to the process, the petitioner has three burdens to meet and if they don't meet all three of the burdens then we are obligated to deny it. If they meet all three of the burdens, then we're obligated to approve it. That is the rule. So, let's just quickly skim over those and if you have any comments as we review them, let me know. The proposed use will not be injurious to the public health, safety, comfort, community morale, standards, convenience or general welfare. So, that's the first burden that they must meet. Generally, I think about this burden as, excuse me, safety. We've heard a lot of testimony about, you know, debris and things like that. I'm not particularly concerned. I generally trust engineering. I think, you

know, I don't have a particular concern here but does anyone have a particular concern on this one?

Lake Not necessarily knowing that the farms if actively farmed will likely pollute more than you would have if you had residual runoff. And, the UL report does state that the end of the useful life, the panel can release toxins. It also says that it does release toxins, just not at a level that is above this, the minimal threshold. So, um, you know, there, there are contaminants with everything. Your new car smell? Those are carcinogens, so hope you like 'em. You know, we're not all going out and not buying new cars, you know. Breathing air, you're getting carcinogens every day so I think they're tradeoffs with that. So, to me, the safety is not something worth debating here because the agricultural side is as bad or worse than this would be from a safety standpoint.

Wolff It's difficult for me to assess that but as I look at all the information that has been presented and delivered to us, again, I don't necessarily have something that raises a red flag. Any other comments from the group?

Mundy I'm in agreement with Mr. Lake. I don't see the safety as a significant issue.

Wolff So, the second burden that they must meet is that the proposed use will not injure or adversely affect the adjacent area or property values therein. We've heard a lot of testimony back and forth. It turns out, compelling testimony on both sides on whether it does or does not affect it. I've learned that there are such things as facts and false facts and the signs there. I probably do have some concerns here. Um, I'm not sure if I buy one particular side's evidence more than the other but I do have the unknown which causes me some concern.

Lake I believe that it is possible that all those studies are 100 percent accurate. And, I also believe that none of those studies 100 percent represents Zionsville. And, I think that's the challenge that I see is that we don't fit any of those norms. We're not so much of a rural, agricultural district that, you know, people weren't dying to move into that area anyway. You know, people are dying to find 10 acres in this same area we're talking about, build their dream home. I mean, that's, my next home I would hope would be up in that area as well. So, I certainly see that and I do believe that because of that desire, because of the idyllic setting that we've created for ourselves, that we say day in and day out that we want to maintain that a project like this would, in fact, drop home values for those non-participating residents. I fully believe that to be the case. Significantly enough that that's one I don't know we can get over.

Wolff You're concerned about finding, the second finding of fact.

Mundy I am as well. I, both the petitioner and the remonstrators may be accurate with the studies they represent but it seems to me that commonsense would tell me that no one moves to the country and wants to see that. So the view shed or view scape is not something that people would want to see. And, that means it limits your market and that means supply and demand has changed. Not only that I think the CohnReznick study depended a lot on what they heard from appraisers and assessors and my own limited experience with assessors and appraisers are that they don't look at that but they are probably willing to give you their off-the-cuff

opinion whereas the study from Rhode Island I think delved into a lot of detail. It was criticized because it went up to a mile but he did break it down and say the closer you are, the greater the impact. And it also said that basically farmland is not affected. If it's an open field that's going to continue to be farmed, it's probably not going to be affected but it does affect residential values. So, I, too, am concerned about that one.

Jones

I guess I'm always down here with the "you don't own the view" line. And, I'm kinda going to stick with that again. It's an interesting read, the package of stuff we got and I went through the Damage Study Theory and Methodology piece. I kinda picked it apart a little bit. We repeatedly get requests for variances for homes out in agricultural areas and we always make sure we include the right-to-farm act because we realize that, I mean, we don't realize but the point I'm going to make is, a home, a house, a residence is an emotional decision. The purchase price of the land, the cost of the sewer, the cost of the electric, the cost of the lumber, you know, all are a fixed number. But, once you're done and you've spent that hard dollar, you end up with something that gets an emotional value attached to it. The reason we attach the right-to-farm act is because we know from history that people can come forward and lodge a complaint that the value of their emotional expenditure is being affected by the farmer across the street. On the other hand, though, we never really take a hard look at what a farmer actually is and basically, a farmer is a piece, a person who has a piece of property that is income-producing. The only reason that farmer owns that farm and does his farming is to make money. He's not out there growing anything because he likes it, because he thinks it's pretty. He does it to make money. And, what's interesting about farmland that's different from any other kind of for-profit or commercial piece of property is the farmer has the right to produce income right up to the property line. You know, when it comes to building a warehouse or a factory, you know, those setbacks, requirements, you know, a whole lot of other things that keep the kind of back off the edge. So, I guess one of the pieces I'm concerned about is, is that the farmer has the right to the benefit of earning the income off this land however he sees fit. So, all these stories and lines about how we're losing farmland, we're losing this, all that kind of stuff, no, it doesn't. The farmer is farming that and creating that view solely for his own purpose of creating income. The fact that we've attached some sort of emotional value to it, we don't really get to do. Um, one of the more interesting lines in here is, and I kinda highlighted it, was the right of exclusion. "Often called the right of exclusive use or right of exclusive enjoyment provides that those who have no claim on property should not gain economic benefit from enjoyment of the property." So, basically, all the people who moved to the rural area because they like it because they have some emotional attachment to it are now trying to kind of seek an economic gain from somebody that they're not compensating. Hence, the farmer. As much as yes, commonsense says that you get a solar field across from your house, it's going to affect the value of your house, I firmly agree with. But, um, the fact that we should then, what do I want to say? Penalize the farmer for trying to make a business decision regarding a piece of property that he has a history of making business decisions with how it is used, I think is an equal taking from him.

Lake

We asked those residents when they move there to sign a right-to-farm act--

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- Jones Correct.
- Lake not a right to solar act. And the reason we do that, the reason we do that is there is an expectation when they move there that they can't be upset that there's corn. We don't ask them to have an expectation—
- Jones No, no, no. We can't be upset that they are conducting activities to generate revenue off that piece of property. Maybe corn, maybe soybean—
- Lake The definition of farm though doesn't include solar.
- Wolff So, let's—
- Lake You don't grow—
- Wolff Let's, let's—I think this leads into the third burden.
- Jones This fight between Chris and—sorry.
- Wolff Which is, The proposed use will be consistent with the character of the district, land use authorized therein and the Town of Zionsville Comprehensive Plan. And, so, I think where Mr. Lake was driving to and I am sympathetic to this position that if I move out into that area, it is farmland, I signed the right to farm. I mean, I know that the people are doing that, and I have an expectation that the guy is going to drive a combine there and that when he does, the mice will come into my house and those types of things, but it'll be pretty between July and August and those types of things, that is, but will be consistent with the character of the district. I don't think, because in our Master or in our Comprehensive Plan, nor in our ordinances does it reference solar, how could you make the assumption that that field will go from this to a solar field? I don't think that's consistent to me. I think they have—
- Lake And, I would say character is an aesthetic quality in that, in that sense. In looking out and seeing a solar farm, metal and glass in an area that is not typically known for metal and glass is not in keeping with the same character.
- Wolff Yep. I will say this plainly. I believe climate change is a real thing. I have two schools, two schools. I have two kids, two sons in the Zionsville School District. I voted for the referendum both times it's come up in front of me. I support that. I like the idea of 35 million dollars. I mean, that doesn't sound bad to me at all. The proposed use will be consistent with the character of the district. I don't think, I'm having trouble swallowing that pill. Ms Campins?
- Campins Well, with the Comprehensive Plan, it says that um, you have to encourage agricultural operations, you know. And, that solar farm does not do that.
- Lake The other thing that hasn't been brought up is, this solar project likely for these adjacent neighbors will create a 5-7 degree increase in their ex-, their temperature at night because it's a heat island and that actually leaves their property and does affect the person next to it. So, the person who wants to have their windows open

when it's 72 degrees out and enjoy the spring air at night is now going to have 77 or 78-degree air that they're dealing with.

Mundy I, like you, believe that global warming is real and I think it makes sense to diversify our sources of electrical energy as much as possible. Solar or wind will never replace what we, in the way of consistent power. They're both intermittent but I think they have a place but I, I don't believe this, this meets that requirement that we are to adhere to which says it is consistent with the area.

Wolff Mr. Mundy, it may be but it's, it may be but it's not currently in our Comprehensive Plan articulated in our Comprehensive Plan that way. We're obligated to say that they did not meet, if they did not meet that burden, we're obligated to deny it. And, I just—as I read the Comprehensive Plan, and I look at that statement, the proposed use will be consistent with the character of the district, I, does that, I can't swallow that pill. That's my opinion. I'm one of five but that's the pill I can't swallow.

Lake And, you know, while you know, believe in climate change, support solar, have buildings I've designed with solar panels on the roof, buildings use 70 percent of the electricity and if Zionsville, I think the intent behind their climate plan was to reduce the energy used, not necessarily or not just create more of it in a sustainable fashion and so our building codes at a state level or ordinances we could introduce locally would have a much more significant impact on climate change by reducing the amount of energy buildings use versus the solar project.

Wolff So, I'll go back to the original statement. The petitioner has the obligation of meeting the three burdens that we discussed. If they do not, we're obligated to deny it. If they have, then we're obligated to vote in favor of it. Any further discussion amongst the group? Mr. Jones?

Jones Um.

Wolff I only called on you because you looked up.

Jones Yeah, I know. Um, there's other issues still that are blowing around with the commission of the insurance. I really wish they had supplied some better documentation as to where the panels are going to go. We asked an entire round of questions about trying to sort out the difference between the 1600 acres and the 800 acres fenced and the 300 acres to panels, and I don't think we got any information on that.

Lake There were some additional Zoomed-in images that helped a little bit.

Jones A little bit? Okay.

Mundy A bit.

Lake Will say there was, yeah it was late arriving but there was some additional information.

Jones I was entrenched in the Damage Study Theory and Methodology.

- Lake There was at least an effort made to provide.
- Wolff Yeah, I would agree. There was. Um, my thought process doesn't revolve around that. It's still that third finding of fact that I'm—whether the density of those panels doesn't—I mean, I would go so far as I reread the minutes, I'm sorry, you people—you people? Fellow members, you down there, everybody to the left, I had the opportunity to review the minutes to the best of my ability. I didn't get them done in time. We discussed that earlier. But, it was discussed earlier that the 400 feet came from other communities' ordinances. It's not in our ordinance. It's not a part of what we have discussed as a Comprehensive Plan. Um, so I don't know how it can be aligned with it if it's –
- Lake I think if this were allowed or discussed or contemplated in the Comprehensive Plan and there would be a way to maybe reshape the way that the panels are laid out so they don't wrap some of these houses on three sides, we'd be having a completely different conversation.
- Wolff Yeah, and as I told Mr. DeLong, we can't assume that the Comprehensive Plan is going to cover every scenario. It certainly will not but the proposed use will be consistent with character of the district. Can't get past that. That's me. Is there any other discussion amongst the group? If not, I will entertain a motion.
- Lake I move that Docket #2021-13-SE Special Exception for multiple parcels located in northern Union Township west of South U. S. 421, south of County Road 200 North and east of County Road 600 East to allow for the development of a solar farm with the Agricultural Zoning District be denied.
- Wolff Thank you, Mr. Lake. Is there a second to that motion?
- Mundy Second.
- Wolff Thank you, Mr. Mundy. So, as a note, there's a negative motion on the floor so a vote of aye is in favor of denying the petition. With that understanding, Mr. DeLong, can we have a roll call vote, please?
- DeLong Certainly, Mr. Jones?
- Jones Huh? Aye.
- DeLong Mr. Lake?
- Lake Aye.
- DeLong Mrs. Campins?
- Campins Aye.
- DeLong Mr. Mundy?
- Mundy Aye.

- DeLong Mr. Wolff?
- Wolff Aye. The petition is denied. With a negative vote, this petition is continued to the next meeting to allow for an adoption of the negative findings of fact. Thank you. We'll take a brief moment to allow the audience to clear who doesn't want to hear about the next item on our agenda.
- Jones Can we take a brief moment to--?
- [Brief recess]
- Wolff Yeah. --this meeting back together. Mr. Kite, I know you're excited. The next item on our agenda is Docket #2021-19-DSV. I would want to, before you begin, I would make a note, our rules procedures say the board may elect to not begin the hearing of any matter after 10 p.m. local time if the hearing on a petition, ---- so, here's my question to the group. Ford Center and Altum's, can you raise your hand? Ford Center, Altum's? Altum's, Ford Center?
- ? Um, Ford Center is going to be presenting online.
- Wolff Okay, thank you. Um, Mr. Kite, we have three in front of those. What are your guys' thoughts here? Do we want to—our rules suggest that we can continue those to the next hearing. We could certainly adjust to hold a special meeting to get through these or we can—I'm open to suggestions. I want to be respectful of people's time.
- Lake Yeah, my only thought is hopefully, we've all reviewed these and so, if we can get as little comment as possible from the petitioner, allow us to ask our questions, it doesn't look like there's going to be much, if any, public comment, we might be able to get through these fairly quickly because we've hopefully all done our homework and read the packets and are familiar with the issues.
- Wolff Okay, so I have it at 9:15, 9:14. We did have a comment from a member of the public in another meeting, another setting, that the continued business, they assume it was going to stop and it didn't, it continued on, so we need to make on the record a decision by 9:45 on how we're going to proceed. Fair enough? Okay.
- Lake That's fine.
- Wolff Mr. Kite.
- Kite Thank you. I'll be super quick hopefully. Ah, Paul Kite with Strongbox Commercial, offices at 65 E. Cedar representing Nicholson Orthodontics with respect to a variance request for nine parking spaces. I think to be quick I'll talk about what's different from the last submission. The commitments remain the same. The difference is that we have entered into an agreement with the adjacent property owner, Mr. Harris, to lease nine spaces from his lot immediately behind his building there. I know there was some question from staff with respect to previous commitments for that lot. There was only a letter of intent with respect to the majority of those spaces discussed. I spoke with him this afternoon. He

does not have an agreement with respect to the vast majority of those spaces. The only agreement he has is to lease the former Chamber of Commerce building immediately north of the Lions Club building to that use and those spaces immediately behind that. So, none of the spaces immediately to the east of the larger building to the north are committed to and he remains available to lease those spaces for our use.

Wolff Mr. Kite, could you describe, do you have the petition in front of you?

Kite Yes.

Wolff On Exhibit 2, could you orient me on what spaces you're describing?

Kite Okay, so on Exhibit 2, the building that is immediately north of the Lions Club actually right on the intersection of Oak and Elm, that's the former Chamber of Commerce, so that lot and the spaces that are paved immediately to the east of that building are committed for a lease to CoHatch, I believe. So, all of the spaces in the lot north of that are not committed. I think it's his understanding that they're seeking spaces elsewhere.

Lake So, I have a questions that I asked last time that I didn't get the answer I wanted. Um, does your client, how do the majority of his patients get to the facility?

Kite Well, a few of them take the Brace Bus if you're familiar with that?

Lake That's where I was going last time. I was expecting you to state that.

Kite So, I just wanted to confirm that was still going and that is still going. My kids used to use the Brace Bus. If they had a break in school, 40 minutes or whatever, they pick you up, they run you over to Jim's office, 10 minutes later, I'm on my way back.

Lake So, you may potentially have less parking demand than would normally be encountered because the Brace Bus would serve as the primary transportation vehicle for those kids?

Kite Fixture of the community, yes.

Lake Okay. Thank you.

Kite And, then, um. So, and then the other, I wasn't sure exactly how many chairs. That was another question, how many chairs were in the addition and it's five chairs. I think I was wrong. I think I said seven or eight or something.

Lake Yeah, I think you were higher than that.

Kite So, there's a more detailed plan in here for you guys to review.

Wolff Mr. Kite, oh, sorry.

Campins Is there still parking in front of the building?

Kite Yes.

Campins How many are there?

Kite Are you talking about Oak Street?

Campins Yeah, Elm.

Kite So, on Elm Street, there are six spaces. Five, uh, five normal sized spaces and one handicapped space.

Campins Okay.

Wolff And, I'm sorry, I had a lot of conversation tonight. The lot you were referring to, Mr. Mundy orientated me towards it. Those are not, the current owner does not have an active agreement to lease those spaces out? Those are available for your consumption and you would execute per this petition, you would execute an agreement to secure those?

Kite Yes, correct.

Wolff Okay.

Jones And, there's how many spaces there?

Wolff I think there's more than nine. I think his agreement would be for nine.

Campins For nine.

Kite Correct. This would be for only nine spaces.

Jones I'm sorry. I still, I got lost as to where that is.

Campins So, right here where the Chamber of Commerce used to be. There's a lot back there.

Wolff Mr, Kite would there be parking to articulate this? I'm sorry. Would there be signage to articulate this?

Kite We can certainly include that, yes.

Jones I can't figure out how you're going to fit nine cars down there when four on the lot to the north of it seem to fill up that same amount of area.

Kite So, are you familiar with the tennis courts at the Lions Club, I mean, at Lions Park, the tennis courts?

Jones Sure.

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- Kite So, these are all those parking spaces that the tennis players use that are actually Mr. Harris'.
- Mundy There's a gravel lot, Larry, as well. It's part, there's a gravel lot and there's a paved lot.
- Jones Well the gravel and the paved lot are the things that CoHatch are going to use, correct?
- Wolff No, the CoHatch is just south of that in the Chamber of Commerce.
- Campins Oh, maybe I told you the wrong lot.
- Mundy This is the Chamber of Commerce building and this is the lot here. There is the lot he's talking about which is gravel.
- Campins Oh, okay. I see.
- Jones But, that's what CoHatch is using.
- Lake That's what they're saying; they're looking for—did you say CoHatch is looking for spaces elsewhere? They've not signed onto this?
- Kite They have not signed an agreement with Mr. Harris.
- Wolff Have they paid Mr. Harris? I assume no. Any other questions for the petitioner at this time?
- Jones Have we figured out what the occupancy load at the building plus the existing building is going to be? Because we've kind of blown by that this parcel was previously used by the existing building there, correct?
- Kite This parcel will, the existing building will remain and this will be an addition to the vacant, to the undeveloped portion of that parcel to the south, two-thirds of it.
- Jones Okay, so. My questions was, what is going to be the occupancy load of the addition plus the original building?
- Kite I don't have the answer to the number of people required. I can tell you the number of spaces required. This is, so there's five operatory chairs, so five patients plus staff in the addition plus whatever is occupied in the existing home which we've agreed would not be a restaurant or a retail use.
- Lake Did you mention last time that the staff count was five to six or am I making that up?
- Kite He has five to six staff. They're not all there at the same time. Usually, I've only seen three to four at any one time.
- Lake Okay.

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- Jones They've got the doctor's nook, they've got finance, they've got the business office, they've got another office area in the front plus five seats, so that's like five, six, seven, eight, nine, tender before you have any patients in there.
- Lake You wouldn't have 10 staff in a clinic that small.
- Jones Well, I'm talking about hygienists plus—
- Lake Yeah, you wouldn't.
- Jones Okay.
- Lake With that few chairs, you'd have probably a receptionist, maybe two hygienists, a doctor and a clerical person so five. And even if you have like a separate finance person, they may not be there all the time. So, six here plus five chairs max but then you've got the Brace Bus that would probably knock off two of those patients, so nine.
- Jones Okay, and then what's going on in the existing--?
- Kite There's no potential tenant for that at this point in time but it would most likely be an office use.
- Jones How many square feet is it, is the house?
- Kite I believe it's 1200 or 1300 but I don't have that exact number.
- Wolff So, in the petition it states that the existing orthodontics office building would total 6,003 gross square feet, would that be accurate?
- Kite Together, together, yes.
- Jones So, it's 6000 gross square feet?
- Kite Correct.
- Wolff They do math on that that says that equals 15 off-the-street parking. They? Our town.
- Jones Town. So, that's one per 400 square feet.
- Kite One to 200.
- Jones One to 200 would be 30.
- Mundy BVD gets to reduce that amount by 50 percent.
- Jones So, it's a—so it's a parking load of—it would require, it's a 30-person load. We've already cut it in half to 15. And, now we're cutting it down to—

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- Lake We're not. We're saying he'll get nine offsite and six onsite for a total of 15. They're just not all onsite. Now, this does potentially put CoHatch or somebody else in a precarious situation if this gets locked down first.
- Jones Right. Does the 6000 feet include the second floor?
- Lake It's not a big footprint.
- DeLong I would point out for the record, CoHatch's variance approval was for space anywhere, space to find parking anywhere in the area defined as the Zionsville Architectural Review District boundaries as amended from time to time. So, CoHatch was given pretty large flexibility on where to find the spaces.
- Jones Yeah, but that's because we were trying to preserve a building that had been there. The other question is, once again, your drawings don't match your floor plan.
- Kite In what respect?
- Jones Well, you've got inset doors on your elevation and you've got outset doors on your—
- Kite Could be, are you talking about the north door to the addition?
- Jones And, then, has there been any review with any kind of architectural—
- Kite Well, we haven't been through Architectural Review Committee yet which we will go to after this in addition to Plan Commission and all these issues, we plan to address.
- Lake For what it's worth, the design didn't get better. It actually got worse from last month to this month.
- Kite I'm sorry. I knew that was coming.
- Mundy Even I knew that.
- Lake Just, just saying.
- Kite Let's call it a work in progress.
- Wolff Mr. Kite?
- Kite We have a lot of hurdles to jump.
- Lake Yes, understood.
- Wolff Exhibit 6 articulates the parking agreement. I guess I have a concern here. Um, item 2 says the non-exclusive right to use the nine parking spaces.

- Kite It's saying non-exclusive; there's no particular space that they're allowed to use. They're just allowed to use those spaces.
- Lake Like they won't have signs in front of—
- Wolff But, can somebody else. I'm going to make this scenario up. Let's say there's 15 total spots in there. I don't want Mr. Harris to commit more than 15 total spots. You are committing nine which means Mr. Harris has six left. Are we in alignment on that thought?
- Kite Correct.
- Wolff Okay. I'm not sure that's articulated well in this parking agreement. I'm going to turn to somebody with a law degree on that.
- Chadd That was my concern when I read it. I want to make sure that we don't have multiple people signing up for parking spaces that they think are theirs to satisfy a requirement here when, in fact, they may not be.
- Kite Well, we're happy to address that if you would like to in the agreement.
- Chadd It may just be a linguistics issue for the agreement but I think you need to have exclusive rights to use nine spaces somewhere within that lot. You don't have to identify the nine spaces; we're not concerned about that.
- Kite That's fine. We'll make our approval subject to that clarification.
- Wolff So, you would be amenable to having our approval, an approval if it went that way being subjective to getting that cleaned up?
- Kite Yes, yes.
- Wolff Thank you.
- Mundy And, the gravel parking lot is also part of that area, correct?
- Kite Yes. Given the need for need for offsite spaces, I wouldn't be surprised to see that lot further developed to accommodate more spaces since it is officially a monetized asset.
- Mundy You might get more cars in there if you had some stripes, too, so that people—I parked there today and I could have parked sideways or any place I wanted. I mean, there's plenty of space but, uh, it was undisciplined.
- Wolff Any other questions for the petitioner? One remaining question and it's not necessarily a [inaudible] but I just thought it was interesting. On the site plan, are the two buildings going to be connected?
- Kite The potential to connect them exists but they will not be—it will be two separate businesses. It will not be a doorway connecting them.

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- Wolff Okay.
- Jones A suspicion and I don't like being fished.
- Wolff Mr. Jones, I think we're agreeing to a structure that is 6000 square feet.
- Jones Correct—we think; we don't know. No, we don't know. We don't know what the floor plan is. We don't know what building's connected to what. We don't know the uses. We're being asked to grant a variance. I disagree with it. Then, architecturally, it's nothing which, you know, that's kind of our preview is, purview, that's what I want. But, if we're going to approve something and this kind of and it's parking—parking, parking, parking. We hear it over and over again and we are filling a lot without one, we don't really know what we're filling it with. All we know is we're granting a parking variance for something. And, we have no control over it once we send it down the path.
- Kited I mean I, if I could speak up, the Town has ultimate control over the architecture that exists in the Village Business District. Perhaps this Board does not but the Town does.
- Jones Correct, Wayne?
- DeLong Certainly, the Plan Commission will review the architecture to comply with the salient features of the 19th century and the four-point test. Certainly, this project happens to be seeking funding through, or assistance with the project through the Architectural Review Committee so there's actually an incentive for the Town's participation in the design of the architecture through that process.
- Wolff Any other questions for the petitioner at this time? Seeing none, are there any remonstrators who want to speak for or against this particular petition. Seeing, oh, is anybody online? Do we have anybody left online? Okay, thank you. May we have the staff report, please?
- Kilmer The request before you this evening is for a variance to reduce the required amount of off-street parking for Nicholson Orthodontics. This request is generated by the proposed 4000 square foot addition. We've already gone through the math that results in a requirement for 15 off-street spaces to be provided. The site as presented, the site plan as presented provides six so, um, there's a need for finding nine additional spaces. Again, it's been discussed. I would like to clarify that, um, the parking plan that was presented during the CoHatch parking variance request did include both the graveled area and the, the lot just to the south that was previously discussed and they showed a finished layout of up to 39 parking spaces if they were fully improved with hardscape and everything. Um, and at that time, CoHatch was speaking about taking 31 of those spaces. It was not committed to. The requirement to CoHatch was to find spaces within the boundaries of ZARC so this was one option that they were pursuing. They may be pursuing others; I don't know. They do have to provide evidence of leased spaces meeting that parking requirement before we will issue a Certificate of Occupancy. So, so, at this time, CoHatch has not entered into a lease as far as I know for any of those spaces but they were planning, at least what was presented at the time was 31 of those 39.

- Wolff So, this is going to turn into a CoHatch problem. Which is fine. It, it—
- Kilmer Whoever turns in the lease first will be the winner.
- Wolff I like it. In addition, I noticed the staff recommendation is—I feel like the information that was presented is different that what the staff had the opportunity to review. Is that correct? I guess what I'm suggesting is, if the petitioner could present a parking plan with additional nine off-street parking spaces that are identified and secured more than three, the staff may be in a position to support this variance. So, are you now of the opinion that the staff is supportive of this variance?
- Kilmer Well, I'm going to stay with the information that I have. So, I'm going to remain that we can't support it because we don't know for sure.
- Wolff Okay.
- Mundy And, if there is a commitment to acquire the nine spaces or approval would be contingent upon that, staff would be okay, is that—Another way of saying what John said.
- Kilmer One thing that was debated among staff was that okay, the question is we need to find nine more spaces for this project. If they're able to present a resolution where they can say, "Yes, here are our nine spaces," technically, they wouldn't need the variance because their off-street parking would be met. But, because we still had some questions about the lease and about the number of spaces committed out of this one lot, we did not feel comfortable or confident in saying, "Yes, we support this."
- Wolff As a group, we've always taken a conservative approach on these matters and I certainly appreciate that. Okay. Any questions for staff? So, it sounds like, we're not in love with the architecture, not necessarily our jurisdiction, um, but that will be, there will be an opportunity for that to be addressed. Um, but, based on the information we have, it's going to be a six thou- plus four thousand so a total of six thousand square foot building which obligates them to have 15 parking spaces. They have six. They have identified nine more in Exhibit 6. I think we should have a condition, asked them to clean up Exhibit 6, specifically point 2, but any other discussion amongst the group? Are we okay in the legal world?
- Chadd Yes. I'm just making a note that they've made a couple of proposed commitments. I think if you're inclined to approve, it would be subject to those commitments and subject to the review and approval of the parking agreement.
- Wolff Can you document—or, Mr. Chadd, what were the commitments? Sorry.
- Chadd Exhibit 5 in your materials, their proposed statement of commitments, is 1) when off-street parking spaces would be available to the public certain times of the day at their off-street parking site and 2) be restricted against the restaurant or tavern use for the variance.

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- Wolff So, I think if there was a recommended motion for approval you could articulate that as the commitments discussed in tonight's meeting. With that, I would entertain a motion.
- Mundy I move the Docket #2021-19-DSV Development Standard Variance for a reduction in the required amount of off-street parking in the Urban Village Business District be approved based on presentation and contingent upon a signed parking agreement for nine additional spots. That approval also includes the prior commitment of the onsite parking places being available to the general public during the specified hours and that the other portion of the building will not be occupied by retail or a restaurant. Did I get them all?
- Wolff Thank you, Mr. Mundy. Mr. Chadd, are you okay with that?
- Chadd Yes, yeah.
- Wolff Thank you. Is there a second to that motion?
- Campins I'll second.
- Wolff I'm going to call Ms. Campins on that one, thank you. Wayne, why don't we do a roll call vote?
- DeLong Certainly. Mr. Lake?
- Lake Aye.
- DeLong Mrs. Campins?
- Campins Aye.
- DeLong Mr. Mundy?
- Mundy Aye.
- DeLong Mr. Wolff?
- Wolff Aye.
- DeLong Mr. Jones?
- Jones Aye.
- Wolff Thank you, Mr. Kite. I thank you for your patience.
- Kite Have a good night.
- Wolff You as well. We're just getting warmed up. It's 9:39. Let's knock another one out. That brings us to new business on our agenda which is Docket 2021-25-DSV for the property located at 10665 East State Road 32. Will the petitioner please come forward and describe what is in front of us tonight?

Myers Hello? Can you hear me? Hi. My name is Nicole Myers and I live at 10665 East State Road 32 in Zionsville. And, I've only been there a year. I'm requesting a variance for a pole barn that is going to exceed the maximum allowed square footage and height. When I moved there, I downsized and didn't realize how much I downsized. Um, also, since I've lived there, my father passed away and I have a few collectibles, cars actually, that I would love to keep and store. I have no place to store them. I also have mobility issues and I have mobility, like durable medical equipment that right now is outside of my house because I have no place to store it. Um, my, um, medical equipment really needs to be close to me, like my house garage, my attached garage so I'm hoping to be able to build the pole barn in the back to have everything else that we need so that my, um, medical equipment can be in a house closer to me. I don't even have a place to store a lawn mower right now. Um, so I'm paying someone to come and mow my yard. And, I'd love to be able to have, you know, a place for those kinds of things. The collectibles from my parents who have passed away, Christmas decorations and I'm a kidney transplant recipient, was on dialysis for 15 years, um, hopefully, I will never have to go back on dialysis but um, transplants fail all the time. When I was dialysis, I had a monthly shipment of, because I did it at home, I had a monthly shipment of boxes that would stack to the ceiling and all the way across the podium. So, in thinking for the future, again, you know, I know, the Lord keep me safe, but if something comes out of it and I have to go back on dialysis, just thinking about all of the storage that I don't have for anything that I might need. Storage that I don't have for things that I need now, um, it's what, that's what I'm asking for.

Wolff Thank you. You articulated that well. I have a couple quick questions. Your current home is a ranch, correct?

Myers Yes.

Wolff And that assists you with your mobility issues, I mean, it—

Myers Yes. So, when I first moved there, there was a like the sidewalk or the driveway, you had to step down and then there was a big stepping stone, so you had to step up on the porch. And, before my father passed away, that was the first thing he did. He helped me get a sidewalk that goes straight off my driveway and like inclines gradually straight onto my porch. So, thank God.

Wolff So, one of the variance or one of the issues in front of us is that the accessory structure will exceed the height of the primary structure but really that's kind of necessary for you because of the hardship of your mobility issues. You couldn't have a two-story home practically.

Myers Correct.

Wolff Okay. Understood. And then, about how large is the pole barn you're proposing?

Myers Um, originally, I proposed a 32x40 and then in the worry in having to come back here, um, again to ask for more if something were to come out and God forbid lose my kidney and have to go back on dialysis, need more spaces for those kind

of storage items. I asked if I could add to the structure if I needed to without coming back for another variance. Um, and that being said, if my contractor tells me that it's cheaper or more cost-effective to just do it, a bigger structure now, I would love to be able to do that if possible now, um, instead of adding to it in the future and maybe not having the funds to do so. Or, whatever.

Wolff So, the structure you're proposing is 70x32?

Myers Yes, I would like to.

Wolff Okay. Thank you. What questions do we have for the petitioner tonight?

Campins You mentioned it was to store vehicles as well? Are they tall?

Myers Yes, when my father passed away—I'm sorry?

Campins Are they tall vehicles?

Myers Well, I mean, I do have, parts of an older truck that will be taller and then I have, like a hotrod thing that's a normal size, but yeah. I'm thinking more along the lines of storage going up into because the cars are on one side and then storage for other things to go up.

Campins Okay, thank you.

Wolff Any other questions for the petitioner?

Jones Do we have any setback requirements that we need to take into consideration?

Lake Yeah, that was going to be my only question because there are no dimensions documented on the site plan.

Myers I don't believe there was any setback issues because, I don't remember what the setback would be but I remember looking through that and it meets the setbacks which is five feet.

Jones Just five feet off the rear and the side yard?

Myers Correct.

Wolff Good question, thank you.

Jones So, now we're up to 2100, actually 2240.

Wolff It articulates it. It is in the report 2240. Your math is better than mine. Yeah, Mr. Jones, the proposal that is in front of us does reflect the larger size. Any other questions for the petitioner? Seeing none, are there any remonstrators here to speak for or against this petition? Seeing none, may we have the staff report?

Baker Yeah, so going over this plan, this is a development standard variance, there's actually two, um, variances that are being requested. As it was stated, the size of

the new structure will be 2240 square feet which will exceed the—the accessory structure will be larger, more than the primary structure and then also, the height will be taller than the primary. Um, so those are the two requests. Staff is supportive of the variance and I will make a note, a correction in the last paragraph, right above the staff recommendations, it says 652 square feet; it should be 1612. That will be amount the accessory structure that exceeds the primary.

Wolff Which is articulated further up that page we can see you have it, great, thank you. And, in staff's opinion, is this consistent with the use of the area?

Baker Yes, there are similar structures in that immediate area, size and height.

Wolff Very good. Any questions for staff? If not, I would entertain a motion.

Lake I move that Docket # 2021-25-DSV Development Standards Variance to allow an accessory structure which 1) exceeds the allowable accessory square footage and 2) deviates from the required maximum permissible height associated with accessory structures in the rural low-density single-family residential R1 be approved based on the findings of fact and the staff report.

Jones Second.

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

All Aye.

Wolff All those opposed, please say nay. Motion carries, 5-0. Thank you and good luck with your project.

Myers Thank you for staying a little later for me.

Wolff Okay, it's past my bedtime so let's discuss how we're going to proceed. It's 9:49. We have moved onto new business. We have four additional petitions. I, unfortunately, I cannot stay here all night. I do have commitments. So, how would the group propose. We can—what are our alternatives, Wayne?

DeLong Certainly, you have a few different choices. One is to waive your rule. Another is to select a special meeting date where you would hear the remainder of your agenda. Certainly, another option would be to continue all of the remaining matters that you commence after 10 p.m. to your September date.

Wolff Okay. What is on the September agenda? I'm sorry, let me rephrase that question, see if I can do it more articulately. How many petitions are on the September agenda?

Baker Three.

Wolff So relatively light compared to what our volume has been. Group, I'll open this for discussion. I'm certainly willing to move forward for a little while longer but I don't want to be here all night.

- Mundy I'm fine to keep going.
- Lake Yeah, I don't see a lot of issues that would hold up. This last one was like 12 minutes and I think we can—
- Mundy Speed it up.
- Lake Yeah, we can speed it up on these other ones, I think.
- Wolff I think we may have a larger discussion for the last petition.
- Lake Yes, maybe.
- Wolff I'm of that impression. Um.
- Lake Do you want to continue that one?
- Wolff Are we of the impression that there is any sense of urgency for that last petition?
- Mundy The petitioner is here. Ask them.
- Wolff Mr., yeah, would you please come forward. I'm sorry, Todd?
- Ochs Tim Ochs, attorney for Altum. Um, there is a hardship in the sense that this is a request for a temporary use that would last until December 24, so a one-month delay is a significant percentage of that time.
- Jones Is that a house for Santa Claus and the elves?
- Ochs Yes.
- Wolff Okay, Mr. Ochs. I am sensitive to that request. Um, I, you know, I have childcare issues I have to deal with so I cannot be here terribly late and I apologize but our rules, procedures tell us to stop it so I would be amenable to two things. Um, the group can probably continue on without me. We have a vice-president. Mr. Jones?
- Jones I can step in if we need to.
- Wolff I will hand over the gavel to you. I'm available to continue forward for a period of time, but I, if this conversation gets more robust or I'm also more than amenable to putting in another meeting, a special meeting on the calendar in the next week or the following week. That's—
- Jones I understand. I understand.
- Mundy Let's continue on then. You can leave when you want.
- Wolff Oh, sweet. Mr. Chadd, is that appropriate? I apologize but I do have personal issues I need to address tonight.

- Chadd Yeah, it happens. It's okay.
- Wolff I would remind the members of our public, we are mostly a volunteer group. Okay, with that. Mr. Rottman would you please come forward? Let's discuss Docket # 2021-26-DSV for the property located at 40 S. Second Street.
- Rottman My name is Todd Rottman, address 320 W. Hawthorne Street. I'd like to use my full 20 minutes.
- Wolff Oh my gosh.
- Rottman Just kidding. We were here earlier in the year and received approval for our variances. Just that time, we've run into budgetary issues. In order to cut costs, we've removed the basement, we've minimized the size of the house a little bit and we've moved the detached garage to be attached. And talking with staff, they felt like that was significant enough change that we should re-present to you guys to make sure that you think that the variances are still appropriate with the new design.
- Wolff Mr. Rottman, can you kind of give us the net, net? What happens with what we approve versus what we have in front of us today?
- Rottman So, our lot coverage is going down by 0.5 percent so actually covering less ground and the height of the building has dropped by about 6 inches. The view from the street has not changed at all. The height reduction and the square foot reductions are not visible from the street and when we attached the garage in order to not have the structure look bigger from the street, we have off-set about 5'4" from the southern side so that the addition is not as visible from the street and we attached it with one-story piece so it is clearly a separate garage attached to the back of the building.
- Wolff Did anything change with the setbacks?
- Rottman Uh-uh. We're requesting no changes to the previously approved variances whatsoever.
- Wolff So, risk of dumbing this down too far, what we're seeing in front of us is a 0.5 reduction of the lot coverage? Any discussion amongst, or sorry, any questions for the petitioner? Are there any remonstrators here to speak for or against this particular petitioner? Do we have anyone left on? No, no one's left. Understood. Thank you, John. With that, may we have the staff report?
- Baker Yes, um, the staff is supportive of this request. And, like the petitioner stated, it was a significant change in the site plan and that's why they are coming back and the setbacks are all the same. The only difference is the lot coverage is decreasing by 0.5 percent.
- Wolff Thank you. Any questions for staff? If not, I would entertain a motion.

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- Lake I move that Docket #2021-26-DSV Development Standards Variance in order to provide for addition and remodel of a single family home and accessory use which 1) exceeds the required lot coverage of 35 percent increased to 42.8 percent and deviates from the required side and aggregate side yard setbacks as illustrated on the site plan attached to this report in the R-V for the property located at 40 S. Second Street be approved as filed based on the findings of fact and substantial compliance with the submitted site plan and concept elevations.
- Wolff Thank you, Mr. Lake. Is there a second to that motion?
- Mundy Second.
- Wolff Thank you, Mr. Mundy. All those in favor, please say aye?
- All Aye.
- Wolff Those opposed, please say nay.
- [No response.]
- Wolff Motion carries with a 5-0 vote. Thank you, Mr. Rottman, for your patience.
- Rottman As a chairman of a Town of Zionsville board myself, I appreciate your service and I appreciate your time in staying for us. Thank you.
- Wolff Thank you. Next item on our agenda is Docket #2021-27-DSV for the property located at 1937 North 750 East.
- Kerr Hello.
- Wolff Hi.
- Kerr Hi, my name is Samantha Kerr. I live at 1937 North 750 East. Um, we purchased our home back in mid-March and we are looking, well we're requesting a zoning variance to add a 1,350 square foot pole barn to our lot. Um, I don't know how much detail you want me to provide.
- Wolff Well, we'll, so your request is to permit an accessory structure which causes the square foot of the accessory structure to exceed the primary structure. So, let's talk about your lot. It's about 3 acres?
- Kerr It's a little shy of three acres, yes.
- Wolff And, if we look at our staff report, it looks like your home is about 1786 square feet?
- Kerr Correct.
- Wolff Seems accurate to you? And what is the size of the structure you're proposing?
- Kerr Um, it's be a 45x30 pole barn, one story.

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- Wolff One story?
- Kerr Uh-huh.
- Wolff And your home is two stories?
- Kerr No, it's one story.
- Wolff Okay. What questions do we have for the petitioner?
- Lake It looks like her adjacent property owners have a very equal setup. So, I think none.
- Wolff Any other questions or comments? Are there any members of the public who would like to speak for or against this particular petition? May we have the staff report?
- Baker Yes. So, this is a development standards variance to permit a new accessory structure which would then exceed the accessory square footage over the primary. She's requesting a 1350 square foot barn which would be over the primary structure by 618 square feet. Staff is supportive of this request.
- Wolff Thank you. And, as I noted, as Mr. Lake noted earlier, it looks very consistent with the area. Any questions for staff? If not, I will entertain a motion.
- Jones I'll do one. I move that Docket #2021-27-DSV Development Standards Variance to allow for the accessory structures which exceeds the allowable accessory square footage of the primary structure in the Rural General Agricultural District AG, be approved based on the findings and based upon the staff report as presented.
- Wolff Thank you, Mr. Jones. Is there a second to that motion?
- Mundy Second.
- Wolff I have Mr. Mundy on that one. Thank you. All those in favor, please say aye?
- All Aye.
- Wolff Those opposed, please say nay?
- [No response.]
- Wolff Motion carries 5-0. Ms. Kerr, thank you for your patience and good luck with your project.
- Kerr Thank you so much for your time tonight.
- Wolff Time for petitions is going way down. Congratulations everyone. I'm not sure if that's a metric we're using. Next item on our agenda is Docket #2021-28-DSV

for the property located at 1466 West Oak Street, the Ford Center Commercial building. Can you test your audio for us?

Demerly Yes, I am.

Wolff Oh, we can hear you wonderfully. Thank you. Would you please state your name and address for the record and describe what's in front of us?

Demerly Yes. My name is Mark Demerly at 6500 Westfield Boulevard. I'm here presenting on behalf of Kosene & Kosene on their proposed building at their existing integrated shopping center. It's at the Ford Center. What we are requesting is in fact that a proposed 2000 square foot new building located at the northeast corner of the existing integrated center. The variance that we are requesting is for foundation plantings. We are in the B2 General Business District which requires a six-foot foundation landscape plantings next to the building and due to the restrictions of the lot that we can build on due to agreements with the adjacent Walgreen's, etcetera, we are providing six foot to the south, not just to the, next to the building but slightly to the south and we are providing additional landscaping to both the north and to the east but we are allowing for a drive lane that would be for a potential future tenant, looking at a bakery or some other type of retail space within this—not a restaurant, but a retail. We've worked with staff. They've been great and I know that we have their support so I'd be happy to answer any questions.

Wolff Thank you, Mr. Demerly. As I look at this proposal, I was noticing in the findings of fact that if you were not to get this proposal essentially what happens is the building would become essentially too narrow for any sort of practical use, is that correct?

Demerly That is correct. We've reduced the size already and it's really because of an agreement that is with Walgreen's with regards to the moving in of shipping of products and stuff like that. The boundary that is shown on what was presented, you guys have on your reports, is the limitation of what we can build on and especially to allow for—we have a restriction on the east side anyhow regards to setback, so yeah, we are at the minimum size. We're slightly less than 2000 square feet. We're looking at really just a single family, a single tenant in this space.

Wolff Mr. Demerly, is the proposed structure, will it be consistent with the look and feel of the area?

Demerly Yes, it will. In fact, I feel like in regard to, it will be—we've worked with staff in regards to presenting materials and stuff like that. I think it will be as good if not better than other products in the area.

Wolff Thank you. What other questions do we have for the petitioner's representative tonight? Are there any members of our public who would like to speak for or against this particular petition? I guess that's a silly question at this particular point. If not, may we have the staff report.

Kilmer Thank you. As mentioned by Mr. Demerly, this variance is to provide variance for foundation plantings around the proposed building. Specifically, if you look at the building, at the landscape plan that was provided, sheet L101, the variance is specifically for the western façade. The B2 District in which this is located has specific requirements for the width of the foundation plantings and the amount of foundation plantings that have to go in that area and they do not have enough room on this site to accommodate that depth and amount of plantings. They are proposing plantings in that area, just not enough. And, that is what the variance is for. The question may be raised as to okay, why don't we have foundation plantings along the east side of the building and that is because there is a proposed drive-through on that area and if there is a drive-through, that façade does not require foundation plantings. So, I'll be glad to answer any questions.

Wolff Understood, good explanation. Any questions for staff?

Lake Nah, I think that you're not going to see that side of the building. It's going to be protected from the building kind of in front of it anyway.

Wolff Right.

Lake There are some plantings and I think the other plantings around the building more than make up for it.

Wolff Any other comments about this particular petition? If not, I would entertain a motion.

Campins I, I move that Docket #2021-28-DSV Development Standards Variance for the reduction of the six-foot required foundation plantings and the required point value along the west side of the building as depicted on the landscape plan, Exhibit 4, filed in Docket #2021-28-DSV be approved as filed based upon the findings of fact and as presented.

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

Lake Second.

Wolff Thank you, Mr. Lake. All those in favors, please say aye?

All Aye.

Wolff Those opposed, please say nay?

[No response.]

Wolff Motion carries 5-0. Thank you, Mr. Demerly.

Demerly I thank you for continuing on the meeting tonight and also allowing me to be virtual. I greatly appreciate it.

Wolff Certainly. Um, prior to moving forward. I'm going to linger around. I've got approval from the boss. Do we need a motion to amend our minutes right now to

continue the hearing after 10 p.m. or to start the hearing after 10 p.m. or are we okay?

Chadd The rules just give you discretion to decide not to keep going, so you're fine.

Wolff Okay, perfect which would bring us to Docket #2020-29 DSV for the property located at 795 South U. S. 421. Will the petitioner's representative please come forward and state your name and address?

Ochs Yes. Good evening and thank you for hearing this matter. Much appreciated. Tim Ochs, attorney at Ice Miller, offices at One American Square, Suite 2900, Indianapolis, Indiana 46282-0200, here representing Dana Altum and Altum's, I guess, just closed but Altum's Garden Center. Um, Altum's is a, as you probably know, is a long-time business in the Zionsville area. They were at the site over on Michigan Road just north of 106th for over 20 years. They haven't owned that property for a decade and the owners of that property, the Fehsenfeld family, have decided not to renew the lease. They have, in essence, been booted off. So, they are surprised by that and are in the process of trying to [inaudible] permanent space, they would like to very much remain in Zionsville. This is an interim or temporary solution to just serve some its local customers in the Zionsville area that purchased their plants and materials especially around the holidays in the falls, their mums, from Altum's. So, this is a temporary site. This site was found. It fits well. It is zoned. It's at the corner of Taylor and U. S. 421, the southeast corner. It is zoned Rural General Industrial I2 which frankly allows significantly more intense uses than certainly this temporary use that is being proposed.

If you look at Exhibit 2 in your staff report, it has a pretty good aerial of the site. There is an existing fenced-in gravel area on the site close to Taylor that would be used, that would house the entire operation with a couple of exceptions. That's where the shelves and material would be stored which is behind a fence. The gate would be shut at night while it's not in operations. The restroom in the existing event facility would be open and used and the parking for the existing event facility would be used for this parking so there's more than ample parking for this temporary use. The hours are listed in the staff report and those will be abided by, 10 to 6 p.m. Tuesday through Thursday and only until 4 p.m. on Friday, Saturday and Sunday. So, the impact on surrounding areas and properties is, we think is very, very minimal. Again, this use will end on 12/24 of this year.

The two variances being requested. There is some non-agricultural items such as vases, ornamental wreaths that aren't organic in nature, household nicknacks. That will absolutely be less than 10 percent—we think more like less than 5 percent—of total sales. Multiple structures. There's photos of the tents. Those exist on the site now. They're owned by Altum's so they would simply be moved there. We think they're attractive. They're open structures. And, then, just a shed where people would pay when they, when they check out because it's more than one simple shack. That's the only variance. So, um, we did meet with neighbors in the area. Dana met with the gentleman actually right across Taylor from the site. He wasn't entirely happy with this. We tried to address as many questions as he had. I don't know if he has submitted any remonstrance but we do agree with

the content of the staff report and we'd be happy to answer any questions that the board might have.

Wolff Thank you, Mr. Ochs. Any questions for the petitioner's representative?

Mundy This will close December 31, 2021 and it will not reopen?

Lake December 24.

Ochs 24th, yeah. Um, the only way it reopens is, she is looking for a permanent site. If this did become the permanent site, then, there would be a whole different set of approvals including probably a rezoning of all or a portion of the property. But, as a temporary use, this will be it.

Wolff Your client doesn't own the property?

Ochs No, correct.

Wolff Understood.

Mundy And, the entrance. Is it off Taylor or is it still going to off 421?

Ochs It's off of Taylor.

Lake Yeah, it's currently off of Taylor.

Jones Where were the nature of the concerns of the neighbor?

Ochs The nature of the concerns of the neighbor were really related to what's going on with, what he claims is going on, at the site now which we actually don't have a lot of knowledge of, but he claimed it was a gathering site for young people who were doing inappropriate things, especially in the area where our setup will occur. We indicated to him that hopefully this would help it out because we're going to put a gate up, keep it locked and be using the area. It's not going to be available for teenagers as a hangout or anything of that sort. He was a little bit concerned about traffic which we indicated it's a temporary use, it's not a big use. We don't think traffic is a big issue. His home is right along U. S. 421 and the traffic on U. S. 421 is going to be significantly more than anything at this site. And, then finally, he was concerned about lights. But, given our hours, closing on three days at 4 and three days at 6 p.m., we didn't think that was an issue but if it really is an issue for him, we told him we would give him a tree and plant it for him in front of one of his windows he says he has the issue at. So, we thought we addressed all his questions. Quite frankly, my sense was he doesn't want anything in the area period.

Jones Isn't there a landfill just south of this site?

Ochs Yes, it is.

Lake There wouldn't be anymore traffic with this than there was seasonally with its previous issues?

- Ochs We don't believe so, no.
- Lake I mean, it would probably be far less. They use to park all back in the field to the east during, you know, during spring or fall season.
- Wolff Mr. Ochs as I look at the two requests, the non-agricultural items, we can debate, an interesting one for me, but most of these items that you are proposing that are not agricultural are kind of aligned with agricultural items. It's a vase to go with the plant or something along those lines or decorations to go—
- Ochss I would agree with you. We'd rather be safe than sorry in terms of what we're selling there.
- Wolff Okay. We appreciate the conservative approach on these things. And, then I also would be aligned with that the structures seem appropriate. So. Any other questions for the petitioner? Okay. Are there any members of our public who wish to speak for or against this particular petition? Please come forward and state your name and address.
- Craig My name is Glen Craig.
- Wolff Can you, I'm sorry, what was your last name?
- Craig Glen Craig. I live at 9994 Taylor Avenue. I'm the property across from there. My main concern is the entrance to it is directly across from where I park. And, you know, the address to that place is 421. I always felt that the entrance to that business should be on 421 and not affect where I park.
- Lake The entrance though is remaining as it is today. They're not changing it, correct?
- Craig I don't know. I think they should.
- Wolff You would suggest that the entrance should be south of Taylor Road on 421?
- Craig Yes. I mean, the old residence that was there, when they tore it down to put this business in, was on 421.
- Lake So, Wayne, you can correct me if I'm wrong but my guess is having a high volume entrance that close to Taylor Road, two curb cuts that close together is probably not an ideal thing so getting people off 421 onto Taylor first probably helps that?
- DeLong It is certainly—I'm not aware of Indiana Department of Transportation being consulted as U. S. 421 is a state highway, but I would just knowing there's, knowing the state standards what you're saying is, I believe, true. It would be very challenging.
- Lake So, we have a condition that exists that isn't ideal. We're not changing it, making it worse. It's staying as is so, I don't know that that's—

- Craig Well, you still have the visual part of the whole parking lot that's there. They've never done nothing. I mean, it's just a parking lot between my property, the road and their property. They put trees down 421 when they put the property in which really, it's misjudgment there because they put 'em right underneath power lines so those are going to be eventually trimmed and what, you know, how Duke does.
- Wolff Mr. Craig—
- Craig But, they've never done any visual thing to separate their property to where if I'm standing outside, I see everything that goes on.
- Wolff Are you on the corner of 421 and Taylor or are you one lot in?
- Craig No, I'm on the corner.
- Wolff You're on the corner of, okay. And, your address is Taylor?
- Craig Yes, it's Taylor Avenue.
- Wolff Okay. I can see from the exhibit here that you are, it looks like your driveway—
- Craig I have two driveways but I have an old, well, actually it's a parking lot. It's an old three-car garage that fell in during the blizzard of '76. Then, they wouldn't let me rebuild because it's too close to the road. Then, so, I just got a pad to park on.
- Wolff Understood. And, your concerns are, um, I think I heard like visual screening on the property as well as you feel like the entrance should be off of Michigan Road?
- Craig Correct.
- Wolff Okay.
- Craig Because the traffic that goes in and out of there, you know, you're always, they're looking.
- Wolff Okay. Understood. Mr. Ochs, could you come back up, please for a moment? Thank you, Mr. Craig.
- Craig Sure.
- Wolff And also, thank you for your patience. So, the remonstrator has some concerns. I think they're going to be a challenge but could you try to, and you spoke to them, could you try to address them?
- Ochs Sure. There's no proposed change to access to and from the property as a whole. It's going to remain the same. So, this use is a temporary use where no permanent structures are being added. So, to modify access, to put it onto U. S. 421 for this temporary use would simply make the use impossible because of the cost. It would take longer to build the access than the use would actually be open

and operating. So, I think that is an issue that should be taken up with the owner of the event center and certainly, I am more than happy to pass that along but as it relates to this temporary use, that's just simply not possible or practical.

Lake You think the owner of the event center would allow you to plant two trees in the island between the two entrances?

Ochs We think that's possible and would be happy to do that.

Lake Okay.

Wolff Mr. Lake, thanks for your suggestion. I'm not sure we've solved all the problems but I think we made a gesture. Thank you.

Lake I think we've solved one of the only problems we can reasonably solve.

Wolff Yeah, Mr. Ochs, I'm going to ask you a hard question. But, do you have any idea what the process would be to get a curb-cut on 421?

Ochs Yes, I do.

Wolff All right. Could you briefly articulate that? I would love to stay a little bit longer tonight.

Ochs Yeah, there's a, there's a driveway manual that the Indiana Department of Transportation puts out and it contains the requirements for all access points that are on highways, the jurisdiction of which fall within INDOT's requirements. That book you have to comply with—so you have to submit a very detailed design. This would be a commercial permit. There's three classes of commercial permits. Based on the use and volume of traffic, you have to design an entranceway that meets all of the requirements for accel, decel, and separation from other access points and other turns like to Taylor Avenue. You have to meet all those requirements in order for INDOT to issue the permit. The design process, submission to INDOT, then approval would probably take a minimum of four months and then the construction couldn't start until the spring and that would be extraordinarily expensive and probably take somewhere around three or four months.

Wolff In your view—you expressed that that's not really practicable for this temporary use which is going to terminate on December 24, um, I guess what I'm driving towards maybe is that's really a problem with the landowner, not—

Ochs I think it is a problem with the landowner, um—

Wolff Or, a problem for the landowner, I should say.

Ochs Yes, it is a problem for the landowner, yes.

Lake My guess is you would have to have that drive be actually south of the building. It's not based on distance from Taylor so there's a whole site configuration redo that would have to happen there.

- Ochs Given the design speed on Michigan Road, you're correct.
- Lake And, honestly, they may not even allow one there period. INDOT may say you've got two suitable entrances.
- Wolff Okay, thank you, Mr. Ochs.
- Ochs You're welcome.
- Wolff May we have the staff report?
- Kilmer Yes, sir. I'll be brief. Simply stated, a single roadside stand selling agricultural items would be permitted here. However, because they are looking to sell a few things other than agricultural items and that they would be using multiple structures, the temporary shade structures that have already been described, those are the items that require variances. The only other additional information I want to add is that this is on the grounds of the Finley Creek event center and the petitioner has noted that they would not be operating while Finley Creek would be having any other events. So, it would not be a double use on the property at the same time.
- Wolff So, it shouldn't be any more intense?
- Kilmer Correct. So, I'd be glad to answer any additional questions.
- Wolff Thank you. Any questions for staff?
- DeLong I do have one more thing to volunteer as well.
- Wolff Certainly.
- DeLong As Mr. Jones would recall from a petition on 775 East, the Channel Farm Stand, the farm stands in particular in Indiana are sensitive to what's being mentioned in terms of what is for sale. In order to run a class 2 structure, which would be very important in the future, it's, the state of Indiana looks for a farm stand to sell 90% of its product as the farm product. So, the state of Indiana actually limits the amount of vases, baskets, things that aren't Ag related in order to maintain that class 2 versus class 1 limitation. So that is, that is your metric in terms of the intensity that you would see products being sold here. Certainly, they're welcome to go through the state of Indiana CDR process and obtain that level of permissions for a class 1 structure but ideally that is likely not what they're going to be doing and that's okay. I'm not making a judgment call but I'm just describing that on the record.
- Wolff Understood. Any other questions for staff? I think we heard a commitment if we move forward with a favorable motion to add full landscaping trees to the median—I don't know what it's called there—
- Lake If amenable by the owner of the property.

- Wolff With that, I would entertain a motion.
- Lake I move that Docket 2021-29-DSV Development Standards Variance to permit a temporary roadside produce stand to sell non-agricultural items and permit additional structures on the site to support the operations of the temporary roadside stand to limit the duration of the temporary roadside stand as being open to the public beginning no earlier than September 1, 2021 and ending no later than December 24, 2021 operating between those dates and within the hours of 10 to 6, 10 a.m. to 6 p.m. Tuesday through Thursday and 9 a.m. to 4 p.m. Friday through Sunday being in the Rural General Industrial Zoning District I2 and within the rural Michigan Road overlay be approved as filed based on the findings of fact and as presented.
- Wolff Thank you. Is there a second to that motion?
- Jones Second.
- Wolff Thank you, Mr. Jones. All those in favor, please say aye?
- All Aye.
- Wolff Those opposed, please say nay?
- [No response.]
- Wolff Motion carries. Thank you. Prior to adjourning, Mr. Chadd, please correct me where I go wrong. I believe we're going to sign findings of facts prior to adjourning.
- Chadd Right.
- Wolff And we're not going to sign the negative findings of facts today because those need to be prepared. So, I think we're just going to pass them down the line.
- Chadd Yes.
- Wolff And there's—
- Lake The ones that are—oh, the new ones?
- Wolff Yeah.
- Lake I signed all the old ones.
- Wolff And, I haven't signed anything.
- Mundy Can we adjourn now?
- Wolff I think we're supposed to sign them under, while we're still in the meeting.
- Mundy Oh, I've already signed them.

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- Lake No, these are the new ones.
- DeLong These are the ones from this evening, I think.
- Lake Yeah, these are the ones from tonight.
- Mundy Oh? This evening?
- Lake Larry's going to pass them along. So they're, they're coming your way.
- DeLong And, also on your agenda is a, is an earmark for an electronic meeting policy. We will simply discuss that at a different evening.
- Wolff Thank you, Wayne.
- Lake We have projects for HUD where we have to sign 200 pages. I'm just—at the end, my signature is completely unrecognizable.
- Wolff Fellow board members, thank you. Good work tonight. IT staff, thank you very much, John, appreciate it.
- Lake We got a ton of recycling tonight. That's my personal recycling file.
- Wolff I've just made a mess. Okay, so I think those are all from tonight. Were there some legacy ones that I needed to sign?
- Lake They're on the back area. Yep.
- Wolff Okay, with no further items on our agenda, this meeting is adjourned.