



**LAPORTE COUNTY
BOARD OF ZONING APPEALS**

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Michael Polan
Building Commissioner

August 18, 2026

Dear Members:

The regular meeting of the LaPorte County Board of Zoning was held Tuesday, **August 21st, 2026 at 6:00 p.m.** in the Assembly Room of the County Complex.

Members Present:	Melissa Mischke	Anthony Oss
	Ernie Schmidt	Eric Pointon
	Jeff Baltes	

Present: Attorney Andrew Voeltz; Michael Polan, Recording Secretary;
Janet Cole, Administrative Specialist and Deanne Schweizer,
Administrative Coordinator.

The Pledge of Allegiance.

Melissa Mischke: Before we get started with our agenda, I would like to remind everyone to silence their cell phones. Public comment for the Board of Zoning Appeals is under remonstrance. If you have something to say about a specific petition, either for or against, you will have three (3) minutes to do so at the end of that petition, and that is the only time.

So with that I will entertain a motion for the approval of the meeting minutes from July 21st.

Ernie Schmidt: I make a motion to approve.

Eric Pointon: Second

Motion to approve carries: 5 - 0

With that, we will start with our petitions for this evening. Mr. Novak are you ready? We have had some technical issues tonight.

- 1. Petition for Special Exceptions for Bluestem Solar Farm, LLC** for approval of a battery and storage facility on the south side of East Scholl Road and North of E 50 N, Rolling Prairie, IN 46371, being located on a portion of Parcel ID No. 46-07-35-200-001.000-52, located in Kankakee Township, zoned A.

Attorney Voeltz: Madam President, notice is adequate. For the record, LaPorte County Joint Zoning Ordinance Article 28.10(B) requires notice to owners of abutting properties and adjacent properties. Those terms are defined in Article 31, and the relevant definitions focus on the relationship of the parcel to, and I am going to quote, "the tract of real estate that is subject to the application not on the common ownership of the adjacent parcels." Subsection 31.02 defines abutting as having a common property line or a distinct line. Adjacent property owners are owners of parcels abutting or adjacent to the tract of real estate that is subject to the application. And adjacent as a property line near the subject property, including the cross of rights-of-way, stream, river, or railroad. For notice purposes, including parcels that would otherwise adjoin the subject property but for such an intervening feature. So, with those specific definitions, there was some communication with the building commissioner's office that notice was not adequate, but notice is adequate per the LaPorte County Joint Zoning ordinance.

Melissa Mischke: Ok, thank you.

Anthony Novak: Thank you, Madam President and BZA. My name is Anthony Novak, and I am an attorney at Newby, Lewis, Kaminski, and Jones. I am the attorney for the applicants, specifically, Bluestem Solar Farm, LLC. Tonight the project's lead, Kaylie Sampson, will be doing the bulk of the presentation. However, before turning it over to her, I just wanted to set things up.

So tonight, the application is Bluestem Solar Farm, LLC. It is a wholly owned subsidiary of RWE Solar Development, LLC. We filed an application for a special exception on July 31, 2026, seeking approval to construct and operate a battery energy storage system, which sometimes you may hear tonight as BESS, on property located in Kankakee Township. As Madam President said, it is on a portion of the parcel ID that is subject to the petition.

In support of the application, we submitted substantial supporting evidence. This included a property owner's consent since we are not the current owner of the property, a project narrative, a preliminary site plan, an emergency management plan, proposed conditions that the applicant is voluntarily imposing on itself, a vegetative management plan, and an economic impact report. And just tonight I handed you all a presentation that we have, and that I broke a sweat for. As well as a noise study that we have performed. Through the application and the supporting materials, we believe that we have met all of the requirements for a special exception.

As you know, there are seven (7) and sometimes (8) elements that apply. In the interest of time tonight, we are not going to walk through each and every one, though it is our burden to prove each and every one. We believe that we have done that through the materials and the application. We understand that, for applications such as these, some of the primary concerns are health and safety. Those are the elements we will touch on the most.

Before turning the presentation over to Kaylee, I do want to address one procedural matter. BESS is a newer technology to the county. As you can imagine, it was not contemplated in 2016 when the Joint Zoning Ordinance was adopted. So there is a mechanism under Article 2, specifically Section 2.06, where Mike Polan, in his capacity as the enforcement official, can look at a use that is unlisted and figure out what it is most similarly situated to and then declare that it is that type of use and proceed under the zoning code accordingly. Four (4) years ago, it was determined that it would be consistent with a utility substation. There was a project that was just announced to you guys' last month in KIP where it was designated as a utility substation, and that is how we are proceeding tonight. When something is then classified as a utility substation, you look at the underlying zoning code. It is Ag here. Ag requires a special exception for a utility substation, and that is why we are here. So without further ado, I would like to turn this over to the project lead, Kaylie Sampson, and then we have a team of people here to answer any questions that you may have.

Melissa Mischke: I would like to thank you for providing the bulk of this information to us prior to the meeting so we weren't trying to absorb all of this tonight and then make a decision. I need you to state your name and address.

Kaylie Sampson: My name is Kaylie Sampson. My address is 353 N Clark, Chicago, Illinois 60654. Thank you for hearing our petition tonight. The project we are talking about tonight is Bluestem BESS. It is a subsidiary of Bluestem Solar, but they are not the same project. The projects will be able to operate independently. I just wanted to get that out of the way before we get started. I want to give a brief intro to our time tonight. My name is Kaylie Sampson. I am the development lead for Bluestem Solar and Bluestem BESS. I have five (5) years of experience in the energy industry, and I have been working on this project for about two and a half years.

I also have with me tonight, Pedro Duarte. He has been with our organization for fifteen (15) years. He has worked as a project manager and a manager of construction for residential solar and batteries. He has been with the BESS fire and safety team for about eight (8) years now. He is our fire safety expert. He also served in the US Navy for a number of years and works as a volunteer firefighter. We also have with us Bob Buskirk, our project lead. He's an experienced construction project manager and has brought over 300 megawatts of standalone BESS to operations.

We also have Anthony Novak, who you guys know, and Rachel Connor, who is our project development counsel from the Denton's Law Firm. She has over a decade of experience in zoning, construction law, land use policy, and utility scale energy setting in Indiana.

Obviously, I think this board is familiar with RWE. We are one of the largest developers in the United States, and we are the third-largest BESS developer. We have over 1.1 gigawatts of BESS on the grid currently in operation. We have 13 gigawatts of all technologies under operation, which is enough to power over 10 million homes.

Before we get started on the project specifics here tonight, I just want to do a brief overview of BESS because I know the previous BESS projects that were approved by this board were approved a number of years ago, and not everyone is super familiar with the technology. So a utility-scale battery is similar to the kind of battery in your cell phone. It is just obviously much larger. The batteries in this case will be grid-connected batteries, so they will be capable of charging from whatever energy is available on the grid at the time. They can charge from coal, gas, solar, wind, et cetera, and then discharge when energy demand is high. So that is kind of the purpose of the battery. It has no affiliation with data centers. It is not a data center. I just wanted to make that clear because they tend to be conflated sometimes. So I just wanted to make that very clear. And just to break it down with some of the terms you're going to hear tonight. So the smallest component of a battery energy storage system, or BESS, is a cell. That is the individual kind of battery. Those will be kind of grouped into modules, which are then further grouped into racks, which then make up the entire energy storage system or energy storage container. So yeah, basically an energy storage container contains multiple racks and multiple modules. Indiana, batteries or battery storage can solve a lot of issues on the grid.

You know, it helps optimize existing generation by charging with whatever generation is online. It can also help support low growth in the state. It increases greater reliability. Obviously, with issues like I know LaPorte saw last week, this would not be the solution to that. But the positive is that it could help during periods of brownouts or blackouts, and it could help what we call peak shaving. Which is to bring costs down somewhat during peak demand hours. It can also be helpful in deferring costly group efforts.

I want to give a brief overview of the project. Bluestem BESS is sited within the footprint of the existing solar project, so we are not asking to take any additional farmland out of production. The footprint of this project is about 10 acres, is a 55-megawatt project, and it's a 4-hour-duration battery, which means it is capable of discharging for 4 continuous hours. The design life for a battery is about 20 years, typically. That is not to say that it will cease operating at the end of 20 years, but the batteries will start to perform somewhat similarly, not in a dangerous way, just in the way that your phone battery degrades after a period of time. These would be somewhat similar. It's located on an agriculturally zoned parcel on Scholl Road near the intersection of Pumping Station Road and N 500 E. It is already largely screened from most sides. We're not asking for

any additional farmland to be taken out of production. This would just involve shifting around some panels within our layout that are already approved. And this project would also share the high-voltage transmission infrastructure, being the utility switchyard in the project substation that would be built for booster solar.

I just want to briefly go over some project characteristics. So as you can see in the noise study that we provided, the project will be designed to not exceed the county requirement of 50 decibels at the outermost wall of any dwelling. We are actually set back almost 500 feet from the nearest home, and we are going to work to continue to optimize our project layout.

In terms of project schedule, we expect the permitting period for this project to take 6 to 12 months. We do think there are opportunities to accelerate there. The construction period: this project would likely be able to be constructed at the same time as Bluestem Solar, so it would be a single mobilization, which would sort of minimize additional mobilizations and extended construction periods. The project will be operational for 20 years. During that 20-year lifetime, there will be staff on site and the project will be remotely monitored 24/7. We will also, as stated in our list of proposed conditions, we will also sign a decommissioning agreement plan with the county, and we will decommission the project at the end of its lifetime.

The project does have a number of economic benefits for LaPorte County. It will produce some additional new tax revenue. It will create some jobs incremental to those created by the solar project, including several new full-time operations jobs. The solar project itself will be putting a new capital investment of almost half a billion dollars in the county, and so this is being incremental to that.

So as Attorney Novak said tonight, we do believe that we've sufficiently shown that we are meeting these special exception decision criteria. But the items that we would specifically like to focus on tonight are the general welfare and no hazard criteria because we know that a lot of information that comes up around BESS is concerns about BESS safety. I fully acknowledge that. So I'll try to give a quick overview of it. All of the projects the RWE designs are compliant with all Indiana state codes, as well as NFPA 72 and NFPA 855. So, all the national fire code standards, we are complying with. We are using the latest in battery technology.

A lot of these fires that you've seen in the past are with NMC batteries, which are no longer as common. We're using NFP, which is a much more stable chemistry. We also have a number of systems in place that will protect the battery against any potential thermal runaway or issue like that. Within the battery module itself, there is a BMS system which will manage the battery's operations, and it will automatically shut the battery down if abnormal operations are detected. So it lowers the chance of thermal runaway, which is what happens when essentially a battery fire starts. We also have 24/7 monitoring. We have a remote operations center, which is typically staffed by at least four people, and has a constant view of the status of the battery and operating status. It also has remote shutdown capabilities. Then we also have an NFPA-

compliant local fire alarm control panel. This is like a burglar alarm in your house. It'll automatically go off and contact the fire department. And usually this can get the fire department dispatched within about a minute of verifying an alarm.

After that, I will note that no BESS projecting RWE has ever experienced a catastrophic failure. Our safety systems have been tested, but we have designed these projects and engineered these projects to minimize the opportunities for any major issues. So, we have never experienced a catastrophic failure.

I just want to go through a typical emergency response sequence if there were a case where a battery were operating abnormally. So in typical operations, our remote operations center will be monitoring the status of the battery. So in a typical situation when the supply is high and the demand is low, the battery will charge. Then, when the supply is low and the demand is high, the battery will discharge. The low-cost energy will be sent where it is needed. If abnormal operations are detected, it will be flagged by our remote operations center, but at the same time, the battery management system will shut down the affected module, the fire alarm will be activated, and the fire department will be notified.

Following that, emergency response can begin immediately. We do not need RWE personnel on site to begin the fire response. RWE responders will be on site within hopefully an hour or so. We typically employ people within the community, but if people are not on site because it is the weekend or it's a nighttime event or something like that, people get there as soon as they can. But the site manager will be in charge of sort of directing fire response.

Fire response will be performed based on training that we are already conducting with the local fire departments. So far, we have spoken with Pleasant Township Volunteer Fire Department, Kankakee Volunteer Fire Department, and we have scheduled training with the LaPorte City Fire Department. Those would be mutual aid to Kankakee Township, where the actual battery project is located.

I have mapped out right here where those fire departments are in terms of distance to the battery site. Granted, these response times are based on just a car on Google Maps. We think the response times would likely be a lot faster than this. When I spoke to Pleasant and Kankakee Fire Departments, they indicated that it could be anywhere from 5 to 15 minutes for their response time to the site. The notification would obviously come sooner than that. We did provide an emergency response plan with our application, which you have in front of you. So that emergency response plan will be finalized and provided to EMS before the project's construction. We also had LaPorte County Hazmat attend the Kankakee Fire Department training.

This slide just covers all of the NFPA fire standards and fire safety state regulation standards that our batteries are designed to meet. A lot of these standards are related to how batteries are designed. A lot of these standards are related to how the batteries are tested and how they respond to those tests. So just suffice it to say that we take these very seriously. Batteries are a highly regulated technology, and we take the utmost care and focus on creating safe projects. That concludes the main body of our presentation. So if the board has any questions or public remonstrance.

Melissa Mischke: Do we have remonstrators tonight? If you would like to come forward one at a time. You will be asked to give your name and address for the record. You will be given 3 minutes.

Steve Holifield: I'm Steve Holifield, 6782 E 100 S, Mill Creek. I spoke today with some concerned citizens. Was the health department contacted about this? This does affect livestock within the area for development. According to them, the original application, as far as I can find, and I spoke with Janet Cole and Mike Polan today, it wasn't on the original application and now it magically appears. Department of Homeland Security, have they been contacted yet? Because they are the ones in charge of these batteries and that goes back to the site on 104 south of Stillwell. Representative Pressel is the one that sponsored that. You said you spoke with fire departments and this and that. 911 have they been contacted? They need to be notified so they know what to dispatch also. And 3 things that have not been done yet. According to RWE, I talked to our highway department director today. Two things are financial burdens that scare the hell out of me. If we even have the money to do this project. They have not done the video pre-narrative of the roads. They have not provided a letter of credit security. And they have not given advanced payment for inspector hours. I think these things can be highly suspect. If this company is financially capable of doing this. I find it odd they split this parcel up. I guess they found something they haven't destroyed in that neighborhood yet. Thank you.

Janice Orlowski: Janice Orlowski, 3304 N 850 E, Rolling Prairie, IN 46371

Melissa Mischke: Janice if I am not mistaken you have provided up with some detailed information already.

Janice Orlowski: I did a database, research, and a letter.

Melissa Mischke: So is this going to be new information you are going to present to us?

Janice Orlowski: Similar

Melissa Mischke: Ok

Janice Orlowski: So there exists a BESS failure database that compiles information about stationary BESS failure incidents around the world. Due to advances in technology the failure rate has significantly decreased but failure incidents remain significant. There were twenty-four (24) failure incidents last year alone. The key battery risks are thermal runaway and fire. The lithium-ion phosphate batteries are prone to thermal runaway. A self-sustaining uncontrollable increase in temperature which cannot be dissipated. It leads to fires and explosions. In layman's terms, it has a domino effect. These batteries emit hydrogen fluoride gas during thermal runaway. When combined with moisture or water it can form hydrofluoric acid which is one of the most dangerous acids known. Thermal runaway releases large amounts of flammable gasses: hydrogen, methane, ethane, vaporized electrolyte solvents. These can explode if ignited especially in confined BESS containers. You have reignition and unextinguishable fires due to stranded electricity. Even after apparent extinguishing, batteries can reignite due to stored energy on chemical reactors. Neither water nor chemical retardants can reliably extinguish these fires. Batteries must burn themselves out releasing toxins. RWE's emergency action plan is to vent the toxic gasses to the atmosphere and let the fire burn. While these batteries do not release heavy metals, they do emit a complex mix of toxic and carcinogenic compounds when burning electrolytes and plastics. Victims exposed to battery fire emissions report skin burns, respiratory distress, metallic taste, nausea, neurological symptoms extending 30 miles from the incident site. Internal and external factors can trigger thermal runaway and the current technology cannot reliably prevent it.

In conclusion, large scale lithium-ion batteries and BESS installation presents significant and multifaceted risks including uncontrollable fire, toxic emissions, explosions, and long-term environmental hazards. Like RWE, Vista Moral Bay BESS project, provided a 72-page report concluding with the following, now haunting and tragic sentence, "In summary, the proposed BESS project poses no significant risks to the health or safety of the community." On January 16, 2025, those words exploded and went up in flames. You don't need to be an engineer or have a degree in chemistry to grasp what researchers are saying. Any layman will get the point that lithium-ion phosphate batteries proposed by RWE are not sufficiently mature or reliably safe. Thank you.

Melissa Mischke: Who's next?

Garret Eggert: My name is Garret Eggert, 180 Sagamore Parkway, LaPorte. My family has a farm at 4829 E Division Road. We have roughly two hundred and fifty (250) head of cattle which is roughly eight hundred (800) feet from the parcel that this lithium battery storage place would go to.

Like it was stated, if a fire were to break out, that harmful gas and everything that would come from it goes several miles from that fire. Being eight (800) feet from that site it would release a lot of toxic smoke, hazardous gasses, and heavy metal fallout. For nearby grazing cattle, like we have, these emissions pose several health risks for our animals if they inhale, drink contaminated water, or eat ash-covered feed. The airborne risks cause irritation for their eyes, nose, and lungs. The toxic gases, if they inhale

them, can cause breathing issues, distress, and possible death. Systemic damage from heavy metal particulates in the smoke can harm their organs and cause them to shut down and kill them after time. The ground and water risks can contaminate their feed. We grow corn and soybeans on our farm. The ash and soot that will settle on the pastures will contaminate all of their feed that they eat and the grasses that they eat. The toxic runoff from the water used to fight the fires will mix with chemical and heavy metals poisoning the local ponds, streams, rivers, their water sources and create digestive illnesses. Ingesting those heavy metals will cause gut pain, sicknesses, long-term illnesses, poisonings that can lead to death. The EPA recommends that we move cattle indoors, seal barns, switch to uncontaminated feeds and haul in uncontaminated water until local environmental safety tests are passed. But like I said, we have 250 head of cattle. We don't have that type of facility to move them into. If we have to evacuate, we don't have the ability to evacuate all of our animals. That is our livelihood. We feed ourselves. We feed members of the community. This would just cause a lot of issues if we have that nearby. Thank you.

Melissa Mischke: Thank you.

Martin Orlowski: I am Martin Orlowski, 3304 N 850 E, Rolling Prairie, Indiana. I've been a firefighter for 40 years as a professional firefighter. I have fought thousands of fires in my career. There is one fire I would never want to respond to, and that is a fire for a battery storage facility. Since long-term effects of thermal runaway can extend a thirty (30) mile radius, what warning system is in place for residents in this community within thirty (30) miles? Once the dampers have been opened, toxic gases have been emitted into the atmosphere. Once a catastrophic event has occurred, how are livestock and wildlife supposed to evacuate? What would you tell your family? To those whose life would be lost or suffered health issues from the twenty-four (24) BESS failure reports in the BESS failure incident database in 2025. What funds are available or put aside for our health concerns for the residents following a thermal runaway event? And how does RWE propose to dispose of batteries once this failure has occurred? There is no place in LaPorte County for this. These questions need to be answered before you vote yes on this. Thank you.

Melissa Mischke: Thank you. Who's next?

Roger Eggert: I am Roger Eggert, 4829 E Division Road. As you just heard from my daughter, I have some concerns too. I did contact the Board of Animal Health. They would be very interested in knowing a lot more about these projects. As she stated to me, bring the animals inside, seal the door, and bring the feed inside. This is the same protocol for a nuclear explosion. Let's use some common sense. I know they said a two-minute response time. We all know where we live. Come to my house in January, during a blizzard with thirty (30) inches of snow. There isn't anybody that is going to get to my place in five (5) minutes. There isn't anybody getting there in an hour. Much less, who is going to come and help move the cattle inside. We're not the only feedlot. There's three (3) other feedlots very close to us, and there's a dairy. Two (2) dairies, not even two (2) miles away.

In my mind, I'm in the country, we're in the country. These things are not supposed to be out there. That is where we're supposed to be doing God's work, providing for humanity. They are not where they are supposed to be. I would think we could find someplace else along this transmission line where we could put batteries. There's got to be brownfield areas. There's got to be industrial parks. This is not where it needs to be. Thank you.

Melissa Mischke: Is there anyone else? Thank you for coming forward. Grace, I am going to need you to speak into the microphone.

Grace Hutchman: Grace Hutchman, 1247 N 500 E, Rolling Prairie, Indiana. I live right across the road from the data center, not the data center, but where this battery plant is going to be put in. I know for a fact that we are in a neighborhood and we have a bunch of little kids that run around. We do go on bikes up and down these roads, and I am very concerned about how the traffic is coming in. The new employees that are going to be coming in that they say are going to be populating the area. These roads are not very safe. There's a lot of trees. You can't see anybody riding. We have kids that are three (3) years old and they're not used to big traffic coming in. They're not going to be looking for a care that they don't know is coming. There's also a lot of teen drivers in the area. I know I just started driving in the area. That's my daily route to school. I know there's also other teen members that go down that road every single day. There's also kids that aren't driving in the area but riding the bus. They are getting on and off of the bus. Are these people that are going to be coming in going to be watching and paying attention. There's been a lot of influx of bus routes. Bus routes are getting longer and bigger. That area is highly populated just in small farms. Also, we have a farm operation. We have animals. We cannot evacuate these animals if anything happens. It's a very high safety concern just from coming to the animals and the people in the area. You're not only breaking up the wildlife, but you're also breaking up our community that we've tried really hard to build these last couple of years. I know a lot of people have put a lot of money into this community, and it's a very high concern along with the batteries coming in. Like we didn't have electricity for a whole week right across the street from where this is supposed to be going in. I don't know, is that going to help us or is it going to go somewhere into a higher populated area? Because even if we don't have a lot of people, we do have people that would need that power. We have animals that need electricity and water to stay alive, along with getting to school. It's a big concern. I don't want to be driving on the road in a high traffic area when I am just trying to get to school to learn every day. Thank you.

Melissa Mischke: Thank you. Last call for or against this petition.

David Daisy: Good evening. I am Dave Daisy, 1141 N 500 E, right next to Grace. I appreciate her coming up here. Speaking of the kids, you know, I am worried about the construction traffic in the area. We've already got N 500 E, I think five (5) side entrances for the solar project. This is just going to add more construction traffic in that area. One of the side entrances into the solar farm is right in front of my house. Immediately in front of my house is also a hill and that road is where my kids get

on and off of the bus. Some of the kids that Grace spoke to get on the bus right at the bottom of that hill. It's already a very dangerous area with all of the trees in that area, just adding all this construction traffic. I'm worried about the kids' safety. There's fifteen (15) houses, I believe, from Pumping Station Road to 50 N on N 500 E. Out of those fifteen (15) homes, I believe there are eight (8) or nine (9) kids that go to school in that area. They get on and off the bus in that area. So in that little strip, you know, it's become a really hot spot for this entire project. It is really a burden on the people that live on that road. So thank you for your time.

Melissa Mischke: Thank you. That's all for remonstrance this evening. If we can have Anthony and the representatives from RWE come back up.

Attorney Novak: I will answer a couple of questions and then defer to Rachel on a couple of questions. I don't know if Bob can add to anything with the traffic.

With respect to Commissioner Holifield's comments, there were some comments made that we haven't complied with what's going on in the solar project. I respectfully disagree. There are certain things that need to be done, a private narrative, other things like that. We have to comply with that. There is a road use agreement. With respect to DHS, I am going to turn it over to Rachel. Rachel is very familiar with DHS permitting and the Indiana statutes that have been done on BESS. These were actually sponsored by State Representative Jim Pressell. After Rachel is done, she can turn it over to Pedro to talk a little bit more about safety.

Rachel Connor: My name is Rachel Connor. My address is 9780 S 150 W, Pendleton, Indiana. As Kaylie said, I am with the law firm of Denton & Greenbaum. So in Indiana, the Department of Homeland Security issues two (2) permits to BESS sites. The first is on the front end. It is a permit to construct. Then before the BESS is operational, they issue a permit to operate so that it can serve the grid. The permit to construct is not filed until the project is very near the end of its engineering phase, because the Department of Homeland Security in Indiana requires a 90% or better complete engineering schematic ideally issued for permitting or PE Stamped. So when I submit a permit application for BESS which I think I've done, I believe three (3) times now since we have had the new permitting regime. We submit a PDF of the detailed site plan showing the placement of the BESS with dimensions from the BESS to all property lines and any other buildings on the property showing all streets and roads, parking areas, and fire department access. No major indicators of this, so if there's a gauge, if there's something like that, it's shown on the site.

We showed a PDF copy of the footer and foundation detail plans that are site specific. I cannot use a generic ideal footer and foundation plant for a client. It has to be for that site. We showed a PDF copy of the fire suppression and fire alarm plans. We have to share all of the BESS manufacturers' plans, calculations, and specs for the units that are going to be used in the project, also in PDF format, what the state requires. So the major tier one BESS manufacturers have, you know, a full list of how their materials are designed, how their containers are designed, and how their container should be put into

operation. All of that, I think usually for Tesla is most commonly what I have clients using, has to be turned in. We have to turn in a copy of the company's emergency mitigation analysis, a copy of the emergency response training. They are required to conduct training with local emergency response agencies. A document showing how the project complies with section 6 through 8 of the NFPA 855, and a copy of the commissioning plan and commissioning is that batteries have to be tested before they can be put into service. So all of that gets turned into IDHS. There's a specific BESS administrator who reviews all of these materials. His name is Aaron, and he seems like a nice guy. There are others in the department, but he is the specific BESS administrator for the State of Indiana. He oftentimes comes back to me indicating "thank you for submitting everything. I will let you know if I have any other questions or if we need any other materials." My clients have all, thus far, received their permit in approximately the 30-day period that the state has to review and make a determination. So that is how the IDHS process works. Then again, there is the permit to operate, which is what they need, the additional materials like the as-builts for the additional plan that results in permitting. Any other IDHS questions that I can answer while I am up here?

Eric Pointon: Is that part of the six (6) to twelve (12) months of permit timing?

Rachel Connor: Yes

Eric Pointon: That whole process is six (6) to twelve (12) months?

Rachel Connor: No. It takes (six) 6 months to get everything together. Then once we submit it and the state deems the application complete, they have a thirty (30) day clock to review everything. They do use that full clock. But if a client, I have not had this happen, but perhaps if another attorney has filed materials for their client and it was insufficient, the state's thirty (30) day clock does not start until the application is deemed complete. If they have an outstanding item, they will ask for it. That is common with releases they do as well.

Eric Pointon: The permitting application with the MISO, how long is that?

Rachel Connor: So the MISO interconnection can take a long time.

Kaylie Sampson: So this specific portion of the project, I mentioned earlier, actually went through PJMQ. It has been assigned to GIA. It is actually under a joint GIA with our solar project. So everything is signed. This is specific to the AEP line.

Melissa Mischke: Okay, so just for the public and everyone else's edification, if you want to break down some of those acronyms for us, that would be great.

Kaylie Sampson: Yes, sorry. So this project entered the PJM independent system operator who owns and regulates the transmission line that AEP, the utility, operates on. The queue process typically takes anywhere from like five (5) to seven (7)

years. Bluestem entered the queue with a 125-megawatt solar queue position in 2020. Following that, I believe it was in 2021, we entered the queue, which is the queue to bring generation online with a 55-megawatt BESS queue position and another 125-megawatt solar queue position. As of March of this year, I believe it was, we have signed the generator interconnection agreements associated with all three of those queue positions. So they are essentially signed off and good to go online once you have everything ready.

Rachel Connor: Do you mind if I elaborate a little further?

Melissa Mischke: Sure.

Rachel Connor: So in the United States, the power grid is managed. It is not owned. The infrastructure that moves power is owned by public utilities, either retail or wholesale. But the grid is managed by regional transmission operators. We are in a state that has two, MISO and PJM. So when someone, whether that is a retailer whose name we might be familiar with, like the utility that you pay your bill to, or a wholesaler like RWE, wants to bring on new technology or there is a demand for new technology to provide power or storage of some sort, that has to go through the regional transmission operator. We cannot add and subtract power from the grid at that scale without the RTO's permission. They have a large number of analysts and engineers on staff, and they evaluate when we're going to bring an asset online, where does it need to go, where is there injection capacity, where there is not injection capacity without an upgrade, the area that needs it desperately, and what upgrades before it can be brought online. Also when all of these have been given other upgrades that are happening. So basically, it's like INDOT, but for a number of states, and for power rather than roads. They have to determine where the on-ramps and off-ramps are going to be at, where there is too much traffic, where there is not so much traffic, and can we add more assets. Then those interconnection studies come back and dictate the speed of sometimes local permitting, sometimes state permitting, sometimes EPA or other instrumental permitting, and the like.

Melissa Mischke: Rachel, I think that was very informative.

Attorney Novak: At this time I would like to bring up Pedro to discuss fire and safety. And maybe Bob will talk about traffic and mobilization.

Pedro Durate: I'm Pedro Durate, 1401 E 6th Street, Austin, Texas. I'm glad to be here and able to address some concerns and answer some questions. If I don't cover them all, please feel free to ask more.

I want to address the first set of concerns with some of the reports and databases. I am familiar with that database, EPRI. It compiles a lot of events that have happened worldwide. So you have to be able to sort it out to be able to define where and also the type of battery technology that you're looking at. So it compiles everything with lithium ions. There are different "flavors" of lithium ion. There is lithium ion, NMC, and LFP. It

also compiles things such as batteries, vehicle batteries and things like that so just for awareness.

Some of the reports in this conversation are mainly from one event. I just want to note that that is a completely different type of installation from what we are proposing. That was an indoor type of installation using different chemistry as well. It was also installed prior to the robust standards that we currently have with NFPA 855 and other standards that we need to adhere to and comply with when we do installations. There's a lot of safety checks that happened from the beginning, engineering, through the construction, through the commissioning, through the inspection process, and through the walk-through process with the fire departments and emergency service personnel. So it's not necessarily an apples-to-apples comparison. It is significantly different.

A couple of things before addressing some of the things with gas explosions, fires, and things like that. I just want to address that these systems are really robust systems. We only install tier one type systems, which have a myriad of safety features to prevent the concerns that we all have. And it is a very legitimate concern. Fires are a legitimate concern, so I feel that. I was a volunteer firefighter, so I understand. I served in the military, so I understand safety and life safety. I am very aware, and I would like to address those types of concerns. This installation that we start off with is the choice battery systems that we install. The type of chemistry that is used in this case is the LFP battery sub chemistry which is different from the NMC sub chemistry that was previously used. It was less stable than what we are proposing with the LFPs. LFPs are more stable and have a wider temperature range. So it is a safer chemistry in itself. That's from the very building blocks of the system. There's also different components within the battery system with the cell, the modules, and the racks. So there's a BMS or battery management system within the system that is able to monitor down to the smallest block, down to the smallest component, which is the cell. So it's able to self-police, if you will. So if there is a temperature that is outside of the normal range, it is able to isolate that cell. This prevents any propagation to adjacent cells and modules and things like that. So right off the bat, it is able to isolate it, open contacts on the system, so there is no further risk in that sense.

There is also a thermal management system, which is a robust system as well. This maintains the temperature of the containers. Not like, let's say, the buildings of what we are used to, where we have different diffuser events throughout the building. So some places we may have a hot spot, a cold spot, things like that. This thermal management system ensures that every individual battery module is cooled to ensure that it operates under the optimal operating temperature. So they are basically sitting on a cooling plate. That ensures that these modules are operating within that temperature. We know that the temperature, heat, and overheating is the danger. We all want to make sure that we don't get to that place. So again, we have that system in place.

So from the thermal management system from the installation itself, we observe clearances, setbacks, and things like that to ensure that we are properly following the result of our EOL 9548 testing. If you're not familiar, this is basically a large-scale fire test where they have this unit basically set on fire to see how the fire behaves in a worst case or catastrophic event. It proves out that these systems and these events or thermal runaway events do not propagate from container to container. In many cases, it doesn't even self-consume the entire container in itself, maybe partially. In a worst-case scenario, we heard something about exposures and things like that. Again, the industry has come a long way. In 2021, there was an event in Arizona where some responders were seriously injured. The industry learned from that event. One of the things that is implemented in all of the installations in all of these containers is that it's an explosion prevention system. It is basically an NFPA, or National Fire Protection Association, 68 and 69 code, which is the installation of deflagration panels. Basically these are like pressure relief panels. If there is any over pressure within a system, it prevents the system from having projectiles or having some sort of uncontrolled explosion. There's also an NFPA 69, which addresses this through proper ventilation. So again, vents open up and fans kick in to ensure that there is no overpressure within that enclosure. That alleviates the concern of explosions.

To address fire and the different stuff that we may see online and in other resources with certain perimeters, certain ways that we believe fire behaves in these scenarios. If we take that event again, we can have a big picture of that big fire in the big warehouse. In this system, they go through UL 9548 testing. So they deliberately set one of these containers on fire to prove out there is a controlled burn, if you will, and that there is no propagation from container to container.

I know that there is some stuff out there that is a little bit of a scary thing. When we believe that there is a domino effect when we have one container that may go off and then set off the next one, and the next one, and the next one. Before we know it, we have a huge event on our hands, which would be a catastrophic thing. None of us want to see something like that.

So this installation, through proper testing, proves that we don't have that situation. From a plume to flames, again, because of the testing that these systems undergo, the safety features that are in there, it proves out that it is a control event, a controlled fire. So in the worst-case scenario, one of the systems going to thermal runaway, the flames and the fire burns right through those deflagration panels or from the active ventilation system. So they go up in a controlled way. They are not all over the place endangering life or other structures. So again it proves out that preventing the domino effect that we are concerned about.

As far as the smoke, again, the picture with the smoke, we have a huge smoke plume just hovering around things like commercial buildings. Because this is a controlled fire, a controlled event, it is isolated to one particular unit. In most cases, that particular section within the unit. So you basically have an enclosure, in this case, an LG system that has three different modular sections. Each section accesses its own little battery

storage container. Those three (3) are aggregated, and there is also an electrical panel there that makes up the BESS system. In a lot of those cases, and specific to this testing that was done, the plume, the fire, the smoke was isolated to two (2) of the three (3) modular enclosures. So again, the picture that we have versus how we test is a little bit different.

There is the gas composition that was brought up. Gas is a legitimate concern. The composition of gases from this test is about ninety-five (95) to ninety-eight (98) percent. It's made out of hydrogen, carbon monoxide, carbon dioxide, and then the other three (3) to five (5) percent is a different type of hydro carbon. So at times we think of gas and it is scary. So we may think about worst case scenarios with the different gases and dangerous gases that are out there. That is not the case here. Again we get those results from this testing. There is no reading specifically for the LG system, so I review all of the test reports. Very few manufacturers have a reading of HF that we are able to see. The reading is on the lowest scale, so the only concern would be if someone would be right next to that container per se. So with that by about 100 feet downwind, there were no readouts of any type of gases there.

Melissa Mischke: So Pedro, just to ask, so you're saying that when we're talking about livestock and homes near this area, if something were to go wrong, that those gases and other items go straight up?

Pedro Durate: Yes, I'm trying to see if there is a picture here that would be helpful. Page 32 . . .

Melissa Mischke: Ok, I'd like some order here. If you guys are going to be shouting out, you will be waiting in the hallway. Give these guys a chance to respond to your concerns.

Pedro Durate: So yes, the concern is real, legitimate, 100%. That's why I make sure that when I review this stuff, I'm able to address it. If you see this BESS container here, you will see that there are basically three (3) sections. On top there's some panels. In a worst-case scenario, there's a lot of different safety features in place to prevent something like that from happening. But let's say worst case scenario catastrophic events. The plume and the flame should be going out or will be going out from these deflagration panels, pressure panels. Also, there is a vent and fans that open up right on the top. And that is where it is going to escape. The opening is designed and engineered for that specific purpose. So there is a central point or a control type of burn.

To address a response to the fire. If we are in a worst-case scenario, one of these is having an event. Through the training that we go through with the emergency services personnel. The response to this type of event is you respond and you set up a defensive posture. At no point do you go in and try to put out the fire in a specific container. This is electrical equipment. They are designed to self-consume. So any

introduction of water streams is not a good idea and would do things worse than trying to make them safer. So they are designed to self-consume, to burn out. Somebody brought up stranded energy because the approach is to let the unit self-consume. Worst case scenario, it goes on fire. Let's say all three (3) of them go on fire. They're going to run out of energy to burn in essence. Just like when we BBQ. We have our charcoal, and at some point, it is just going to die out. So same concept here. After that, RWE goes to the proper channels and addresses the situation, engaging a bunch of different people, including the manufacturer to ensure that everything is disposed of properly. So that is from a response from a fire department. I don't want to say the easiest, but you set up a perimeter, you ensure that there is nobody going in, nothing is happening, information is being relayed to them, and they let the unit self-consume. So at no point is anybody trying to go in there or trying to open doors, or trying to put out the fire. That is managed with the SMEs on site and also the 24/7 remote operations center that was mentioned earlier. They have visibility into everything. So at any point, the operations personnel on site would be able to see some of their software, what is going on, and also contact the ROC (remote operations center) for any additional information that may be needed.

Melissa Mischke: I do have knowledge of how the 911 center operates with alarms. And there are several types of alarms that come into the 911 center. They get the information and it gets transmitted quickly. They do know what locations have and they know what kind of equipment to send there as well. So as long as training is going on with our volunteer firemen and the reciprocating departments, then that is something they are concerned with.

Pedro Durate: Yes absolutely. Somebody brought up 911. So when we set up the systems there is an NFPA 72, which is for monitoring, specific to monitoring the safety devices, all the enclosures. So should there be an incident, an alarm, the alarm gets triggered and sent out automatically, instantly to the monitoring station. They look at it and contact the responding personnel. So in different places, they have a different number. Sometimes it is the local fire department, sometimes it is a dispatch number. The dispatch number is the one responsible for contacting 911 emergency services, EMS, and things like that. We work through the commissioning process to set that up and make sure that it is in place. We test it as well. Once the project is completed, we go through the commissioning process, which includes testing the fire system with the responding personnel. So it is a local fire department plus any mutual aid stations. We do the familiarization of the site, of the equipment. So we have that early commissioning phase, as well as on an annual basis to readdress any concerns, new personnel that may be coming online. At any point, if anybody feels that there is some training that needs to be had, we work with our operations team and a person like myself to ensure that training is available for everybody. We want anybody and everybody that is responding to the site to have that information. So they can successfully respond to a call out.

Melissa Mischke: So is there any kind of notification with your alarm systems that would notify homeowners or property owners that there is something going on, that they need to stop and station in place, or do anything else?

Pedro Durate: Sure. Well the enclosures themselves, they have two (2) different types of strobes. There's a white one and an amber one. The white one is basically if there's a smoke signal, a smoke alarm in that container, or the main fire panel which is located at the gate entrance or the entrance at the first responder station. The amber light would be going off if there is a gas issue read out. For that the amber strobe light is going to go off at that specific container. The signal will also be on the main panel. Now, as far as communication goes, communication with the adjacent homes or things like that, that is something that is usually managed through the emergency response. The fire department makes those decisions, again, through the information that we provide, we show how these units don't have this massive plume. Readouts that generally scare people and trigger a source of evacuation or shelter in place. But again, at the end of the day, that is a decision the fire department or whomever the emergency response personnel are would make. We most definitely work with what is happening and they can make the decision on what would be the procedure for response.

Mike Polan: Madam President, may I ask a few questions? You talked about fire department training and response. Can you educate me as to when a fire department would respond in the scenario that you described, what perimeter setback from the incident site would be, and also combined with that perimeter, would they be wearing their SCBA or not?

Pedre Durate: We generally want to observe about one hundred (100) feet at a minimum, right from the closure of main events. However, the fire department would make that final decision on what they feel is a sage approach. Again at one hundred (100) feet, there are no reportable numbers that would indicate that there would be a need. However, I am a volunteer firefighter, and we want to wear something just in case. Again, it would be up to the discretion of the responding personnel. We would train with them during one of the training sessions that I referred to in the commissioning. We would talk about such things as strategy, response, positioning, staging areas, and things like that. So during that visit, they would be able to figure out what they believe is the best approach, the best staging area, and things like that.

Melissa Mischke: So I just want to make a statement too, that this isn't the first time we've had a battery storage in front of us. A number of years ago we had one and I know that the application worked with our volunteer firemen. I would be remiss to tell you that I believe it too was in Johnson Township or somewhere down that way. And it involved our Homeland Security here, emergency services, Hazmat, Jeff Hamilton was in there. I know that during that training, those parties felt comfortable with what training they received to best handle any incident on location. I don't think that any of, I don't even think you were on the board, that you were the building commissioner when we heard this one. There was extensive training that was performed. Like you said, all the

volunteer firemen, this was for any fire department that wanted to come basically, and like I said, Homeland Security offices here, and they felt that was adequate.

Pedro Durate: We have had training with a few of the fire departments already, and have reached out to different departments to offer that type of training, familiarization of the technology sites, the installation, things like that. As I mentioned earlier, any person or anyone in the party that is interested in receiving that type training, we welcome that. The name of the game is being able to provide all that information so that people can feel comfortable in responding to such an event.

Melissa Mischke: So I also want to just say that if this were to be approved, I think it is important for you guys to work with the 911 center and the homeowners. I am not going to see an amber light outside if there's something going on but some sort of notification, maybe they have an individual group. I don't know how many of these homeowners that live around the area participate in notifications from the 911 center. They do go out, it types an email, it depends on what you've signed up for. So I would recommend that you guys, if this gets approved, that you work with them too. Make sure you identify and are certain that those people are being notified.

Pedro Durate: Yes absolutely. We are open to having that conversation with 911 and the responding party. Then just addressing that there is an event, you notify people around the area and make sure that it is taken care of.

Melissa Mischke: Thank you.

Eric Pointon: So the problem with the BZA being the first step here is like she said you have Hazmat, Jeff Hamilton, 911 director, emergency management, EMS director. I would like all of those people to have a say. I would like to hear from all of those people before there is a yes vote. I would like their input. They are the directors of all of those departments. I know this is not your department. I would like their blessing.

Pedro Durate: That's definitely understood. I just want to mention when we go to these training and reach out to them this is an introduction to the technology. The response to a catastrophic event is one way that there is not a lot of engagement that happens. The training is awareness, so absolutely from this we can probably take on who would be the right people to include in this notification. But as I mentioned from a response perspective it is not necessarily there, just to bring that up.

Kaylie Sampson: I don't want to ruin Pedro's flow, but I do want to point out that we did talk to Jeff Hamilton. He did attend the Kankakee Township VFD training. I asked him if he had any questions, concerns, notes, and he said "no sounds good." I asked him if he was going to be here tonight and he said he couldn't make it. I also want to point out that along with the training that we are doing now, one of the conditions that we have proposed with our application is that we will provide annual training to EMS, and we will hold to that if the application is approved.

Tony Oss: I have several questions. Condition 12 of the application states that "you may develop a landscape plan." Can you discuss that a little bit? It says "may" and that just seems a little odd. It says, "The project may develop a vegetative management and landscape plan based on input from adjoining landowners."

Kaylie Sampson: I would be happy to address that. So when we say "may develop," we have developed a plan. The plan is actually for the solar array, but if you go to slide 20, we have an outline of our vegetative screening plan. So for a BESS project, for purposes of fire control and safety, we do not plant grass within the perimeter. I believe that would be a gravel surface. But outside of that area, we are happy to provide vegetative screening. So the vegetative screening would not likely be a seed mix specific to the BESS, but we do have one developed specifically for the solar. So this is just taken from that plan, and would be finalized for the BESS as well.

Tony Oss: Just continuing off of that, based on the sound study that was provided to us earlier today, there are notes about meeting the 50-decibel limit at the nearest outside face of the nearest home, but it does require mitigation. Do you want to touch on that?

Kaylie Sampson: Yes. So the equipment we use, you can regularly purchase silencing and dampening equipment that come preinstalled on those modules. Because we haven't finalized equipment selections for this yet, I believe with modeled a noise wall, so that is an option. Also, this wasn't included in the report, but one thing our consultant said is that if we move the BESS twenty-six (26) meters to the west that would be the only mitigation necessary. So the vegetative screening would not provide substantial dampening but it would be more like a view shed mitigation.

Tony Oss: So just to point out, any wall structure would have to go through Mr. Polan and his group. Obviously Condition 6 discusses lighting, there wasn't a photometric plan provided in anything that we received. I assume you are going to provide a full photometric plan. We can run that by Mr. Polan. I don't know if that is a question, but more of a statement.

Enforcement Condition 25, I would ask Attorney Voeltz if he has had a chance to look at that or Mike. There is a discussion in there about dealing with anything that might come up for enforcement action for any violations of the JZO and that the Plan Commission might put forward. It would be under tab "F" of the binder they provided. I guess I am not asking you a question Attorney Voeltz, I kind of threw that at you at the last second and I probably should have told you ahead of time.

Mike Polan: We don't have the book in front of us, I think.

Tony Oss: So it would be a part of their Exhibit F Proposed Conditions. It is the last condition. I think I would want legal counsel and the building department to review that and to provide us feedback to their acceptance to the terms of that condition. I don't know that we are going to get that right now so that is probably ok.

Attorney Novak: I was actually up here a couple of months ago about a car dealership or an auto repair shop that I had a long presentation about. I wish there was a bit more enforcement. I just use that analogy to show you that there aren't a whole lot of tools that Mike has to enforce the ordinances. I know that from Doug Beige's previous time, and there were serious issues, it is really getting the Plan Commission to file a suit. I mean it's a heavy lift. This is significantly more than that. This gives you guys significantly more authority, it gives Mike more authority, to say "we know you are not doing this right, and here is the process that has to be done." This is obviously not going to abrogate any other authority he has under the zoning code, but again this at its very core is a self-imposed condition that goes above and beyond the ordinances. So of course, yes, it needs to be subject to their approval, but I would just say that it goes above and beyond what the ordinance already provides.

Tony Oss: I appreciate that and that was the interpretation I had from it. But I am deferring to the folks who are hired to be smarter than me.

Attorney Voeltz: Tony to address your question, Attorney Novak is spot on accurate that what is contained in paragraph 25 that you are referring to is an additional level on top of enforcement authority that the building commissioner's office already has. It specifically provides, pursuant to Indiana Code those sections 10.13, 10.14, and 10.15, it provides further clarification than what is already in there. And then a very specific timeline for which if there were any violations or allegations of conditions that were not being met that had been agreed upon, the clock is ticking for a response. Then if the response is not met then the full force of the LaPorte County Building Commissioner's Office would be able to come down on the petitioner in an expedited manner. Which is quite frankly unheard of. It sets a very specific timeline for adherence to the conditions and then with regards to notice that you are not adhering to the conditions and this is what will happen after that. So it is in excess of what is already prescribed by both the Indiana Code and the LaPorte County Joint Zoning Ordinance.

Attorney Novak: And to just kind of tie in paragraph 24, not only are we giving you an extra layer of enforcement, but we are giving you \$10,000 per year to do it. That was one of the things that when Mike had just become the building commissioner, Doug said, "Mike knows his stuff here, but he doesn't know an NFPA 855." So we self-imposed that we would give you \$10,000 per year and you get your own expert and they can say if there are violations or if things need to be fixed as to that point.

Tony Oss: To that point, Mr. Novak, I appreciate that. That is in Condition 24 that there was the allowance of up to \$10,000 per year to hire an independent person to review. That is annually, right?

Attorney Novak: Correct. Mr. Pointon, not to shift gears but to your point of having the various emergency personnel, we would be willing to add self-imposed Condition 26 which would make sure that we could convene in concert with Mike Polan reviewing any application that there essentially be a technical review committee consisting of any emergency response agencies to make sure that they see the plan, that they know how it works, and that it meets their approval as well.

Eric Pointon: Yeah, because it is kind of bad that we can't say anything about it. They are the experts, not me, not any of us. So I would like them to see this but they are not here or informed of any of this yet.

Attorney Novak: Absolutely, and we can self-impose conditions. You are going to make your decision, and we can respectfully say we can self-impose conditions and they would be a part of the review and we would need their acceptance as well.

Tony Oss: I am going to keep peppering you here. Condition 14, and I appreciate what it says, it talks about training on the emergency management plan. But there is a sentence in there that says "annual EMS training as requested by the county will be provided by the project at its expense." I would just like to get it to not say "as requested." I would like it to say something more to the effect of "annual EMS training will be provided by the project at its expense unless specifically deferred by the county."

Attorney Novak: Absolutely.

Tony Oss: I just think it needs to be more on RWE to provide that training and not on the county to ask for it.

Attorney Novak: Yes, we can change both. And if Rachel could come up here and talk more about it.

Rachel Connor: Generally the "as requested" language in conditions on commitments like this just refers to timing. It's really more of what the fire chiefs want. So if you want us to clarify it will happen annually and at the timing or direction of the chief, we can make that clarified. The "as requested" is that they get to set the time and place. They get to tell us we are onboarding new firefighters and we would like you here in the next 15 days, these are all of the things that we expect to have covered, and we want you to provide new hard copies of all of this. But we can definitely make that clearer.

Tony Oss: Ok, I appreciate that.

Jeff Baltes: Can I interrupt? On top of that, I would like to see some more funding. We have volunteer fire departments that are volunteering their time to take these extra

training classes, maybe some extra funding towards them or at least the department for their volunteer time.

Rachel Connor: Generally that type of thing comes in through an economic development agreement, but I don't know of any reason why it couldn't be part of a zoning condition. At least that we work in concert with the local EMS agencies to determine what their needs are and come back with, I don't know the best way to phrase it. Generally we take care of that in an EDA, but yes, you are more than welcome to make it a condition for approval and we will work that out. That is understood that it is more than just showing up and walking them through. It is making sure that they have what they need.

Eric Pointon: You also said that these were going to be separate projects. This is a separate project. So would this require a separate road use agreement with the county? Obviously, this is going to be some very heavy things coming down the county roads. So you want to keep these projects separate as one is one and one is the other. So that is another thing that we would need is another road use agreement.

Attorney Novak: So our plan is, it kind of goes back to the ...

Melissa Mischke: I am telling him that the road use agreement doesn't affect our decision and the Board of Zoning. I agree that it needs to be addressed; however, it is not a deciding factor for us.

Attorney Novak: I agree with that but just to elaborate on your point, we have existing decommissioning and road use agreements. And we have contemplated how that can change. Our plan would be rather than do separate agreements, we could just go back to the commissioners as a step after your approval to amend the existing road use agreement and to make it say solar and BESS. So that Mike's office and the commissioner's office is not administering two (2) separate things and since our plan over all is to have one construction mobilization, it would make it way more efficient. So that would be our plan. So yes, there needs to be additional agreements, but our plan would be to amend the existing one to incorporate this project.

Melissa Mischke: Tony, what else do you have?

Tony: I will keep going. This one is probably a little picky, but Condition 20 talks about removal of the foundations and including permanent foundation removal 3 feet below ground surface. I would prefer to have that removed because you're definitely going to be three (3) feet. If anything goes below part of the decommissioning, I am assuming you are going to remove any of the foundations you put in. I don't assume you are going to have pilings super deep for this stuff but if you would like to address that. If you go forty-two (42) inches, then I think you should remove it.

Bob Buskirk: I am Bob Buskirk, RWE, 353 N Clark Street, Chicago, Illinois. In regards to decommissioning activities, to be completely frank, I have not encountered this yet because I am relatively new in my renewable construction career. The plan would be to restore it to its original condition. So I used to work in gas distribution and when I used to do renew and replacement programs, I would essentially go in and put in brand new gas pipes to replace the existing steel utilities, the actual directive from the gas utilities was to just leave the existing assets in the ground.

So my understanding with our decommissioning plan is that we would remove the existing assets. So for instance since these are containerized units, as you have seen from the image there, these are essentially a 20-foot Conex container, if you are familiar with that, or like a 10-yard dumpster. So it is very simple, once the entire side is de-energized, we would start removing the containers. So we would unplug everything, we would lift the entire unit, and from there we can start removing all of the cabling. All of the cabling is going to be buried, so we would just go about that process with just removing the cables of the existing conduit that was installed. And then as for the actual land itself, we would work to restore it to its original condition. So I am not entirely sure what the details of that plan would be at the moment, but I imagine it would be doing some sort of reclamation to maybe remove the gravel and whatnot that we would install, any roadways or driveway entrances and restore that to say some sort of a condition that if it had earthwork of some sort. I'm not entirely sure what the coverage would be for this existing project proposal. Are there any additional questions regarding that?

Tony Oss: The frost depth here is thirty-six (36) inches. So you're going to put foundations. I don't see anything that was going to have anything heavy duty or deep foundations of any sort. So that condition caught my eye. So, I assume, when you decommission, you will remove anything that you put in.

Bob Buskirk: Yes, so my understanding for this project is that the plan is to utilize slab foundations. In my existing BESS projects that I've worked on in Texas, we utilize something called a helical. So it's basically a giant screw that goes into the ground. Now that definitely goes beyond 3-foot depth. So here with your foundations, I would not anticipate it going a 3-foot depth. And then as for any conduit we would be running, it would basically just be two (2) feet of cover.

Tony Oss: Sure, ok.

Bob Buskirk: No extreme excavation would be required. Furthermore, because we're tying into the existing substation, there's no need to have increased excavation or foundation work regarding, because that would be another case, where particularly for the substation for your main power transformer, you would need a very deep and solid foundation for that, because you would have your containment pit, etc.

Tony Oss: I think I have one more. I think most of the rest of my questions have been asked by other members already. The emergency management plan talks about water for firefighting but it says that the source is to be determined. Can you explain or discuss that a little bit and when that would be determined. And also where the source would be.

Bob Buskirk: That might be a question better answered by Pedro. But I can say that the projects I have managed and constructed for RWE, that are BESS specific, were actually required to have a water tank installed on the site. Now I am not certain at this time what the requirements are for this particular project, but that would be one avenue right there to have a water tank installed on site. But again as Pedro alluded to earlier, you would not control a fire with this water, it would be more to cool the surrounding area.

Tony Oss: Understood

Rachel Connor: So speaking further to that, the NFPA 855 requires water availability if it's needed for cooling around the fire. It doesn't go on the fire. It is generally up to the fire, you know, agencies in the area as to whether they want to shuttle water in, so bring it on the trucks, or if they would prefer to have on-site water. My understanding, Mr. Polan, is that there had been a discussion of an on-site tank requirement. Is that the case, or is that an agency request? Are you able to speak to that yet? Or will that be a part of the permitting process?

Mike Polan: I believe that would be a specific agency request.

Rachel Connor: I agree with that. Regardless, within NFPA 855 requires us to meet the standard set by local fire. So if it's a 1,000-gallon tank, it's a 1,000-gallon tank. If they prefer to shuttle, then they prefer to shuttle. We have to adhere to what they want to do in their territory.

Tony Oss: Their territory would be Kankakee Township VFD.

Rachel Connor: I don't know if they work in concert or if they have a lead that is a little bit beyond that what we as the applicant maybe control.

Melissa Mischke: I think that's probably something we're going to have that group of Hazmat, and emergency response, all of them together to collectively make a decision. Which is what Eric was talking about.

Tony Oss: Agreed.

Eric Pointon: This is probably not a you question, but are you planning on adding on to this in the future? This seems like kind of a small setup honestly for a 4-hour battery. So is the plan to get started and then add to it. I know it is a 50-acre parcel. You're talking ten (10) acres and you're talking ten (10) acres and only four (4) hours of storage or run time, sorry.

Kaylie Sampson: Yes. So we would be tied to that 55-megawatt size due to that queue position that was approved as previously mentioned. So that is the maximum in terms of project design, you know, we wouldn't really be able to go above that 4-hour sort of moniker/technology. It's really more in reference to how long that batteries can charge and discharge. So after the battery is done charging, I believe it is able to discharge power for 4 hours.

Tony Oss: It is a 55-megawatt capacity discharge with a four (4) hour with a total capacity of 220 megawatt hours.

Kaylie Sampson: That is correct.

Tony Oss: So you could, if depending on that, the fastest it could discharge would be 55 megawatts up to that. So if it is going at 25 megawatts it is going to last longer.

Rachel Connor: And as of right now there is not another BESS queue position related to this site.

Kaylie Sampson: That is correct. This 55-megawatt queue position is the only one currently contemplated for this site. It takes about five (5) or six (6) years to get through the queue. We're planning to just site it on this parcel. It's not going to take up the full 55 acres. Like I said it is a fairly small footprint. We currently are not planning a second phase or anything like that.

Melissa Mishck: Jeff, what do you have?

Jeff Baltes: Pedro, could you come back up? So I am back on this worst-case scenario, and I think that is the biggest concern on everyone's mind here. Thermal runaway that contain, all three go up. You have got a sixty (60) mile per hour wind or greater, and you say the toxics will not travel past one hundred (100 feet). Well you said less than that.

Pedro Durate: So a couple of things there. We said toxics.

Jeff Baltes: Carbon monoxide, oh shoot, it is on one of the pages that I read in here.

Pedro Durate: So yeah, it is a concern, a legitimate concern depending on the gassing and the off gassing. When we have carbon monoxide, carbon dioxide, hydrogen as the main components it is something that would dissipate and would not be harmful for people downwind from that. Now the other 5% being methane or you know depending

on the technology the off gassing is different. But not the type of off gassing that is the concern, and then the quantity and then as you mentioned depending on the wind, how far it can travel. In this case, for this particular technology the report shows not HF which is generally the highest concern of gassing, and I want to say 98% on this one is the carbon monoxide, carbon dioxide and hydrogen. So if there was some harmful gas that is gassing from there, I see that. From the reports, I do not see that type of gassing that we would be concerned about, let's say one hundred (100) feet downwind and things like that. One of the things that can be done, that generally is done, is that the emergency response personnel come to the site and they might have a gas meter and they might deploy to ensure that again it is safe. New York City does that. They basically come in, the test a certain range, test again, test again, and test again. But they never go in closer than one hundred (100) feet unless it's lifesaving condition. I hope that addresses and answers your questions.

Jeff Baltes: I guess to the best of, I just struggle with that there is no . . . would you stand within those one hundred (100) feet if it was blowing directly at you burning? Would you stand there?

Pedro Durate: If I am responding, yes, I would. Again we have all of these agencies, and we have all of this testing that happens. We have agencies that test out our appliances at home, electric stuff, right? So, we depend on this testing to be able to make the best judgment of what we can do and how we approach things. In this case, NFPA 855 sets a standard, that ensures that all of these safety concerns are addressed. Furthermore, we work closely with the response personnel, to ensure that they are comfortable with responding to a worst-case scenario.

I mentioned, set up a perimeter, defensive posture to ensure that nobody else comes in and things like that. From setbacks and perimeters, we know that there's not going to be anyone close to that type of container. Again unlikely, we are talking about the worst-case scenario as you mentioned. So there is no one that's going to be exposed to something like that.

Again, off gassing composition of the off gassing shows one thing, it's hard to imagine something else other than what are the results from the testing so I can only think of the things that I have in front of me. I cannot think much more of what if scenarios because I don't have any data that would kind of lead me in that path. That is why I stay with what I know, which is the results of that testing. I would respond to a house fire, a commercial fire and I know that there's a lot of stuff in there that is very harmful. I wouldn't have an issue responding to a fire in a BESS fire.

Eric Pointon: I have a question for you as well. You keep saying, again, I am not an expert and I don't know anything that you are talking about for the most part in the numbers and the laws and the regulations, but I do know that you did say it. 2021 was when this new law came in effect.

Pedro Durate: No sir, I said 2021 was a point of learning. So 2021 was when we had an event in a BESS, not we as RWE, but the industry as a whole. There was an event, a BESS event, in Arizona. One of the things that happened was that there was no NFPA 855 implemented as it is right now and is definitely not as robust as it is right now.

One of the things that was not mandated was the active ventilation or deflagration panels, which is what caused that. So there was off gassing and basically all of those gases accumulated and built up. When someone tried to open the container, they had that issue.

Eric Pointon: How old is this technology that you have now that you are utilizing?

Pedro Durate: All of the technology adheres to NFPA 855. So that is as we mentioned earlier, it's like the bible for all installations, anything installed BESS. It addresses safety, how to do testing, inspections, all of the requirements, all of the safety requirements, installation requirements, engineering requirements, things related to the BESS installations are delineated in that NFPA 855. You just have the NFPA, I think the proposed new one is 2026. But again, it keeps building up from the previous one to ensure that it addresses anything of concern.

As we propose these projects, we ensure that we meet all of the codes and standards that are out there. We're making sure that we evaluate them and that we see them, that we can meet them and then we install accordingly. And again, we have all of the testing and inspections that happen to ensure that everything is installed to that standard.

Eric Pointon: My last question, that old technology that you saw that catastrophic failure with, like how old was that technology?

Pedro Durate: Because we didn't install it, I am not really familiar with the installation, the timelines and things like that. I believe it was a NMC technology. It was a walk-in type of technology. It was basically a little building packed with battery modules. This did not have the same features. Where if there was a buildup of gas, it would have been able to be controlled through that deflagration. It was older technology and again we address this with newer technology but not just newer technology but also the design with the spacing and perimeters and things like that. That is why I stand here comfortably saying that these are the safety features in there which shows that it works.

Eric Pointon. With those series of questions is at that time say that was 10- or 15-year-old technology that was someone like yourself saying that was the latest greatest and safest technology and then we saw what happened. So now, here you are saying this is the latest greatest safest technology. In five (5) years, are we going to be in the next latest greatest safest technology?

Pedro Durate: That would be hypothetical like we have cars from like twenty (20) years ago, fifty (50) years ago, we don't know where we will be in five (5), ten (10) years from now. We know what we have right now which we believe is safe to install.

Rachel Connor: Can I add a couple of pieces of information?

Melissa Mische: I think people are envisioning like Mount St. Helens going off when of these I meant, I'm being honest. So, the oversimplify it.

Rachel Connor: The oldest technology has been in commercial use for over twenty (20) years and a catastrophic event happened out west and that changed the way we approach battery storage technology industrywide in the same way that the Indiana State Fair stage collapse changed the way that my husband's company approaches commercial steel and aluminum trussing. When a catastrophic event happens, everyone pivots and we change the way things are done. That is the reality.

This project will be governed under the 2026 version of the NFPA 855. The previous version is the 2023. I believe before that, that version was the 2020. I don't know when the NFPA put out 855 originally, to be quite honest. I don't know what the first version was. I can find that information for you. But the NFPA and the industry are constantly moving toward better. That is the goal for any type of industry and we don't put these in buildings anymore. We don't use building because the non-metal features of a building are very vulnerable to fire and to spread and to embers. That's why these are contained in metal and they are outdoors in the open air and they have the ventilation shafts and flaps because we learned and I don't have any other answer for you other than in the same way that we now have seat belts in cars which my grandpa still this in dumb. We do better and as an industry we do better.

One note I do have for you, I will connect Mr. Polan with the Battery Innovation Center, which is an internationally renowned battery testing facility. It's in southern Indiana. They have two blast rooms, indoor and an outdoor blast site. They set them on fire just to see what happens. Both small and cell phones and iPads and handheld device technology, midsize (like appliances) and the large-scale stuff. We do that here. Indiana is a leader in that testing and I'm happy to connect Mr. Polan with the folks at that facility.

Do you have any other questions that I can answer?

Melissa Mischke: Do you guys have any more questions?

Ernie Schmidt: Just a brief what do you provide in the training and what kind of safety equipment are you providing to all the volunteer fire department? Not just three or four but all of them.

Pedro Durate: We go through site response, familiarization of the site. So you want to make sure that you know the site before you respond, strategy on response, setup, staging areas, things like that. We go through the technology specific safety features. We basically open up one of the containers and we do a little show and tell type of thing. This is the container, Here's a panel. This is the smoke detector. It's a gas detector. This the batteries things like that we show on the site. We do the technology familiarization, site familiarization. We go through the ESRP or Emergency Services Response Plan. We go through scenarios. What happens, the worst-case scenario,

one of them being, stranded energy that was brought up earlier, we address it. There might be a situation, that is why we never open it and start touching the things, we let it just sit there for others to take care of with the appropriate personnel and equipment later on. As far as equipment because again, we go back to the response and the approach. Because the approach is, we go, we respond, setup a perimeter. We're not engaging the fire so there's no special equipment that needs to happen. What equipment they would choose to utilize, who would choose to utilize and would be recommended to utilize is the CBA, like oxygen tanks or something like that as they are, you know, far away to just again for further prevention and safety but already part of our response. Response to a home fire, commercial fire, we've done those things to make sure that again.

Ernie Schmidt: Are you going furnish those tanks and stuff to the department?

Pedro Durate: I don't think that something that definitely above my pay grade. I believe they already have those types of things. I would not be able answer that question for you

Ernie Schmidt: In the las few years, the federal and state have taken away a lot of subsidies away from the departments and now they're going to have to pay for their own fuel, and they are going to have to pay for their own equipment and they don't have the money.

Melissa Mischke: With respect, Ernie, I don't that's one of the decision-making criteria for this board. That's something that he isn't going to be able to answer. It's going to be on the contract side.

Kaylie Sampson: I can speak very briefly as in terms of adequacy of equipment. Pedro is one of the individuals who participated in this training. We had another officer of the company, a HSSE officer who is a very experienced firefighter with over forty years. I think in various fire departments. He actually was a firefighter in Arizona. I don't know if he was there when this specific BESS incident in 2021 took place. He has indicated that some important equipment that a fire department should have when responding to this, is a thermal imaging camera, aka a tick. Then just sufficient like fire engine and a pump water storage capacity to respond to a fire like this if there's no water on site. But the thermal imaging camera is something that the fire department that we have talked to so far have indicated that they already have.

All the fire departments seemed secure following the training that they would be secure responding to these fires.

Melissa Mischke: Thank you. Any other questions from the board? I know we've had a lot of information tonight. What's the pleasure of the board?

Attorney Voeltz: Madame President, if I may? As the board is deliberating and or making their decision with regards to a motion either in favor or against the petition, it is incumbent upon the board to remember that this petition is contained on its face. That's it. And there are eight categories under a special exception that you are to use to make

your decisions. So if you determine that those categories have been satisfied to your requirements by the petitioner then the petition would be granted and that needs to be communicated as such.

On the same side or the flip side of that, if you determine that the petitioner has not satisfied those requirements that need to be enumerated specifically. You cannot just simply say "Well, we deny the petition, motion to deny". Second, all in favor, that is not going to work. Then again, with consideration of this petition, there are twenty-five (25) conditions that are already contained within that are subject to being incorporated into either a grant or denial of this petition. And certainly that can be then amended by the board's motion to include additional conditions. That is something across not just specific to this petition. Any petition that is before this board can be granted subject to conditions as imposed by the board. Just as you deliberate and make your motion in whatever direction you choose to go.

Melissa Mischke: Thank you.

Anthony Oss: I think in light of the long conversation we've had here and a lot of the considerations and the important concerns and the information that was brought up, there's a lot to digest, but there's also some additional information that I think I feel that I need to elevate the compliance with those conditions including some feedback from the local fire departments, local EMS, any emergency services who may want to have that. Is that something that we can request of you, Mr. Polan, to reach out to the county departments and receive comments from department heads and potentially the volunteer fire departments in regards to any conditions they would like to see as a part of?

Mike Polan : Yes, we can reach out and get statements from them and provide them to you for your review and consideration.

Eric Pointon: I have a quick question, Andrew. I know that the Department of Homeland Security, is there certain conditions we cannot put on these.

Attorney Voeltz: Mr. Pointon, I would assume you're referring to a previous meeting where the Federal Telecommunications Act of 1996 was implicated as far as certain things that can be discussed or could not be discussed. There is no consideration with regards to/from a state perspective and then from a federal perspective with relation to the statute that was cited that continues to be updated every year. However, the requirements under 855 as has been referenced those are constantly evolving and those are so far above what is required by this board, with regards to these conditions under a special exception. It is up here and those continue to evolve on a semiannual basis if not more and none of these conditions that are imposed by that federal statute are grandfathered in. This project needs to continue or would need to continue to evolve with standards that are not contained within the joint zoning ordinance. So I don't know if that addressed your question or not. Probably not because I'm an attorney.

Anthony Oss: I think that was a lot of work.

Rachel Connor: And I will say anything that this project has to do to comply with federal law, federal regulation, or state law, you cannot ask me to have my client not comply. If you have a local request that is in addition to their requirements and it is within the scope of your zoning ordinance or within state zoning law, then my understanding is that yes, it is within your purview to impose that condition. You just cannot hamper the compliance that we have to have with state law or with federal regulations.

Eric Pointon: Yes, I definitely don't want to do that. I should have tried to look, I think it was probably my very first meeting a couple of years ago. Mr. Biege had sent out an email regarding these things saying that they were under the Department of Homeland Security blah blah blah. So there were things that we couldn't do basically.

Melissa Mischke: I think it's important for everyone to understand including you know our officials just because the Board of Zoning Appeals makes a, if we decide to approve this petition there are still other regulations and applications that need to take place. Just because we say yes or no doesn't mean that the final answer. We're just the first step going forward. So that's for everybody. You know there's other requirements that you have to meet and your application sounds lengthy. So I think that's important to everybody to understand that we're just the first step. We're not the final answer.

So with that, I think we've had time to think about it and I will entertain a motion.

Anthony Oss: Based on my previous comments, I would make a motion that we table this petition and request that we table this petition and request feedback from local EMS, county department heads, fire department for BZA input, as well as give the petitioner an opportunity to address their conditions and some of the requests that were made by members this evening as to additions or modifications to those conditions and to allow them to return, I guess in thirty (30) days. I don't if it needs to be a month or at least, we would be prepared to put them back on the agenda or table it until the next meeting. So that's my motion.

My motion is table, look for information from the county and an opportunity for the petitioner to revise and adapt their conditions for comments this evening.

Jeff Baltes: I second that.

Melissa Mischke: I have a motion to table for further information and a second.

Attorney Voeltz: One moment, Madam President, with a motion and second on the table, it just needs to be made clear that the presentation portion of this petition and the remonstrance portion of this petition has been

Melissa Mischke: I'm glad you stated that, it was actually on my mind. Thank you.

Is that everything good? Everyone still agreed. All right. We have a motion and a second.

Anthony will not be coming back next month and giving us a long presentation.

Attorney Novak: I have done this before and told my client this will probably happen. I just always like to make clear of the next.

Melissa Mischke: We have a motion and a second on the table.

Motion carried and approved 5 – 0.

Melissa Mischke: If you find that thirty (30) days is not enough time to get the information, then contact the building commissioner's office, if you need additional time.

2. Petition for Developmental Standards for Michael Vida and Hui Ok for a third (3rd) accessory structure, twenty-four by thirty (24 x 30) feet. This property is located at 7661 N Walker Rd, New Carlisle, IN, Hudson Township, Parcel ID No. 46-04-28-200-016.000-050, zoned R1B.

Attorney Voeltz: Notice is adequate.

Michael Vida 7661 N Walker Road, New Carlisle

Melissa Mischke: I often feel like they should get some pronunciation for me on the phonetic spelling.

You want to add an additional structure?

Michael Vida: Yes

Melissa Mischke: What kind of use are you going to have as for the structure:

Michael Vida: It's cold storage. I am getting up there in years and I have a lot of stuff. I live by the lake, golf cart, tractor and just a lot of stuff that I have added and I need additional storage space.

Melissa Mischke: Is that twenty-four by thirty (24 x 30) feet going to be adequate?

Michael Vida: Yes

Melissa Mischk: Do we have any remonstrators tonight for petition two? Hearing and seeing no remonstrators, what kind of questions doe we have as a board?

Anthony Oss: Just curious of an additional structure and maybe not a consideration of an addition onto one of the existing structures?

Michael Vida: I considered adding on, but I have a major power line that runs underground that comes right behind my garage. I didn't want to mess with it. Put something on top of it.

Melissa Mischke: Well, not to mention, it's probably a utility easement that they discourage construction within.

Michal Vida: I don't want to build on it and then two years later something bad happens. The location for where I am requesting now, it's just there's nothing out there at all.

Anthony Oss: You consider the addition on the back of your garage to be practically difficult?

Michael Vida: Yes, I would.

Melissa Mischke: I would say it would be and not feasible with a utility easement.

Michael Vida: There are five houses that live off of one power box. I'm not sure how it was done that way. That the way it's done and it runs right through my backyard.

Melissa Mischke: If you there are no further questions from the board, I'll entertain a motion.

Ernie Schmidt: I'll make a motion that we pass this variance. The reason is because of the power line there and you would not be allowed to build over it.

Eric Pointon: Second

Motion approved and carried 5 – 0.

3. Petition for Variance of Developmental Standards and Petition for Variance of Use for Cindy McCain for converting four (4) grain bins into a guest home and a sewing retreat. All grain bins will be connected by a breezeway, radiant floor heat, kitchenette and bathroom, and there will be a roof to tie them in. This property is located at 0626 N 250 E, LaPorte, IN, Kankakee Township, Parcel ID No. 46-07-33-100-015.000-052, zoned R1B on five (5) acres.

Melissa Mischke: Petition 3 is being tabled. Notification was not adequate.

4. Petition for Variance of Developmental Standards for Matthew and Catherine Eaton for parceling off two and one half (2 ½) acres with two hundred (200) feet of road frontage, leaving fifteen and one half (15 ½) acres with approximately forty-five (45) feet of road frontage. This property is located at 11726 W 200 S, Westville, IN, New Durham Township, zones A on eighteen (18) acres, Parcel ID No. 46-09-18100-031.000-027.

Attorney Voeltz: Notice is adequate.

Matt Eaton 11726 W 200 S, Westville, IN

Melissa Mischke: So what you're trying to divide your acreage, I couldn't quite tell from the black and white that I got. So, could you kind of give us a description or if you want to come up and mark on it.

Matt Eaton: Right now, my house is actually, this is my pond. I have a house right here. This driveway is roughly fourteen hundred (1400) feet. Comes all the way back. What I want to do because my kids are grown and gone and it's too much to handle, take care of, we want to take this. This is roughly 2 and ½ acres right here., I want to take this 200-foot frontage and leave this forty (45) for the existing driveway and sell that house and property and build a new one on the front.

Melissa Mischke: Are there any remonstrators here tonight for this petition? Anybody for or against this petition? Hearing and seeing none, what kind of questions do we have as a board?

I will say that I am generally opposed to this little sliver with a driveway. I think it's bad for safety. In my opinion bad for fire response because you are going to have that house in the back. So it is definitely not something that I am encourage by, again with respect to safety and fire and emergency response. What other questions does the board have:

Eric Pointon: So you are wanting to parcel that off so that way the house would be for sale and that lot would be for sale and then you would be building in the back with the right of way.

Matt Eaton: No, I want to build in the front.

Eric Pointon: Oh, okay.

Matt Eaton: I want to downsize the house and the property is too much for my wife and I to take care of anymore.

Anthony Oss: The challenge here is the provision of the JZO and the standards for developmental variance require us to find some things. Are there any practical difficulties with the property to use it the way that it is now? This is just really a preference for you to this off and ...

Matt Eaton: I already own the property and I just want to build a house on what I have instead of going out buying more property doing the same thing. Just sell and downsize.

Melissa Mischke: If there are no other question, I will entertain a motion.

Anthony Oss: I will make a motion to deny the petition based on the lack of practical difficulties with the property.

Melissa Mischke: We have motion to deny. I will step down and second that. All those in favor on denying based on Tony's comments

Motion did not carry and failed 2 - 3.

That motion has failed. I'll entertain a second motion.

Eric Pointon: I am trying to figure out how to state it. I have to have a reason, correct?

Attorney Pointon: Madam President, point of order, the stated reasons can be simply that the petitioner has met the requirements for a variance from developmental standards as enumerated in joint zoning ordinance. They are specifically outlined as to what conditions the petitioner must meet in order for the variance to be granted. So, if you determine if your motion is based, I'm sorry, if you make a motion to base upon the fact that the petitioner has satisfied those requirements for a variance from developmental standards. You just simply need to enumerate. You need to indicate that you are approving and again I'm speaking hypothetically here. You are making a motion to approve based upon the fact that the petitioner has met the criteria as set out by the joint zoning ordinance. Does that make sense?

Eric Pointon: Subjective because you technically haven't met the...

Attorney Voeltz: If you're approving it, he has met it or I'm sorry, the petition has met it because the enumerated requirements in the JZO have been met by the petitioner by his petition. He has met those requirements. But again, that needs to be provided as the reason for the motion to either approve or deny. They've either met the requirements or they have not met the requirements. And how have they not met the requirements?

Ernie Schmidt: Am I understanding this correctly? You want to partition off 2 ½ acres with two hundred (200) feet of road frontage, to meet the county's requirements?

Matt Eaton: Yes, and the forty-five (45) feet that's left over is for the driveway to go back to the existing property, where my house is currently at.

Ernie Schmidt: That's a beautiful house. That meets the requirements.

Melissa Mischke: But that leaves this parcel with forty-five (45) feet of road frontage, that doesn't meet the requirement.

Michael Polan: Madame President, I'll make a comment that might make it helpful with the motion. If you believe that the petitioner has articulated the difficulty of maintaining the property by keeping it the same as for the reason for the split and that can be articulated in your motion.

Eric Pointon: I make a motion to approve this to the fact that the property owner has alluded to the fact that it's difficult to maintain and he wants to downsize the property as presented.

Ernie Schmidt: Second

Motion approved and carried 3 – 2.

Melissa Mischke: Please make sure that you post addresses very clearly for your fire department and emergency services to see both addresses.

5. Petition for Variance of Developmental Standards for Greg Karwick (Seller) and Courtney and Kyle Otte (buyers) for construction of a home with one twenty-six (26) feet of road frontage using N Ray Bush Dr. for the entrance, to be built within the next three (3) years. This property is next to or west of 6456 N 400 W, LaPorte, IN, zoned R1B on three (3) acres, Parcel ID No. 46-02-32-426-013.000-062.

Attorney Voeltz: Notice is adequate

Kyle Otte, I live at 6442 W Us Highway 30, Wanatah, Indiana. Courtney Otte. 6442 W Us Highway 30, Wanatah, Indiana.

Melissa Mischke: Tell me what your plans are here.

Kyle Otte: Eventually we're are going to build a house, if we're allowed to. They said to set a time, but there's only like enough you can put a driveway in, but it's kind of a goofy, you know, small road, you know what I means? But it's like theoretically with 26 feet, you know, if you split either way, you could put a 15-foot driveway and get a fire truck in there, and all that good stuff and have a little bit left. You know what I mean?

Michael Polan: I wish I would have taken another picture set a little farther back because to show the road and this is a déjà vu because this petition for the same property different petitioner came before us before.

Kyle Otte: Supposedly it was approved before. So, I've been told by our realtor.

Melissa Mischke: Oh, that's the problem right there. I'm going to turn into Paul Zona for a moment and say the problem is with these realtors promising everything.

Ernie Schmidt: This is a cul-de-sac, right?

Courtney Otte: Yes

Eric Pointon: It looks like a dead-end road.

Kyle Otte: Yes, it's a small cul-de-sac.

Melissa Mischke: It definitely is a unique lot. Are there any remonstrators for this petition tonight? Anyone for or against this petition? Hearing and seeing no remonstrators, questions from the board. And if we don't have any questions, the I'll entertain a motion.

Anthony Oss: I will make a motion to grant the variance of 4:03, that they've met the requirements of a developmental standards variance.

Eric Pointon: Second

Motion approved and carried 5 – 0.

6. Petition for Variance of Developmental Standards for Caleb Bingaman for construction of a thirty by fifty-six (30 x 56) pole barn with six hundred (600) feet of living space for elderly parents. This property is located at 4269 N 630 W, LaPorte, IN, zoned R1B with four point zero zero seven (4.007) acres. Parcel ID No. 46-05-12-476-009.000-046.

Attorney Voeltz: Notice is adequate.

Caleb Bingaman 4269 N 630 W, LaPorte.

Melissa Mischke: Caleb, how are you building a pole building and you're going to have living space on one level?

Caleb Bingaman: Yes

Melissa Mischke: Is there also going to be car storage or just living space?

Caleb Bingaman: It's basically for the tools and stuff my dad left behind and then all her stuff too.

Melissa Mischke: Are you sure this is going to be large enough?

Caleb Bingaman: Yes, can't really go any more without cutting down trees.

Melissa Mischke: Okay, any remonstrators tonight for this petition? Either for or against? Hearing and see no remonstrators, any questions from the board? So, you mom is going to live with you?

Caleb Bingaman: Yes, ma'am.

Melissa Mishcke: Does she require any kind of extra care?

Caleb Bingaman: Not yet, she is still capable right now.

Anthony Oss: Question for Mr. Polan, we have an accessory structure. I think the request was for development standards variance, but if we're doing an accessory dwelling unit, that's typically a special exception. Is there any concerns with that?

And I guess the questions is for legal counsel as to whether or not that changes things.

Michael Polan: I'm going to look at the petition.

Attorney Voeltz: Mr. Oss, there is an overlap with regards to the requirements for a special and a development standards variance. A special exception generally has more stringent requirements. With that being said, I do understand the nature of the question in that it could be considered an accessory structure. But I will defer to Mr. Polan.

Michael Polan: I concur with legal counsel.

Melissa Mischke: I agree and I feel it could be a hardship to care of an elderly parent. It is absolutely a hardship.

Are there any other questions from the board? Then I will entertain a motion.

Ernie Schmidt: This is a hardship because I was out to the site with Mr. Polan and we talked about this. This is something that he's doing for his mother to save him driving many miles every day. So with that said, I would like to make a motion we pass this petition and it meets the requirements.

Eric Pointon: Second

Motion approved and carried 4 to 1.

7. Petition for Special Exceptions for MoJoe Holdings Indiana, LLC (buyer) and David L. DeMass (seller) Petitioners are requesting approval for development of a gas service station consisting of twenty-four (24) pump fuel canopy and an associated convenience store officering, including but not limited to propane sales, a coffee shop with a drive-through service, hot and cold prepared meals, baked goods, and customary retail merchandise. The facility will operate daily from 6:00 am until 12:00 midnight. This property is at 10555 US 12, Michigan City, IN 46360, zoned B2 General Commercial and contains approximately 6.0 acres and located in Springfield Township, Parcel ID No. 46-02-07-426-002.000-062 and 46-02-07-426-003.000-062.

Melissa Mishcke: This petition will not be heard until the December meeting.

Mr. Polan, is there any additional business in front of the board this evening?

Michael Polan: Real quick, Madame President, I apologize for the black and white stuff there. When I encounter those in the field, I say bad words.

Also, we are in the process of updating our forms that petitioners will use to file. That should make it easier for all of you when you are articulating a motion and also easier to generate findings of facts.

Melissa Mishcke: I think too if you could provide us with a cheat sheet that says the criteria for each. I think that would be helpful.

Michael Polan: Those specific sheets are in the binders, so you could pull that out.

Melissa Mischke: Maybe laminate it so we could reuse it. One on one side and one on the other.

Any other business in front of us Attorney Voeltz?

Attorney Voeltz: No Madame President.

Melissa Mischke: I entertain a motion to adjourn.

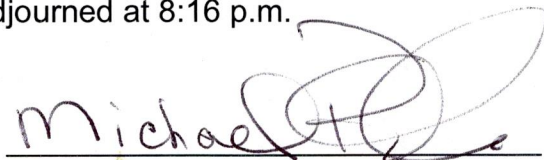
Jeff Baltes: I make a motion to adjourn.

Eric Pointon: Second

Motion approved and carried 5 to 0. Meeting adjourned at 8:16 p.m.



Melissa Mischke, President



Michael Polan, Recording Secretary