

**BOARD OF ZONING APPEALS  
MEETING MINUTES  
February 14, 2024**

Chris Clark: The February 9, 2024 Board of Zoning Appeals meeting will come to order. Mr. Secretary, will you please call the roll?

Adam Rude: Yes. Ms. Terrell - present, Mr. Cassidy - here, Mr. Clark - here, Mr. Bradburn - here, Mr. Lewis - here.

Clark: Our first order on our agenda tonight is the election of officers since this is the first meeting of this year so we will proceed with that.

Doug Cassidy: I would like to nominate Chris Clark as chair, Vince Bradburn as vice chair and staff being the secretary.

Wade Lewis: Second.

Clark: I have a motion and a second. All in favor, signify by saying, "Aye".

In Unison: Aye.

Clark: All opposed, same sign?

No reply.

Clark: The .....

Cassidy: Congratulations.

Bradburn: Thank you.

Clark: Our next item will be the approval of the minutes from the December 12, 2023 meeting. I'll take a motion to....

Wade Lewis: Move to approve.

Bradburn: Second.

Clark: Moved and seconded. All in favor, signify by saying, "Aye".

In Unison: Aye.

Clark: All opposed, same sign?

No reply.

Clark: The meeting minutes are approved. One thing that we would like to do since we already know that a majority of you folks are here for a particular petition is we would like to move the second petition ahead if that if somebody would make a motion to do so.

Bradburn: So moved.

Lewis: Second.

Clark: Okay it's moved and seconded so we will move the second BZA 2024.....

(?): Inaudible comment.

Clark: Oh yeah, sorry. All in favor of this move, signify by saying "Aye".

In Unison: Aye.

Clark: Opposed, same sign?

No reply.

Clark: So we will move BZA 2024-02 ahead of BZA 2024-01. Mr. Secretary, would you bring us up to speed on that one?

Rude: Inaudible question.

Clark: Yes, that would probably .....before he before we get started, Adam is gonna go through a few rules of the meeting as we need to limit certain things, especially in time with all of you folks here, we can't have things going long due to redundancy in what you would want to continue to say. I know that there are a lot of feelings about these things but Adam will lay out the structure of this meeting.

Rude: My name's Adam Rude. I'm the planning and building director for the City of Shelbyville and this evening, I'm serving as the secretary and the staff for our Board of Zoning Appeals. So right now I wanna talk about the general structure of how the meeting's going to run and how it's gonna work. When we get to the other item, the DG Market, I have some other points talking about exactly what role the BZA's gonna take and what they can hear and what they can't and what they're deciding on but first I wanna talk about the structure and how the meeting's gonna run. So the board's gonna hear one case at a time. There's two cases this evening. They just switched them so the shorter one's gonna go first. The board will, let's see the board will have the petition read into the record by me. I'll read that into the record. The petitioner, whoever is

requesting, making a request, they will step forward and explain their request. At that point, the board has an opportunity to ask some initial questions of the petitioner and get some answers from the petitioner. Once that has concluded and their initial questions are done, they will close those board questions. They will then open up to public questions and a public hearing. So the way that the public hearing will work is that you all should've had an opportunity to sign up out in the lobby on your way in. We will go first come, first serve except there are a few people speaking on behalf of a larger group. So I know the Twin Lakes HOA has someone speaking or two people speaking on behalf. The way the rules are structured, if you're speaking on behalf of a larger group, you have a 10 minute time limit to speak. If you are an individual speaking on behalf of yourself as a property owner, that is 3 minutes as the time limit. I will give you both a one minute and a 30 second warning and then you'll hear the alarm on my phone go off at three minutes. Each person is gonna be only able to come up and speak once so it's not constant jump back at the end of the line and go again. All the comments that are made during that public hearing should be directed to the board. They are not directed to the petitioner or to the audience or to anyone else in the room. It is comments directed at the board. During the public hearing, the board will not, at that time address any comments. You're not gonna get answers from them right away. If you ask a question and then stand there and wait, it's just gonna be awkward. You won't get an answer right away. What will happen is at the end of everyone's comments, they will then bring the petitioner back up and the questions that they that are relevant and the ones that they still want an answer from, they will then ask the petitioner those questions as a follow up. So you are not being ignored but the board is trying to listen to all the comments and take everything in. Along those same lines, if you heard your comment spoken before, let's just not be repetitive and keep saying the same thing. The board has heard it once. We're trying to get everyone out of here before midnight tonight so if you've heard your comment said before, if all your comments have been addresses, it's perfectly fine to not even come up here. I know a few of you had signed up and said you didn't know if you'd wanna speak. That's perfectly fine as well. Let's see, please refrain from, so once public comments are done, the board will close comments and then they will bring the petitioner back up. Like I said, they will then have a second opportunity to start asking questions of the petitioner and they can have any follow up based off of the public comments they heard. After they get done with that, they will close comments and they will, the board will start discussing different motions that they intend to make and they will have a discussion amongst themselves and then a motion will be made, seconded and then a vote will be taken. Once a motion passes, it's a five member body so three is a winning vote. Once three members vote in favor of a motion, that motion carries and the case is done and we move on. So that is the structure of the meeting as a whole. I know this is probably a lot of your guys' first time in this building or in this room or at a BZA hearing, so we thank you for coming and for participating in this public forum. Again, when we get to the DG Market case, I'm gonna get up here again and have a whole nother list of talking points to make sure that we all understand what the board's actually doing but that's the general structure of this evening. Thank you all.

Clark: Thank you, Adam.

Rude: The first petition after we (?) the agenda is BZA 2024-02 Deborah Hatcher Deveopment Standard Variance for a recreational vehicle. The petitioner's name is Deborah Hatcher. The owner of the property is Karl Hatcher. The address of the property is 53 E. Mechanic Street. The zoning classification is R1, single family residential. The future land use is single family residential. And the request tonight is one development standard variance from UDO 5.44 C3, general outdoor storage standards, parking of recreational vehicles.

Clark: Would the petitioner please approach the podium and speak your name for the record and tell us about what's going on with your project?

Deborah Hatcher: Deborah Hatcher, H-a-t-c-h-e-r. My house burned down last month, took the whole house. It looks like we have some structure damage as far as our foundation doesn't look. It looks like maybe the well's gonna be, so it's gonna take about a year to get me back on the property to get rebuild and get everything fixed on it. So in the meantime I was wanting to stay at my, I'm with my son right now but we're all in one little bedroom. So me and my mother and my daughter would kind of like to have a little bit of space for the next year 'cause with all the kids and stuff, it's a lot for older people that aren't used to it. So but he already has on his, he has an actual separate well, not a well, .....

Karl Hatcher: Sewage.

Hatcher: ....sewage, a separate water hookup and electric 'cause I guess at one time before he bought it somebody did have an RV out there so there's already hookups there. So we wouldn't have, the only thing we might have to change is the from a 30 to a 50 or 50 to a 30 depending on what type of amp it is. Other than that, he's already got everything prepared.

Clark: Okay, thank you. I'll take questions from the board. We'll start with Ms. Terrell.

Andrea Terrell: No questions.

Clark: Mr. Cassidy?

Cassidy: No questions.

Clark: My only question is is the RV in question that you're planning to use, do you have off-street parking large enough for that?

K. Hatcher: Yes. We are directly located, it'd be in the back of the house which is facing an alley so it would be off....(inaudible)....we wouldn't have to worry about any of that.

Clark: Thank you. Mr. Lewis?

Lewis: No questions.

Clark: Mr. Bradburn?

Bradburn: No questions.

Clark: Seeing there is no more questions from the board, I'll ask the petitioner to take a seat and I'll ask for anyone who wishes to speak from the public on this particular petition, please step forward. Seeing no one is willing to do that, we will close public comment and we will discuss among the board whether or not we would like to.....

Bradburn: Like to make a motion to approve the requested developmental standard variance from UDO 5.44 C3 in accordance with the documents submitted and the proposed conditions pursuant to the Findings of Fact presented in the planning staff's report. Almost got it all.

Clark: Thank you. I have a motion.

Cassidy: Second.

Clark: And a second. Please cast your vote for BZA 2024-02.

Rude: A motion for approval with one condition from the staff report in BZA 2024-02: Ms. Terrell - yes, Mr. Cassidy - yes, Mr. Lewis - yes, Mr. Bradburn - yes and Mr. Clark - yes. Motion carries.

(?): Good luck.

K. Hatcher: Thank you.

D. Hatcher: We're done?

Rude: Yes.

Inaudible comments.

Rude: Okay so next petition here tonight is what all of you are here for. It's BZA 2024-01 DG Marketplace Special Exception Use. Just a couple of things I wanna talk about specifically about this petition and what the city's scope or the board's scope is this evening, what they are actually doing and what they have authority over. So the parcel of land that we're talking about this evening has a BN, business neighborhood zoning. That zoning classification was established back in early 2005, late 2006 when the Twin Lakes development was being approved. So that has been the zoning classification all the way since those early approvals. That zoning has not changed throughout that time frame. That zoning also permits retail use as one of the uses. It permits a handful of different uses in that district and the property owners have a right to develop and establish those uses that are permitted. The reason we are here this evening is the retail type that is permitted in that district is called Retail Type 1. It has a

maximum square footage of 10,000 square feet. They would be able to build a facility that is 10,000 square foot that meets all of the other standards today. They could do that now. That property owner has rights to develop that just like all of you have rights to develop in accordance with the established standards on all of your property. So what the request is this evening, the petitioner would like to increase the square footage to 10,640 square feet. So what the board is hearing this evening and what the board is considering is whether or not to grant that additional 640 square foot. The use itself, the owner of the land, the business, any of those aspects are not being considered. That's not the question that is up for discussion this evening. It is whether or not that 640 square foot is gonna be permitted or not and if it is permitted, what conditions should come all with it. So that's the discussion this evening. I had went through, I appreciate everyone that sent along letters and emails. I spoke with a few of you on the phone and I have went through all of those. I know the board members also have seen all of those and went through all those. A lot of the conditions that we are suggesting came from those letters so they were not for nothing. They did have an impact. A few things I'd like to address on this, just based off some comments; so the project itself was not sought after by the city. This is not something where we own the land or we sold the land or we're developing it. We are simply here to impose standards that are in the ordinance. Two private parties entered into an agreement to sell and buy land and that happened outside of you know the city's purview. So the city did not go out seeking this. We are simply here to impose the standards of the ordinance on it. Similarly, because the board is only hearing the request on whether or not to increase the square footage to 640 or by 640 square feet and what conditions could be imposed, the board has no authority over who the landowner is, who the business owner is. They can't consider questions like do we need another Dollar General? Should it be a Dollar General? You know should the land even be sold, should it be developed? Those are not questions they can hear. The property owner has certain rights that are already established in the ordinance and when they purchased the land, those rights came along with it. So with that, we are gonna go ahead and just like the last case but a little bit slower, we're gonna read the petition into the record. The petitioner's gonna get up here and speak. The board has a lot of questions for them and then I have the excel document with all of you that signed up and we'll slowly go through that list. And again, when we get into that we'll reiterate it but the first presenters will be on behalf of the HOA. They'll be allotted 10 minutes each and then everyone else 3 minutes and I'll keep everyone honest about that. Okay? Thank you all.

Inaudible audience conversations.

Rude: Okay the next item under New Business is BZA 2024-01 DG Market Retail Type 2 Special Exception Use. The petitioner's name this evening is Second Circle Investments, LLC. The owner's name is Twin Lakes, LLC. The petitioner's representatives tonight are Briane House and Joe Leonard. The address of the property is at the intersection of McKay Road/Twin Lakes Boulevard/Bush Way. It's approximately 1714 Twin Lakes Boulevard. The parcel number is 73-11-09-100-137.000-002. The zoning classification is planned unit development business neighborhood and the action requested this evening is a request for special exception use approval of retail type 2.....(inaudible).....there we go.

Clark: If the petitioner please speak your name for the record and then.

Briane House: My name is Briane House, H-o-u-s-e. I am a partner with the law firm of Pritzke and Davis.

Rude: I have all of your drawings (?). It's ready if you want me to (?) on the screen.

House: Yeah. I thought you might run through 'em as a part of this but you don't need to show the petition but why don't you maybe let's take a look at the staff report if we could.

Rude: ....(Inaudible comment.....staff report.

House: And then site plan after that.

Rude: ....(inaudible)....projecting out of the speakers so.....

House: They don't.

Rude: .....(inaudible)....

House: No one has ever accused me of not speaking loud enough. So apparently the microphones record but don't amplify. I'll try to speak up. Members of the board, it's a pleasure to be here this evening and members of the community, it's nice to be in front of you even though I.....how many are in support of this project?

No audible reply.

House: There we go....(inaudible).....My name's Briane House as I said. I represent Second Circle Investments who's the petitioner in this matter. I wanna be brief because again, time is limited and there are a number of people here and nobody wants to be here 'til midnight I'm quite sure. Your planning director has made a very important point and I was going to sort of deal with this later but I'll just face it square on. The proposal is to have a special exception for a type 2 building. And the only difference is is a small number of square feet. The reason that is requested by the petitioner is because that allows the construction of what is known as a DG Market store rather than just a Dollar General store. And the difference between a DG Market and a Dollar General store is in addition to being 600 and some feet larger, it offers a different product mix. It offers produce. There are coolers with frozen foods, refrigerated foods, meats. If you have been in one of these stores, you'll find that it has more of the feel of a grocery store rather than the Dollar General convenience store which is you know cleaning supplies, laundry supplies and things like that. Now the reason the square foot special exception is requested is because when you're adding coolers and produce and so on, you need slightly more room. I wanna underscore this point and I say this not to be unduly pejorative with this crowd, but I think it's important. Be careful what you wish for. I fully appreciate all of the effort that has been put into this by the persons who oppose this. I read every letter. I read the reports from the

homeowner's association but the fact of the matter is the Dollar General store in several of its iterations fits within type 1 and we would not need to be here tonight at all if we wanted to construct a Dollar General store. We could simply go and pull permits tomorrow and be on our way and the offering of those permits under Indiana case law is an administrative act. It has to be done if the ordinance is complied with. And the plan proposed not only complies with your ordinance as to type 2 but it goes well beyond what might be expected in a type 1 development. If you would be so kind as show your conditions. And I wish it were a little larger. I don't know how many folks have seen this but the fact of the matter is that the staff has recommended with discussion with my client to impose numerous conditions on this development. Primarily the landscaping and architectural standards would be for a type 2 building. Those are more stringent. The maximum height for free-standing lights on the property is very interesting. This would be 4'. If lighting is in the parking lot, they will be 4' ballast lights, very unique, very attractive. Engineering will complete a lighting study and a so-called isocandela diagram so that there is no light spillage from the site. Much greater landscaping is provided than would be necessary under type 1. You can see, if you would bring it up, kindly the site plan. Thank you. This is extensively landscaped for a site of this sort and it will be screened from the neighborhood of Twin Lakes. And one thing is very important, this proposal in and of itself should not be as a surprise. When this property was zoned under your UDO, essentially most of this area came in as a planned unit development. A planned unit development encompasses and considers that there will be multiple uses. There will be a mix of residential property, multi-family property and business properties. Now let me touch upon a few things that have been raised by the remonstrators and if somebody's keeping track of time, that would be extremely helpful because I have ten minutes. I'd like to reserve a couple of minutes for rebuttal. Number one traffic; again planning staff reached out to the city traffic engineer who provided a lot of background data. You have it in your packets, I'm sure. The site only has 36 parking spaces and again, Mr. Leonard, who develops Dollar General stores and DG Market stores has vast knowledge of the traffic for such stores. Stores of this sort average 125-130 trips per day. Now I did some calculations just by example. There's 36 parking spots. If each and every one of those spots were filled all the time and turned every 30 minutes, you would have 864 trips a day. Not gonna happen. However, under type 1, 1500 trips a day would be permitted. So again, the traffic volume is much less than what would be permitted under your ordinance. A lot of people, you know Dollar General stores, I don't shop at a Dollar General store all the time, but I do shop at a Dollar General store because in my neck of the woods, I got a Walmart, I got a Meijer, I got a whole bunch of other stuff. But if I only want one or two items, I don't wanna go into any of those stores. I will go to the Dollar General or the DG Market where I can get in and out in a relatively short period of time. One of the issues that was raised by I believe one of the homeowners association presentations was police run. Great data work, but do take a look at this data. Number one, you will see numerous of these runs were so-called lockouts. What's that? I was a city councilor in Greenfield for years. We wanted our police to interface with the public. I locked my keys in my car, what can you do? Well you could call the locksmith but that costs money or we'll come with our slim jim and other tools and we'll unlock your car. I count one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, fourteen, sixteen lockouts on the first page. Other runs; alarm, believe me my building has a burglar alarm. It goes off, not because there's any burglars or there's any problem but because there's been lightning or



something like that. The police respond. Those sorts of runs do not indicate any sort of criminal activity. Admittedly, there are a number of runs for theft. What's that? Shoplifting and shoplifting is the bane of existence of every retail merchant anywhere in this United States. We've seen videos of thieves in Beverly Hills. So from Beverly Hills to the most rough ghetto you can imagine, shoplifting is a problem. It's unfortunate but I submit to you that that sort of run data should not be held against the petitioner. Time please?

Rude: I don't....I'll give you five minutes.

House: If I'm not talking, it doesn't count.

Laughter.

House: Oh five? Great. So in any event, to summarize and I do wanna save time for response, the petitioner could go forward immediately with a Dollar General store and all they have to do is just pull out one of the plans which less square feet. And if they do that, they don't have to have this much landscaping. They don't have to comply with all the lighting conditions. They don't have to do anything. They could have longer hours than they propose. Again, under type 1 hours permitted are 5:00 a.m. to 10:00 p.m. The hours here proposed I believe 8-10 and those morning hours, evening hours, traffic's not particularly heavy. We have worked with your staff to develop a comprehensive list of commitments and the developer will abide by those commitments and it will provide to this community a store and an appearance that is much more aesthetic and business-friendly than what would be permitted in any event. Now again, I don't say that as some sort of a threat. Believe me, it's not but we are here simply to say what is applicable and allowed by your ordinance is actually very generous. By seeking the additional square footage, we willingly accept additional conditions for development, aesthetics and so on and there's been discussion there'll be a brick wrap. Again, the architectural standards of your type 2 will apply. I reserve the rest of my time for rebuttal but I thank you. Thank you members of the board.

Clark: So now we will take questions from the board to the petitioner. We will start with Mr. Bradburn.

Bradburn: Alright well thank you. You've answered a couple of my questions already and you addressed why not submit a building under ten grand there and I hear you that the DG Market only comes (?) size it sounds like so thank you for answering that one and you also answered a little bit of how it's gonna differentiate itself a DG Market from a regular Dollar General. A couple more questions; would you estimate what would the balance be roughly anticipated pedestrian traffic versus vehicle traffic?

House: Vehicular traffic? I don't think Dollar General has a lot of data on that because again, some Dollar General stores and some DG Markets are not pedestrian friendly. That's not a bad thing but by example, there's one just north of 52 now on St. Rd. 9 and I don't think anybody's gonna walk to that. This store, however is in an area where people can easily walk to it and

again, you'll see on the site plan the continuation of an asphalt trail consistent with the PUD development as provided. So it's 9:00 at night and I need a quart of milk and I don't wanna get in my car but you know, an evening's walk for five or ten minutes might be kind of pleasant, so....

Bradburn: ....(inaudible)....So (?) back of that I'll give you an opportunity to address one of the concerns that I read throughout some of the letters. In terms of the target demographic for the customers for this particular store, can you speak to that?

House: I think the target demographic is generally the demographic of Shelbyville, Indiana and Shelby County. You know, you're not gonna go to Dollar General to buy a flat screen television. Many of the items for sale are sundries, kitchen items, you know dish towels, wash cloths, that sort of thing. So they're lower price ranges but you know I think with all due respect, I think one of the claims that was made by the remonstrators is like oh this somehow appeals to the lower socioeconomic level. I mean I just don't see that and certainly not in a location like this.

(?): Inaudible question.

House: Well I mean, I'm not in a lower socioeconomic level and I don't have any problem stopping and shopping at a DG Market or a Dollar General store 'cause there's a certain time where it's convenient to do so. So you know again it's a business in these United States and anyone who follows the rules or pays the price is welcome.

Bradburn: Understood. Can you give us a ballpark estimate in terms of the investment amount that you, not you obviously, but the people that are paying you are throwing down?

House: Fair question. Mr. Leonard probably could speak more precisely to this but if I you know I could get a Dollar General store. Many of them are franchises.....(inaudible)....one million dollars or more and this I think would be up.....

Joe Leonard: I would say it's probably one to two. On this store it'll probably be a market closer to \$2 million dollars invested.

Bradburn: Thank you.

Several people speaking at once; no one is clearly audible.

House: The answer to the question is people do this because they wanna make money and that's the American way. In fact one of the bedrock principles of zoning law in Indiana is if you cut me off, I respect that.

Clark: No, we I was just thinking that we can't really address economic factors.

House: Yeah I get it. Well you can address.....but I get it.

Bradburn: No further questions.

Clark: Mr. Lewis?

Lewis: How many, as far as the trucks/semis, how many semi trucks to these DG Market do you typically have on a weekly basis?

Leonard: Probably 2 per week. Obviously it depends on how much product moves. And then there'll be various smaller trucks; pepsi, coke, frito lay, those type of trucks that come in and out plus the some of the fresh fruit and vegetables. Those are more frequent. So I would say probably two to three semis per week. But again it does depend on how much movement's on it.

Lewis: And the timing of them? You mentioned that you were 8:00 - 10:00?

Leonard: Yeah and they will deliver during normal business hours because that's when the staff is there to unload the trucks.

Lewis: That's all the questions I have right now.

Clark: Okay I will take the next set of questions and I will say for your stock trucks, on the site plan, where would they be loading/unloading?

Leonard: So most of 'em will be towards the back of the store. You can see the drive back there, the dumpster enclosure is where the double doors are. That's the receiving area. That's where most of the semis go. The smaller trucks do sometimes come in and out through the front door but it's a variety but all the big trucks will be in the back.

Clark: How will they enter and exit that site? Is it....

Leonard: As we've done the analysis and the truck can come in and make a turn down along the I guess it'd probably be the north/south drive and then it can back back in to the.....

Several people speaking at once; no one is clearly audible.

Clark: Okay. Please hold your comments until it's time. I'm going to reserve until the end of this and move on to Mr. Cassidy.

Cassidy: This is more for Adam. Do they have to be open 'til 10:00? Can he go to 8:00 -8:00 instead of 8:00 - 10:00?

House: I can't answer that question.

Cassidy: No I'm talking to staff. I asked Adam that part of.....you know.

Rude: So the recommended hours are those ....(inaudible)....retail type 1.

Cassidy: Okay.

Rude: ...which were like 5-....

(?): 5-10.

Rude: Yeah 5:00 a.m. to 10:00 p.m. So that's where we got those numbers was just pulling all those standards forward.

Clark: The standards, yes.

Cassidy: Okay. Alright I don't have any questions right now besides that but I'll come back.

Clark: Alright, Ms. Terrell?

Terrell: I was just going back. The question I had was the off-loading of the product. So you said two to three semis per week on top of smaller trucks that would be delivering things from chips to soda to fresh produce. So looking at the drawing that's here in front of us, I'm just trying to figure out Adam, I guess it's a question for you. What is on that part of McKay Road, I'm thinking there are no trucks allowed in that section of McKay Road. What is that.....

Rude: Yeah so there are some other commercial establishments along McKay, thinking Stevens and Weintraut's just within a you know spitting distance of this. Local deliveries have always been permitted on that section of McKay. The no trucks is to well detour through traffic across town. So the trucks could and roads are all built for your larger arterial road cross sections so they're built for traffic volumes and heavier vehicles.

Terrell: Okay and my second question to that would be looking at the Twin Lakes entrance off of McKay Road, I believe if I recall right there's a brick signage for Twin Lakes. I'm still trying to figure out how the semis, do you have information on how those semis would be able to enter....(inaudible)...

Leonard: Yeah there's a program called Auto Turn and it's in Auto Cad....

Clark: I'd like to cut you off real quick because we've had experience with Auto Turn from Auto Cad and we actually did a development here for a industrial use and they used the bare minimums from Auto Cad to create those and after the fact, we found out that that's pretty much not enough.

Leonard: Well that's what we've been using and the trucks don't have a problem getting in and out so I can't speak to your specific example but .....

Terrell: So my question would just be defining that turn ratio into.....

Leonard: We'll provide that to Adam.

Rude: And to that point Ms. Terrell, at the Technical Review stage, our city engineer requires that.....

Terrell: Okay.

Rude: ....and he'll review that, all those turning radiuses and in and out of the facility and how they should.....(inaudible)...

Terrell: Thank you.

Bradburn: Adam, while you're on that, could you repeat that in terms of what stage of the process that Tech Review will take place?

Rude: Yeah so when or if this petition is approved this evening, the next step in the process, if it's approved or not, the next step in the process would be to file a site plan. A full set of civil drawings with all the details required. That would go to what's called our Technical Review Committee which is comprised of every city department and every utility on site. They review it for compliance against all of their applicable standards. The city engineer is on that, fire chief or fire inspector, police chief, myself, storm water, all the utilities and they provide all that technical feedback so that all those corrections are made. After Tech Review then it goes to what Mr. House was mentioning that administrative stage where the Plan Commission holds a public hearing but their role in that hearing is to insure compliance with the standards. So that is their function is to make sure that it complies with all the standards and (?). So we're early in the process.

House: If at Tech Review there's a concern about access and we have obviously experience with Auto Cad then again, that would be part of the process and you simply shave back the corner of the lot near the island with the monument sign for Twin Lakes.

Clark: Does anyone else have any more questions?

No audible response.

Clark: Alright, .....

House: Thank you.

Clark: Thank you.

Bradburn: Thank you.

Clark: So we will close questions from the board on this particular portion and ask that the I guess the HOA has a representative that would like to speak.

Rude: I will I'll give you I'll give everyone one minute and a 30 second warning. I'll call your name and you come up here. Speak your name into the record. Our secretary transcribes these after the fact, so.....

Tyler Comstock: Hey Adam, .....

(?): Wait a minute.

Comstock: .....slide change. I'll just say Hey Adam ( ? ).

Clark: Please speak your name into the for the record.

Comstock: Yeah my name is Tyler Comstock. I live in Twin Lakes addition. Okay based on all those questions, I think you guys are pretty familiar with my work. If you would, please.....before I get in my actual, go back one just real quick. Before I get into my actual presentation, I just wanna make a couple of standard comments. I'm kind of speaking for a lot of people here so it might not reflect everybody's opinion but I think it's the majority. So the first is we are not against development. We understand how this works. Things are gonna go in there. Our biggest issue is we have a problem with this development and this presentation, along with everybody else's comments will explain why. My second comment is this entire week leading up, myself, a lot of people in the crowd and everybody, we've been we've kept being told hey this is already a done deal. Basically saying hey, don't even try. That's what people have been telling us. And that quite frankly, I'm sorry to say this but it scares the hell out of me. I think it should scare everybody here that a project like this that has to go before a public hearing is already decided for us before our voices are even heard. So I'm just really worried about that because in my opinion, it's the local government's number one priority to take care of the well being and safety of its own citizens, not outside businesses. That's the number one priority. Alright to my presentation; for you for all those that don't know me, I'm a civil site engineer, professional civil site engineer. I design sites, roadways. I work with INDOT. I do civil site design just like Dollar General as we see here. So can you go to the next slide? So as you can see here, here's some of the I just wanted to show a wide variety of the projects I've worked on. I've had nursing homes, trailer parks, concrete plants for Shelby Material, all the Amazon buildings and everything up 65. I did our Zaxbys here in town and then the most complex and talk about safety project that I've ever led was I was the head engineer for the Bloomington hospital down in Bloomington. I don't say this to brag; I just want you guys to understand - I understand this. I do this for a living. I see this stuff and when I see an issue, I think it needs to

be known. I do a lot of projects, guys. I don't just do one side or the other. I don't just do cars, semis, everything. I've done helicopters, you name it. I've done it all. So I just wanted you guys to know that so that you knew my depth of experience as well as the variety of projects because those varieties have different uses just like we have here tonight. We have a commercial use as well as the residential uses. I understand how that cohesiveness between those uses can either be a positive thing or a negative thing. And again, I'm gonna show the concerns I have here tonight. So go ahead. So these three. I'm not gonna lie, the past week just thinking about the safety of these three, I've had some sleepless nights especially when you see some of the data. I know we were just talking about little small thefts and things like that but you'll see, you'll get my understanding. So my wife Ashley, she's the secretary for the middle school. Her and I have these three little kids and as all parents here can attest, you have as everybody here can attest, all of our kids are very different from each other. Just because they have the same last name doesn't mean that you can treat them the same because they have their own quirks, their little limitations and things like that. You have to treat them as individuals. The same logic should apply to this site. Just because it has the last name or zoning of business neighborhood doesn't mean that you should just paint it with a wide brush and just approve it for the sake of approving it. It's the duty of the government and everybody here to protect those in this neighborhood. Because just like the kids, you have to treat it individually because this project isn't just near or adjacent to a neighborhood, this is in a neighborhood, in a neighborhood. I just want to make sure everybody understands that because all the safety concerns and then everybody brings up here tonight, that should be amplified because again, it's in a neighborhood. So one of those concerns that was kind of already discussed is semis. Of course my laser pointer doesn't really work. Well actually it might. So anticipating what the traffic might do, semis would come off of I-74, get down here to McKay Road in order to enter this site. Issue with that is Adam, has already been discussed, McKay Road is designated no trucks. I know that sounds like it's just local deliveries but two trucks a week is actually quite a bit. The reason for that is McKay Road is not designed to handle it. Pavement section's not there so it's gonna get tore up quite frequently and that's gonna be everybody's taxpayer money replacing that road more often. Sorry. Adam, next slide. Shown here as was already discussed trucks entering trying to come onto McKay Road, they really can't make it. I know we can say and we can make numbers work but guys, we've lived here long enough. You guys see those stray trucks trying to come onto McKay Road, it's a safety hazard. We have the cars trying to come onto McKay Road onto Progress Parkway. We have the cars on Progress Parkway. And then you have all the pedestrians 'cause a lot of pedestrians actually walk on Progress Parkway trying to make that turn. Guys, we see this a lot. This is an issue. I don't care how you wanna turn it, this is an issue. Well, I'm sorry, I can't....(inaudible)....so let's say that the truck does make it on Progress Parkway. As shown here, we discussed it a little bit, McKay Road. It's gonna happen from time to time that they're gonna miss. The truck driver is gonna miss the entrance. He or she's not gonna realize oh I need to pull into a neighborhood to get to a Dollar General so there will be accidents to try to pass through. And as you see here, think about where that truck is going. It's going to Amos Road, 9, Miller. None of those intersections are built for this. It's nothing but safety concern. And if it continues west, it has to go past the schools, the high school, middle school and eventually gets to St. Rd. 44. Guys, look at all those neighborhoods it's passing and all the pedestrians. So I just wanna point that out. So I'm

sorry. Adam? I have three minutes? Three minutes, okay. So let's say the driver makes it, knows to turn into the addition, the driver can't make it using the proper turning lanes. Let's say it hopefully misses the landscape island but instead it's gonna clip the sidewalk, the ADA ramp and things like that. So I'm gonna try to speed up. Go ahead. Again, very similar to McKay Road, let's say it accidentally misses the entrance. Now it's wandering through a neighborhood, through condos, senior living condos, the apartments, going through our streets next to our playground. Then eventually it gets to Amos Road where once again, the intersection is not made to handle truck traffic. Amos Road's not able to handle truck traffic. So I know this sounds very pessimistic and you guys are probably saying yeah, that never happens. Well guys, think about this; how many times do semis from 74 miss those giant 15' signs saying no traffic? Then we have the lighting boards on St. Rd. 9 coming in downtown saying no semi traffic. What happens? We get semi traffic downtown. It's going to happen. Alright, next one. So let's say they know to turn into the site, a semi has to turn in, it has to go through the next turn lane or the oncoming traffic to try to pull into the site. Same thing when they try to get out of the site. Sorry, I'm trying to speed up a little bit. Go ahead. To exit the site, I think it's gonna have to end up being closer to a maneuver like this where it's a blind u-turn. Again taking us a wide path through both lanes of traffic, not able to see the oncoming traffic from the entrance. Again, this is why we need to think about this. Go ahead, next one. Okay so just like I said individual sites. This site, this is why you have to look at it individually is this site was approved. Unfortunately it doesn't even meet our current design standards. Look at the distance between the entrance and the intersection. You can see the blowup there. Can you go to the next slide? Unfortunately, so the currently the design standards show a minimum of 150'. Guys, I went out there and measured it. It's less than 50. Why does that matter? Next slide. Because of this; if you're at Bush Way trying to turn, looking towards the intersection, the oncoming traffic, there's a car coming into our addition. You can see the landscape sign. Next slide. I actually went out there and pulled my truck into the site and had it coming out as if I was actually leaving the site and took a picture so I got the right scale and position of it and superimposed it on the image. You cannot see that car. You cannot see the island. That car is less than 150' away. Guys, this is why you have to look at every site individually. Not every site is the same. So, sorry. Can I do my last slide? So for my last slide, it's just the hours. We're not asking for a lot. A lot of us would say that if you brought us three Shelton Vet Clinics with the hours of 8:00 to 6:00 we would sign up for that today. What I'm showing here is the blue is the hours that most people are gonna be within the residential area. The yellow is the business hours of the Shelton Vet Clinic. Green is the hours of overlap. So in other words, during the weekdays, people are gonna leave before 8:00 and then they're gonna come home probably after 5:00. That green overlap represents all the times where the hours are gonna conflict and we're gonna have vehicular crash opportunities. We need to reduce that. That, again, we need to look at this from an individual standpoint. The second slide is what they're I think they're that's what the zoning shows but it's slightly different from what they're proposing 'cause they wanna do 8:00 a.m. versus 5:00 a.m. Look at all that green. That green there is opportunity for crash, guys. Can you go back just 2 slides? Guys, this intersection here is gonna be it. Please just take my professional opinion for that. Like a cardiologist looking at scans of clogged arteries saying this is a heart attack waiting to happen, I'm a civil engineer looking at this intersection saying guys, that's your widow maker. That right there, I don't care if it's 125 cars today. It takes one. It



takes one. So that's really all the facts I have today but you wanna know the scariest thing about it? I presented that entire thing and we haven't even started on Dollar General. I'm gonna let them handle that.

Rude: We have Daniel Parrett. He's also representing Twin Lakes HOA. We'll get your slides pulled up and then....

Daniel Parrett: Hey, everybody. My name is Daniel Parrett. My wife and I currently reside on Bush Way and we are one of the houses that is going to be directly behind this proposed Dollar General. I'm an engineer technician at Christopher Burke Engineering and I've worked on several neighborhoods and mainly dealt with the civil engineering aspect of those projects. In looking at this Dollar General or this proposed Dollar General, I have found some issues I would like to bring up and some possible stipulations that we could add to this. So as stated before, the Shelbyville Police department has been called 261 times to the dollar stores in only two years. Now, next slide; thank you. And the Dollar General just at Broadway Street as you can see the highlighted ones - domestic violence, battery, smell of gas inside a business or structure and narcotics. This isn't just an alarm going off. These are serious issues and they are scattered throughout this whole page. Next slide, please. And again from Miller Avenue, this Dollar General, they have assault, sexual assault and threats. Again, these are serious issues that we need to take a look at and we can't just brush aside. Next slide, please. Theft alone was called 29 times in 2 years and this is an issue we need to take a look at, especially if this is going to be directly placed into a neighborhood. Next slide, please. We took some pictures for the Dollar General at the Broadway Street. You can already see a few issues; the damaged cable box, the exposed trash receptacles for everyone to see. Next slide, please. And again, these carts that are placed at the back entrance that are another eyesore but also a hazardous thing for anybody trying to enter or exit this facility. Next one, please. Now this is the same Dollar General. Someone went and took some recent photos. You see they have massive storage of these carts everywhere and does not belong to a neighborhood or anywhere else. Next slide, please. This next one is the Miller Avenue Dollar General. We can see they do not keep up their grass. They have untrimmed trees. They have pools in the middle of the parking lot and they also have a Redbull truck in the middle. This is not something that deserves to be in a neighborhood. Next slide, please. Now for the Dollar General Market, this one's located in Hope, Indiana but we also have these similar issues of these carts in the back being open to the public and for everyone to see, the yard not being taken care of and these shopping carts in the middle. Next slide, please. So Dollar General has reduced worker hours of many stores leaving employees to choose between helping customers and stocking these shelves. And as you can see in this photo, these aisles are cluttered, dangerous and nobody wants that in any store they ever visit. The clutter is one of the reasons that the Department of Labor labeled Dollar General a severe violator in March. The chain has wracked up more than \$15 million in fines from the Occupational Safety and Health Administration and is in early talks with the federal government over this settlement according to the New York Times. Next slide, please. So with this, we have some requests and some additional stipulations that we believe will help this situation and buffer any of these negative effects onto our neighborhood. Next slide, please. So as it was proposed before, the buffer zone located on the north side as seen in

previous photos there has been some buffer zones and trees placed but that was not enough in order to keep out those eyesores and hazards out of sight from the neighborhood so we'd like to suggest additional trees on the north side and as well a buffer zone located on the east side. As of now, there is nothing but if we could have an additional type 3 buffer zone with additional trees and fence on the east side, we feel that'll greatly separate this facility from the rest of our neighborhood. Next slide, please. We'd also like to suggest some water quality units. We believe that this site is going to be directly all their storm overflow is going to be directly filtered to this pond that is located directly behind my house. It is a clean pond at the moment and I would like to keep it that way. If this Dollar General's put in, is likely to be littered. Lots of debris is going to be flowing in there if nothing's stopping it. We'd like to suggest some debris traps that can be placed on their site as well as an Aqua Swirl quality units that is maintained quarterly and not just by yearly. Next slide, please. And as discussed before, we can see in the staff report that the hours of operation for the facility shall be limited between the opening hours of 5:00 a.m. and 10:00 p.m. and instead of the business hours being at 5:00 a.m. and 10:00 p.m., I know you guys have suggested that it's 8:00 - 10:00 now but we would request that the business open later and also close earlier due to the safety concerns that I've spoken of previously. Next slide, please. Now we know no one in this neighborhood wants this Dollar General. No one in this neighborhood plans that they're gonna shop at this Dollar General but we understand the reality of the situation and we believe that these additional stipulations that I have proposed will benefit the situation and help us to live close to this Dollar General. But thank you guys for your time.

Rude: Okay now we're going to go into the individuals that had signed up. We're just gonna go in the first come first served the order that they had signed up. (?) I will set a three minute timer and I'll give a one minute and a 30 second warning. The first speaker this evening is Ashley Martin.

Ashley Martin: Hi. My name is Ashley Martin and I've lived in Shelbyville my whole life. I don't live in Twin Lakes but I live near it in the Eagle Brook subdivision which has an open field behind it which I am understanding that it's residential but I feel like along with a lot of other people these zoning words and all of these rules and regulations that zoning you know requirements are all are hard for us to understand. So I have no idea what can go where at this point. Most of the time I don't feel like most of us get a good understanding of that. Even coming to these meetings, they're just very hard for the normal layman to understand what the zoning rules are. I've tried my very best to understand that so I am not in support of this business being there not because it's Dollar General, not because I'm discriminatory against Dollar General or Dollar Market. I too have shopped at this as well. I just feel like I don't know how it works but I think there could be a lot of restrictions that could be put in place to make it better if it has to go there just as it sounds as like that's what's happening. So I submitted a letter. I don't need to go through all of that. One of my concerns that's that wasn't addressed in my letter that I submitted is hearing Tyler and the other engineer talk about the semi traffic and the traffic that comes through there is concerning to me for police and fire traffic that need to go through. If those semis aren't able to get through or if they have to back up and they aren't able to make it and they impede traffic in that way, we're looking at McKay Manor that obviously has

a lot of or at least fire runs, paramedic runs. You have these situations that are going to end up being maybe even worse just because you have a delivery truck that gets stuck from coming for that business alone. So I don't know what the answer is. I just think that us as citizens should be heard and I think that the restrictions could be put in place that make it more desirable to be welcomed in that area. So, thank you.

Rude: Next one, Jeff Hulva. If I butchered your last name, I do apologize.

Jeff Hulva: You got it pretty close. Two concerns that I have for sure that was brought up earlier is in-store shopping. They have those delivery carts that are put in the stores inside the aisles. Those aisles are no longer ADA compliant which makes it more difficult for people to shop. Those carts have to be moved. When carts are taken outside and stored behind the building, some of the pictures did include cardboard. Those cardboard are exposed to the elements - rain, wind will make it dissipate and then fly to the neighborhood. It's a concern that I have. Twin Lakes housing area has specific building codes also. The houses have to be brick at least, supposed to be brick on well a little over 50% of the building. I've not seen a rendering on the building itself. Is it gonna meet those codes that we have and are they subject to those codes?

Clark: ...(inaudible)...architectural standards.

Hulva: That is a concern I have. Safety; I have a family member that was a manager of a Dollar General store in another city opening at 5:00 a.m. in the morning. They were robbed by gunpoint 3 times. Alright, that brings a safety concern for our neighborhood.

Clark: I hope you don't.....

Hulva: I don't know if you can take that into consideration or not but it is .....

Clark: We can but we don't want to become repetitive and we've already have several safety.....

Hulva: Okay I understand but I've actually got family members involved with this that's why I'm bringing it up. So that is a concern that I also have. Right now, that's all the topics I've got. Thank you.

Clark: Thank you.

Rude: Carla Black?

Inaudible comment.

Rude: Regina Holzhausen, yes thank you.

Regina Holzhausen And I represent Twin Lakes Village Homeowne's Association, 32 homeowners. First of all, I wanna thank you for the opportunity to present on behalf of myself

and the 32 homeowners on Senior Court. Our opposition is in two parts. Part one is a special exception use for retail type 2 business in general and part 2, we will address the Dollar General and I realize there are some things you don't want to hear but you've opened the door on a couple so I'm gonna go through it. Retail type 2 business; the tract of land at issue is surrounded on all sides by residences. Senior condos to the west, upscale houses to the north, Southern Trace to the south and Twelve Oaks to the east. The application is for an exception to the permitted use for this tract of land. A retail type 2 business in a space that is completely surrounded by houses doesn't make sense on its face and upon scrutiny, this particular special exception certainly doesn't. Finding of Fact number 2 as stated by the applicant was no more than a mere unsubstantiated statement without foundation or evidence. They said "the special exception use will be in harmony with the adjacent uses because it will allow for the nearby residents to walk to a convenience store rather than drive increasing their values. The burden of proof for a special exception use is on the applicant and they provided nothing to support anything about how a huge Dollar General store building will be in harmony with the neighborhood. The BZA staff merely recommends light restrictions and a buffer screening but that does not in any way make this project in harmony with the neighborhood. As for increasing their values, increasing their values? What on God's green earth are they talking about? What values will increase with this building? Finding of Fact number five as stated by the applicant was again no more than a mere unsubstantiated statement without foundation or evidence. The neighboring property values will not be negatively affected because the development of this property will promote the development of the remaining property of the parent parcel by building a drive off of Twin Lakes Boulevard. Parse that out - what? Property values won't be negatively affected because we're building a drive off of Twin Lakes Boulevard. That is nonsensical on its face. Can Second Circle, Dollar General back up that statement with actual proof that property values have not decreased for neighboring homes when a Dollar General is built within a residential district should any municipality be that foolish to allow it? As for Shelbyville, we've already covered it, police have been dispatched to the two Dollar Generals and not because they were adding value to neighboring homeowners. If Second Circle wants to maintain that nonsense, they should be required to place hundreds of thousands of dollars in escrow for homeowners whose homes will lose value. Second Circle can get their money back in five years if we all sell our properties for no less than their pre-petition fair market values. While thankful for the conditions recommended by the BZA staff, they do not compensate us with the decline in our real estate investment and the place we call home. Having the entrance to Dollar General on Twin Lakes Boulevard makes no sense. That hasn't been addressed anywhere. The staff report failed to address a critical issue - access to the other half of the lot. How are we gonna access that? Bush Drive? That's taking it further into our subdivision, more detrimental impact to Twin Lakes homeowners. Entrance to any business that goes in there. Retail 1 type 2, it doesn't matter, should not be on Twin Lakes Boulevard. It should be on McKay Road just like they do on the Amos Road side of our subdivision. The argument that it would be too close to the intersection is absolutely no excuse. Businesses on Broadway from Harrison out to the interstate have entrances located very close to intersections and to each other. There's no plausible reason to place the entrance within the subdivision and McKay Road entrance solves a problem of access of the other half of the lot that the applicant and the BZA staff failed to address. Nighttime light trespass is a huge issue for Twin Lakes since

bedrooms face the subject lot. The buffer yard type 3 with only a 3' tall mound on the western side is insufficient when those egressing from Dollar General are shining their vehicle lights directly into Diane Tressler's bedroom. And the proposed buffers do absolutely nothing to silence the clanging vehicle doors. Large semis loaded with inventory should not be tearing up residential Twin Lakes Boulevard. It's not built for that. Attempting to navigate a narrow street lined with residences. They should not be in a residential subdivision. It is not in the least consistent with the intent of the zoning district which is what was stated by the applicant. Consistent with the intent - there is no high traffic retail business within eyesight of that tract. The size alone of the proposed Dollar General is not harmonious with the surrounding area, Dollar General in particular or any dollar store. What kind of community are we trying to be? We've earned the moniker, Shelbucky for a reason. Look at our closest municipality that's similar to us - Franklin. We're both in rural areas. We're approximately the same distance from Indianapolis and located on an interstate. Franklin, it's a first class city. It's outpaced Shelbyville over the last 15 years. Franklin has attracted good businesses - Meijer's, Kohl's, Hobby Lobby, Lowes and lots of others and higher wage earners according to the US Census reports. Shelbyville has a population of 20,000. Franklin now has 25,000. They've passed us up and they did it without three Dollar Generals. They stopped at 2 because they know that's not the direction they wanna go. We have 4 already dollar stores here in Shelbyville. Two are within 2 miles of our tract. There's clearly no need. A need is what we need for this special exception use. There's gotta be a need. It's time to change course and attract better business here if we want to break free from our hick image. According to Dollar General's report, its core customers are the low and fixed income households contrary to what counsel for applicant just stated, he doesn't believe that. Dollar General stated that in their annual report. Our core customers are the low and fixed income households. Elsewhere Dollar General reports their target demographic. This is Dollar General stating this is a shopper with an annual income under \$40,000 with no college education in rural communities that lack national chains. That doesn't represent homeowners in Twin Lakes or any any neighboring subdivision. It does not fit. It does not add value to us. We shop elsewhere. Thank you. According to the New York Times in 2023 a report, communities are saying no to dollar stores, not just Dollar General, dollar stores. Seventy five communities have voted down proposed dollar stores and another 50 have enacted moratoriums on dollar store development. Why? They deem them to be detrimental to communities. Lean staffing, 92% of Dollar General workers earn less than \$15 an hour. 20% earn less than \$10 and hour and high crime. Within the last couple of weeks, a murder occurred at a Dollar General just up the road from us. It's been all over the news. Dollar General stock has plummeted from a high of \$260/share in 2022 to a low of \$136 yesterday, losing half its values. Morningstar analyst report they expect it to face margin pressures in coming years according to their December, 2023 report. Their report states the firm caters to less affluent customers who frequently rely on federal assistance and that reduced food assistance benefits and tax credits will likely prompt a pullback in spending by low income households. The retailers already begun to feel the effects posting a modest decline in same store sales and initiating inventory reduction for 2023 and expect to see softness in 2024. We think, and this is the report from Morningstar. We think the economics of new store openings will likely prove less favorable than in prior years. One of the years their stock prices has tanked is because DG now prices some of their inventory staples - cereal, soup, toothpaste higher than

Walmart and Kroger. Is Shelbytucky something we want to strive to be or can we be better? Does this administration have the ability to attract better business and higher wage earners? We urge you to at least try and a good place to start is to deny Second Circle's special exception use application. Thanks for your attention.

Clark: Before we get to the next commenter I'd like to say that you spoke well upon the economic side of it but as a board, we cannot see that. We can't focus on that point so please if you have that in your thought pattern, I'll cut you off when you're up here because it's already been heard and you've heard that we cannot consider that. Thank you.

Rude: The next speaker that has signed up is Sarah Hugus.

Sarah Hugus: Hi, I'm Sarah. I live in Twin Lakes. A lot of what I had written down has already been addressed so I'm gonna skip some of it but I do have a question for you, Mr. Clark. When Jeff was talking about the building requirements, what did you say? I couldn't hear you.

Clark: About the .....I'm not sure what you're talking.....

Hugus: So in Twin Lakes we had to build all our houses to a certain specification.

Clark: Yes.

Hugus: Even, we even went to court against Westport because they didn't wanna follow the specifications and we fought really hard to keep the neighborhood the way it is. So I know Jeff mentioned it. I just wanna I just wanna say picture Carmel. You know when you go down that main street and you see a Taco Bell and it doesn't look like a Taco Bell. I understand that the zoning is most likely gonna get approved and that's fine but could we put a restriction in there that they have to follow the HOA restrictions that we had to build to?

Clark: One thing that I can say to that is that this is a different parcel. This parcel was zoned to our comprehensive plan.

Hugus: And I understand that.

Clark: We have to follow. We have to fall to.

Bradburn: Do you mind if I take a stab at that? As a property owner who abides by the same HOA restrictions that you're illuminating there, it's been one of my focuses on this project to do exactly what you're asking. I've been personally satisfied with the first two conditions of the staff report....

Hugus: Uh huh.

Bradburn: ....give me confidence that your concern and my concern I'm sharing are more than

satisfied. I believe the staff in the first two conditions requiring them to give a well I won't read it but you guys can look it up but it requires them to do above and beyond. If they had come in less than 700 square feet, there would be no guarantee and no mechanism honestly for me as a member of this board to insure that we don't have vinyl we don't have whatever it is you know that isn't adherence with the same stuff I and you as my neighbors here have to adhere to, right? Now there's nothing in here that says they have to do a brick wrap is my understanding but that there's discussions in that. Having read and I don't know nothing from nothing but as I'm reading the standards, I'm satisfied that it's gonna be brick-like.

Hugus: Okay. No that's fine. I just picture barndominium when I picture Dollar General and I that doesn't do anything for us over there. The other item that I don't think's been addressed is I know we've talked about semis out the wazoo but we haven't talked about when they're gonna be delivered. I would like to see a restriction put in that semis can't come into the neighborhood until 9:00 a.m. because buses pick up between like my kids get on the bus at 7:15. The middle school/high school don't get on the bus until about 8:00, 8:15 to give them time to get the buses out of the neighborhood because we do know a semi is gonna block that entrance if they have to come in that way. That's the way the buses go out. So I would love to see that deliveries can't come in, semis can't come in. I mean small delivery trucks, whatever but semis can't come in until 9:00 a.m. and then buses do start dropping off again at 2:30. So to have semis out by 2:00, 2:15 at the latest so that way by the time the buses come back through, they're not delaying children getting off the bus because the bus has no way to get around and do its route. So that was one of my other main concerns. That's all I have that wasn't already covered. So thank you.

Rude: Jeff Hauk?

Jeff Hauk: Inaudible comment.

Rude: Angela Ridgeway?

Angela Ridgeway: Hi, I'm Angela Ridgeway and I am a homeowner in Southern Trace along with the HOA secretary. I'm not gonna bring up the fact that this isn't gonna happen because it is. I'm torn just like everyone else but this morning I took a few minutes and I went over to the Dollar General over on the west side and I do have the same concerns of the semis and them delivering to the front of the building. I'm not a semi driver. I just know that when I was in the store, there was a long semi delivering coke products or pepsi products, one or the other and it pulled up to the front of the store right where the entrance was and it just was very, I just feel like why are they not unloading the semis toward the back of the store especially the larger semis. And that was at 8:30 this morning so for the concerns of the bus, it was 8:30 this morning that I was there and they were delivering. If there was a way that they could you know bring the semis in, not come to the front of the store, to the side of the store, something, I think would be helpful. As homeowners, my other thing was the trash containers and the carts as well. They were just kind of all over the back of the store. There's nothing sheltering those from the homes that people would be seeing. And then the big thing is the lighting for McKay especially. I don't

know how many of you come down Progress Parkway but I'm there many times during the day and early mornings and late evenings and it's already very dark there. I ride my bike frequently on Progress Parkway, sometimes a little later in the evening and it's concerning already with the traffic that we have and the semis that we want to come on Progress Parkway but coming there to the stop sign, it's very dim. Several of the lights that we currently have are out and more lighting would really need to be added out front there if we were to have the Dollar General there. Just not even for just the lighting and the crime that people are concerned about just for the sake of the individuals traveling in and throughout there and especially if they're pulling in and out of those intersections. The other question that I have is with all of the new homes that are being built with Summerfield, Bear Run, the continued development is would there be a consideration for a stop light there at McKay and Progress Parkway? Because I can tell you people roll through that stop sign every single day multiple times a day and now we're gonna add more semis that are turning and that sort of thing. I believe that was my concerns other than I will tell you as being the HOA secretary, several people have called our home and been very unhappy and wanted to know what we were gonna do as far as HOA board members. As you know, there's nothing that we can do other than find a way that we can make this happen and it be acceptable for us in the additions where we reside. Thank you.

Clark: Thank you. Could you go ahead and announce.....

Rude: That is the last of everyone that had signed up. Because we have the time, if there's anyone else that would like to speak one at a time, if you could step forward. I ask that you slowly state and spell your name so I can get in our records along with provide your address.

Sandra Schoentrup: Sandra Schoentrup, Senior Court villas.

Rude: Spell your last name for me.

Schoentrup: S-c-h-o-e-n-t-r-u-p.

Rude: Thank you so much.

Schoentrup: My concern is overnight parking of vehicles that should not be there. Trucks, RVs, homeless people that have to live in their cars. That is my main concern. Thank you.

Clark: Would anyone else like to come up?

No reply.

Clark: Seeing no one coming up, I will close.....

Rude: We have someone that emailed and said they might try to join virtually.

Clark: Okay.



Inaudible mumbling.

Rude: That's it, sir.

Clark: Alright so seeing no one else from the public wanting to speak, we'll close it to public comment. We'll discuss it among board members. What are you guys thinking so far?

(?): Inaudible comment.

Clark: Yes. Yeah we do wanna do that. If the petitioner would like to come back up and rebut any of these statements.....

Inaudible conversations.

House: Thank you. Briane House again. First of all, a number of comments raised, all of them interesting. Some of them we disagree with but let me jump on one right away that we don't disagree with. The petitioner would love to have access from McKay and that was requested. I'm not sure that planning staff supported that but if the planning staff would care to change their minds we would be most amenable to that approach. One of the things that was a recurrent theme here is well this may happen, there might be accidents, this, that and the other and no one can predict the future but the law and the point is really clear that a decision cannot be based upon guesses, conjecture, surmise or possibility. That's Honeycut vs. Brown or it was decided by the court of appeals some time ago but it's still the controlling law in Indiana. Mr. Leonard and his company are committed to a quality development. It will be fully brick wrapped and happy to sign and prohibit overnight parking. Happy to do anything that is recommended by the city in terms of better access or maneuverability. I appreciate the fact.....

Inaudible outburst from the audience.

House: Okay I have what I've I can repeat briefly brick wrap committed to that. All of the commitments that have been proposed by staff, we're committed to those. Sign no overnight parking, the hours are generally 8:00 to 10:00. I don't know where Dollar General opened at 5:00 a.m. but again the law in Indiana is very clear. It favors the landowner and the free alienation of land and while I don't want to over emphasize the point, you can build a 10,000 square foot store next week and while I appreciate the concerns about our neighborhood and why is this, why is that, this special exception isn't about the permissibility of a commercial building on that site. That's permitted. That is permitted with much less stricture and restriction than the developer agrees to. To come back to where we began with your director's comments, what we're here tonight to talk about is six hundred and some square feet. So again, we hear their comments. There's a lot of landscaping here. I doubt if the developer is opposed to some additional landscaping but look at the tree planting there. If you get too dense, it dies out. It doesn't work. I will just close by saying while I understand the concerns that have been addressed here by the neighbors, in much of that statement their concerns really, in a technical

sense, aren't with this project. It's with the zoning decisions that have been made in the past and are in place today. They developer will require and will commit to compliance with your UDO, with your ordinance, with your commitments and all they wanna do is add 600 and some square feet so they can build a better more upscale store. So we thank you for your time and I do appreciate the input that these people have made. I'm gonna address one point and it's just an aside. I sat on a Plan Commission. I sat on a Board of Zoning Appeals. I've represented Plan Commissions and Board of Zoning Appeals. Mr. Comstock, engineer obviously talented started out by saying well we've heard this is a done deal. I'm confident that's not the case. Done deals don't go through the extensive discussion and compromise that was had here. To the extent anyone feels that way, I suspect it's a different way of stating the recognition that I can put a 9999 square foot Dollar General store there tomorrow without the brick wrap, etc. but I certainly have faith and trust in our public officials and this is not a done deal. If it was a done deal, he wouldn't pay me for the time and effort I put into this and we wouldn't try to at least accommodate the concerns we hear. Thank you.

Leonard: Thank you.

Cassidy: I have a question, Adam.

Rude: Yes?

Cassidy: Why can't we put an entrance off McKay Road? Is it too close to the corner that way if you go to the east end and make the cars, semis, whatever come out there?

Rude: So an access point on McKay Road, because McKay Road and Progress Parkway are higher classification roads in our functional classification system, they require greater separation from an intersection. So to put a curb cut on McKay Road, Progress Parkway is the obviously the primary arterial there. You have to be separated. I don't have the number in front of me but it's far enough away from that that you can get into the turn lane of McKay Road and Twin Lakes Boulevard.

Cassidy: Okay.

Rude: You cannot have an access point in a turn lane. All the options that were an access point can be, Twin Lakes Boulevard and Bush Way are the only two places where you can fit...the Twin Lakes Boulevard location is also grandfathered in because it's approved previously and was installed over a decade ago or more but the only other access point, the one we won't support is on Bush Way.

Cassidy: Okay.

Lewis: What other access to the lots to the east of this lot and on around?

Rude: Yeah so the access would be....

Clark: Is that an easement?

Lewis: I looked at it but there's a curb cut on ....

Rude: Yeah so it would be, you can kind of see my mouse moving on the screen but this northern drive would stub out and that would feed whatever that future eastern lot is.

Lewis: Okay.

Rude: So you would just have one shared access point between the two lots.

Lewis: And is it possible to if approved I mean you could put a stop sign at Bush Way and Twin Lakes Boulevard going north?

Rude: Yes. So our city engineer had mentioned, he had also looked at all the comments and materials submitted and because that access point already exists and it's close proximity to Bush Way, he stated that it would likely need a four way stop. What we could do, 'cause this board does not have jurisdiction over that .....

Lewis: Right.

Rude: .....but we will pass along recommendation to the Board of Works who does have jurisdiction so they can start the review process. During Tech Review, the Technical Review Committee, the police chief sits on that so it's something that would've been looked at anyways but he can start the process and consider it.

Lewis: Is it Tech Review also would look at the radius, the turning radius and if necessary if approved the petitioner would maybe have to cut off some of his lot?

Rude: Yeah or move further....

Lewis: If there's an issue?

Rude: Yeah change the radius of.....

Clark: Would you add a recommendation for that? Because I know that AutoCar from AutoCad has given us problems in the past.

Rude: Yes.

Clark: Would you also put in a recommendation for a perhaps a sight safety plan like we had recently to include the police chief?

Inaudible reply.

Rude: Some of the other items, if I may?

Clark: Yes, please.

Rude: It was brought up and it sounds like the petitioner would be comfortable with further limitations on the hours. I had suggested 5-10 but it seems like their actual hours of operations are 8 - 10. I think that would be maybe appropriate.

Cassidy: I think 8-8.

Clark: (?) hours. It'd still be daylight.

Inaudible conversations.

Cassidy: How much more foot traffic do they have past 8:00, from 8-10? I don't. You know?

Rude: I think that we could ask the petitioner what impact....(inaudible)....And then finally we had proposed enforcing the architectural standards. I think that's still applicable but they had committed to full brick wrap. I think that can be should be a condition imposed as well just so that we can enforce it.

Clark: Yep. Would the litter and the debris traps that they were speaking of, would that be a code enforcement thing?

Rude: On those items if the board's comfortable not acting this evening, I'd like a chance to talk with our MS4 director so I can get some technical specifications. I don't have great knowledge in that but he does.

Clark: I think that would be yeah.....

Bradburn: Put on that list prohibited overnight parking as well, Adam.

Several people speaking at once; no one is clearly audible.

Bradburn: Can you get order please? Let them know we're discussing.

Clark: Please, we're discussing. Could you please keep it down.

Rude: So I've got the trash and debris traps. I talk with the MS4 director on some technical specifications. Overnight parking.....

Terrell: One of the concerns also were all of the carts and whatnot in that back area.

Rude: Uh huh. The condition, let me make sure I'm giving you the right number. I believe it's number 10 in the staff report, yes.....(inaudible)....visible from the public right of way shall be permitted. If you look on your screen where the mouse is moving. That's a little walled off enclosed area where the other stores you see those metal carts just sitting out back because that's permitted there. But here that would be the space where they would be walled off and closed off from public view.

Terrell: Okay.

Clark: It is permitted but one of the things that I would like to clarify is the photo that they had of the one over here with the open doors and.....

Rude: Inaudible comment.

Clark: Yep is that a code enforcement issue?

Rude: It can be but also it should be a condition.

Clark: Okay.

Bradburn: Adam, are you ready to talk about landscaping?

Rude: Yes.

Bradburn: Okay so and a couple of the concerns are already addressed in the conditions in the staff report. The outdoor storage is not permitted like it is in on the other Dollar Generals in town. Some of the architectural and the commercial standards also cover many of the concerns that we heard from the petitioner or excuse me, the audience tonight. The landscaping, it is a bit extensive and you know speaking from a guy that was part of the process of adding these, we didn't have any previous well actually this time last year, right?

Inaudible reply.

Bradburn: Yeah, yeah, alright and so we're comfortable with the amount that we have there but the type 3 plus fence is part of the staff recommendation on the north side on the Bush Way side of the road. That's part of the conditions that the staff is recommending to have the type 3 buffer zone plus a fence.

Inaudible comment from the audience.

Bradburn: So if you, can you pull it up?

Rude: So in the ordinance when there are two differing zoning districts next to each other, the ordinance then prescribes a certain buffer yard requirement. Type 1, type 2, type 3 and type 3

with fence. That's not the exact terminology but that's what it is. Type 1 being the lightest. If they're somewhat similar land uses and there's not a lot of buffering that's needed all the way up to type 3 with fencing which is the most intense or the most stringent buffer yard I'll say. So I can go into the specific numbers but that type 3, that most stringent buffer yard with a solid 6' tall opaque fence is what's being recommended on that Bush Way segment. So across that portion of the property.....(inaudible)....The ordinance just describes I'll just (?) say it so if you wanna get your calculators out for this one. I think it's fairly technical but for type 3 buffer yard it is one deciduous tree shall be planted for every 25' of contiguous boundary. Each tree shall be planted within 20' of the property line but not closer than 5'. Four ornamental or evergreen trees shall be planted for every 50' of contiguous boundary. And then but yeah a 6' tall opaque fence across that entire northern Bush Way segment.

Martin(?): Who maintains those?

Rude: They do.

Martin: Inaudible question.

Rude: Yeah.

Martin: How do we know or is that something that can be put in there that it's to be maintained every so.....(inaudible)....just as if any other yard that's in the ordinance would be?

Clark: I do know that the trees I believe under this new ordinance is that even if they perish after a certain amount of time they have to be replaced.

Martin: So who enforces that then, Code Enforcement?

Clark: Code enforcement.

Martin: The city's code enforcement?

Clark: Yes.

Martin: Inaudible comment.

Audience laughter.

Clark: Yep, that's alright.

Several people speaking at once; no one is clearly audible.

Bradburn: Adam, there's also a suggestion on the east side of the property for landscaping. You wanna.....

Rude: Yeah so because the zoning district is the same on the eastern property, that side by the ordinance would not require any buffer yard. Now that lot on the east, if and when it develops, it will have adjoining properties that are different land uses or zoning districts and buffer yards would be required on those adjoining lines but that one would not be required because again, they're identical zoning districts so it's like for like uses bordering each other. But that's the logic and that's why we hadn't recommended anything there. There is just general foundation plantings, general yard plantings and parking lot plantings. There's some other plantings that are gonna exist on the property aside from the buffer yards but just that northern and western side are where we were recommending.

Several people speaking from the audience; no one is clearly audible.

Clark: We need to, public comment had been closed so we need to let us discuss....

Several people speaking from the audience; no one is clearly audible.

Bradburn: I'll address it. I'll address it. So part of our discussion up here if you guys can hear us as we're discussing is one of the concerns one of the questions brought up is the parcel that's yet to be developed to the east and the access to that. And so obviously we don't wanna have them plant any trees or anything in the way of the potential development being able to access to the north based on the drawing that we have there. If you look at the McKay Road side as you're looking towards the proposed project, you'll see that there is some landscaping there and also it hooks around the what do you call it, not driveway, the parking lot which is also part of our landscape ordinances and they would have to plant stuff on that small portion of the east side that goes up to the building. So in that sense, there is going to be some vegetation on the east side I guess I'll say.

(?): Inaudible question.

Clark: No public comment has been closed.

(?): Inaudible question/comment.

Bradburn: To the parking lot or the building?

Several people speaking at once; no one is clearly audible.

Bradburn: As we're understanding can you see this? There's gonna be the access to this parcel will be the same as it is here continue this direction.

(?): Is it off Mckay?

Bradburn: Off of Twin Lakes Boulevard.

Several people speaking at once; no one is clearly audible.

Clark: Public Comment has been closed.

Bradburn: And one other question was restricting delivery hours, restricting semis. Do we wanna discuss that now or.....

Clark: Well it's in our discussion, yeah.

Rude: What I can do I think I can summarize some of the thoughts here but I think it might be appropriate to give staff a little bit of time to look into these and make some recommendations on specifics so we're not committing to anything right now. But what I think the areas that we wanna look into and maybe impose conditions are the recommendation on the four way stop at Bush, the sight safety plan, limiting the hours of operation either 8-8 or 8-10, full brick wrap, trash and debris traps, overnight parking, making sure the doors are closed on storage and dumpster enclosures and then there's another we were just talking about.

Bradburn: Truck.

Rude: Oh yes, hours for deliveries of trucks. And if the board's comfortable with it I can spend some time and our department can spend some time looking into that, seeing what appropriate recommendations would be, having those discussions with different city departments where that expertise lies. And then also having that discussion with the petitioner. And then if we want to continue tonight, I think we should. Come back next month and hear those recommendations and possibly (?).

Clark: I agree.

Bradburn: Can I make a comment before we have a motion there?

Clark: Yeah.

Bradburn: And so obviously it's a special circumstance with me having an address on Bush Way. In discussion with staff and Adam in particular in terms of whether I should recuse myself, we I came to the conclusion that I believe I can be impartial on this project and I'll ask the public and my neighbors to please respect the open door law there which just me personally it kind of stinks. But what that means is I won't be allowed to discuss outside of right now, public record. And the idea is to protect us as the public from us having back door conversations. But the raw end of it is I'm not gonna be able to hear you and your comment between now and the next time that we meet outside of the public microphones being on. So I appreciate your help with that.

Clark: But you can address staff.



Bradburn: Absolutely, absolutely. And please don't get the impression that the board or the staff don't wanna hear from us as the public. Please continue to keep in communication with the staff and Adam.

Clark: After this meeting, you can speak with Adam during business hours.

Terrell: Quick question; know we moved our date for March. Is that gonna give you enough time with it being moved up?

Inaudible reply.

Terrell: Okay.

Rude: You won't have a full week with the staff report. You'll have it the (?) before.

Terrell: Okay.

Rude: I would just state in the motion....(inaudible)....meeting date yet that we are continuing to March 5th. State that precisely.

Lewis: Precisely.

Rude: Yes, thank you.

Lewis: Are we ready for a motion?

Clark: You got it.

Lewis: I'll make a motion that we continue this BZA 2024-01 to the next meeting which is March 5th.

Terrell: I second that motion.

Clark: Motion and second; everybody in favor, signify by saying, "Aye".

In Unison: Aye.

Clark: Opposed, same sign.

No reply.

Clark: Motion carries.

Several people speaking; no one is clearly audible.

(?): Are you voting to adjourn? Is that....

Rude: I don't have anything for Discussion tonight.....(inaudible)...

Lewis: Motion to adjourn.

Cassidy: Second.

Meeting adjourned.