

November 7, 2024
Special Meeting of the
Marshall County Board of Zoning Appeals
Plymouth High School Auditorium
Big Red Drive Unit 1
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 6:00 p.m. on Thursday, November 7, 2024, at the Plymouth High School Auditorium. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hochstetler, Jim Kephart, Matt Miller and extras Michelle Mieras and Joe Allyn. Plan Director Ty Adley, Teena Hunsberger, Administrative Assistant, and Board Attorney, Derek Jones along with interested parties.

The board reviewed the minutes of the October 8, 2024, minutes. Mr. Miller made a motion to approve said minutes, seconded by Mr. Hostetler. Motion carried by acclamation.

Due to the change of location being at the Plymouth High School Auditorium the Plan Director explained that the Auditorium needs to be vacant by 10:00pm; therefore, the meeting will conclude at 9:30 and the board will look to come up with a date and time if a follow-up meeting is needed.

The Rules of Procedure were reviewed. Mr. Bennett amended the rules to as follows: Allow the applicant ten (10) minutes to present and fifteen (15) minutes to rebut and letters are to be read allowed by application, seconded by Mr. Hochstetler. Motion carried by acclamation.

24-BZA-45 TAMARACK SOLAR ENERGY LLC- A request for a Special Use to allow a 150 MW (446 panel acres) Farm Scale Solar Energy System that has 1,435 acres within perimeter fencing in portions of West and Union Townships.

Mr. Ethan Sternberg of 1 South Whacker Chicago IL, representative of Tamarack Solar was present to represent Invenergy.

A request for a Special Use to allow a 150 MW (446 panel acres) Farm Scale Solar Energy System that has 1,435 acres within perimeter fencing in portions of West and Union Townships. The project is spread across several properties. Parcel Number:

1 50-31-20-000-005-000-017 **2** 50-31-20-000-003-000-017 **3** 50-31-20-000-007-000-017
4 50-31-20-000-008-000-017 **5** 50-31-20-000-011-001-017 **6** 50-31-20-000-009-000-017
7 50-31-28-000-001-000-017 **8** 50-31-29-000-004-000-017 **9** 50-31-29-000-005-000-017
10 50-31-29-000-003-000-017 **11** 50-31-29-000-002-000-017 **12** 50-31-29-000-001-000-017
13 50-31-30-000-006-000-017 **14** 50-31-30-000-003-000-017 **15** 50-31-30-000-003-001-017
16 50-31-30-000-035-000-017 **17** 50-31-30-000-029-000-017 **18** 50-31-30-000-011-000-017
19 50-31-30-000-014-000-017 **20** 50-31-31-000-004-000-013 **21** 50-31-31-000-005-000-013

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22 50-31-31-000-002-000-013 **23** 50-31-31-000-033-000-013 **24** 50-31-31-000-024-000-013
25 50-31-31-000-014-000-013 **26** 50-31-32-000-011-000-013 **27** 50-31-32-000-013-000-013
28 50-31-32-000-009-000-013 **29** 50-31-32-000-006-000-013 **30** 50-31-32-000-004-000-013
31 50-31-31-000-010-000-013 **32** 50-31-33-000-037-000-013 **33** 50-21-04-000-002-000-013
34 50-21-04-000-003-002-013 **35** 50-21-05-000-008-000-013 **36** 50-21-05-000-007-000-013
37 50-21-04-000-003-003-013 **38** 50-21-04-000-005-000-013 **39** 50-21-04-000-008-000-013
40 50-21-05-000-011-000-013 **41** 50-21-05-000-015-000-013 **45** 50-21-05-000-014-000-013
46 50-21-05-000-010-001-013 **47** 50-21-05-000-026-000-013 **48** 50-21-05-000-012-000-013
49 50-21-05-000-030-000-013 **50** 50-21-05-000-001-000-013

Analysis:

The applicant is seeking to construct a solar farm under the Marshall County Zoning Ordinance which includes 50 project parcels, but only 47 are within the jurisdiction of Marshall County, the remaining 3 are within the jurisdiction of the Town of Culver and would need separate review and approval through their processes. The project is a collective of 2,974 leased acres (2,707 County and 267.23 Culver), 1,435 acres within project fence (1,278 County and 157 Culver) and 446 acres under panel (397 County and 49 Culver). The project encompasses portions of both West and Union Townships outside of Burr Oak. The energy generated will converge on the project substation before following a transmission line to the Burr Oak NIPSCO substation which provides power to the MISO (Midcontinent Independent System Operator) grid that spans from the US/Canada Border to the Gulf of Mexico powering homes and businesses in 15 states.

Per the applicant, the project began securing leases in 2019, pending variance in 2024 would seek target operation in 2028/2029. The panels that will be used on site will be bifacial (able to absorb sunlight on two sides) polysilicon, which are solid panels and do not house liquids. The panels will be mounted on a single axis tracker that will follow the sun's path during the day from East to West. The project area will not host solar in areas which include "wooded lots, wetlands, floodplain, ditches, residential and other setbacks, and areas with significant slope that will either be left vegetated or maintained in their current use."

Within the application there is a request to vary from some of the existing requirements, including the request for extending the expiration of the special use approval from 1 year to 4 years along

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with those dates being tolled an equivalent timeframe due to any litigation. The final request is to be able to make changes to the location of the project infrastructure from the preliminary site plan in the special exception application so long as those changes meet the criteria outlined specifically in the application, but are more generally described as; reasonable changes limited to location of panel arrays, collection lines, and access roads, internal to the project fence and does not increase the size/footprint of the project, and are in accordance with the zoning ordinance.

The developer “is committed to ensuring County roads post-construction will be in as good or better condition than prior to construction.” During peak construction the applicant is anticipating an average of 250 roundtrips per day with most of them being passenger vehicles. The construction will be set in 8 phases; site preparation and pre-seeding, pile driving, racking system, trenching, install of modules, inverters, post-construction restoration, and operation. Invenergy is committed to providing buffering as required within the zoning ordinance by planting “native evergreens, deciduous trees, and shrubs”. There are two screening types with differing densities depending on the adjacent context. Within the project they will plant native and naturalized grasses and forbs for groundcover, which will help with wildlife habitats, increasing water infiltration and through the deep roots help promote microbial activity and soil health.

During the environmental review phase by the developer, they conducted an analysis of the project area to identify whether or not there were species determined by the Endangered Species Act are present. The study established that there are two federally listed species, the Indiana Bat and Northern Long-Eared Bat, listed as potentially present within the project area. The report was reviewed by IDNR (Indiana Department of Natural Resources) and USFWS (United States Fish and Wildlife Services), and plans to avoid impact by minimizing tree clearing, when required, during the inactive season as defined by USFWS. Per the applicant, “the project is committing to utilizing solar perimeter fencing strategies and specification options which have been demonstrated as effective in avoiding or minimizing fence impacts to wildlife, while maintaining adequate facility security.” The project will monitor stormwater runoff and compaction testing at a variety of locations. Routine maintenance is to generally include: Daily general site condition inspections, Monthly

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substation inspections, Semi-annual inverter inspections and air filter replacements, Annual racking, cable termination and fastener checks, and as need checks of facility security cameras and entrance lighting.”

Per the applicant “solar panels are designed to harness energy by absorbing sunlight and therefore produce minimal glare.” As indicated within the application, the FAA (Federal Aviation Administration) has in short a policy that regulates glint and glare on personnel working in the air traffic control tower and that there are no airports within 500’ of the project. The only recognized airport is Plymouth Municipal Airport, which does not have a tower. As for signal interference, the applicant claims that the panels do not emit electromagnetic interference (EMI), but the inverters are capable of emitting low EMI. Invenergy has indicated that they have worked to carefully site inverters in the middle of the array areas. A sound study was completed and can be found in greater detail within the application, but per the applicant, “no noise receptor exceeded an hourly average sound level greater than 42 weighted decibels”, which is less than both Indiana Code (IC) and Marshall County Zoning Ordinance of 50 weighted decibels.

During review of the soils within the project area using the USDA web soil survey, there were 44 individual soil types identified ranging from less than 1 acre to nearly 600 acres spread across the entire 2600 acre project area. Oshtemo sand loam, 0 to 1 percent slopes was the most frequent in area soil type with 587.5 acres amassing 22.43% of the project area. The remaining top ten soil types included a varying slope; Plainfield sand, Elston sandy loam, Newton loamy fine sand, Gilford mucky sand loam, Brems-Morocco loamy sands, Coloma sand, Rensselaer loam, and Gilford sandy loam. The top ten soil types covered 1794 out of 2619.5 (studied acreage) which is 68.49%. The top five soils covered 1403 acres or 53.57%. According to 1980 Soil Survey of Marshall County produced by the USDA the top five soils; Oshtemo series soils consist of deep, well drained soil on moraines and outwash plains where permeability is moderately rapid to very rapid , Plainfield series soils consists of deep, excessively drained, rapidly permeable soils on outwash plains, Elston series soils consists of deep, well drained soils on outwash plains where permeability is moderately to very rapid, and Newton series soils consist of deep very poorly drained, rapidly permeable soils on

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moraines and outwash plains. Oshtemo series soils 0-1% slope is suited to corn, soybeans, and small grains, Plainfield series soils 0-2% slope is poorly suited to cultivated crops due to droughtiness being the main limitation, Plainfield series soils 2-6% slope is not suited to cultivated crops because of droughtiness and wind erosion, Elston series soils 0-2% slope is suited to corn, soybeans and small grains with a moderate available water capacity being the main limitation, and Newton series soils 0-1% slope is suited to corn, soybeans, and small grains, but water capacity, wetness and strong acidity are the main limitations.

Per Invenegy the siting of the Tamarack Project was due to a number of factors including; energy demand, existing infrastructure, energy resource, permitting, and land.

The decision criteria that are to be taken into consideration for Special Use cases include: general welfare, development standards, ordinance intent, comprehensive plan and 11 other considerations.

1. General Welfare - The approval will not be injurious to the public health, safety, morals, and general welfare of the community; Based on the application as revised and submitted on September 10th, there should not be injury to public health or safety so long as best practices and safe means of installation and operation are adhered to. There are interests in the long-term health of the subject properties and what may impact adjoining properties and residences including zinc levels from galvanized support structures along with possible impact of inverters on adjacent residences. The general welfare of the community should not be substantially impacted in a negative fashion but will likely impact neighbors perception or view from their property.

2. Development Standards - The requirements and development standards for the requested use as prescribed by this Ordinance will be met; The development standards have been reviewed and the application including clarifications and additional requested information has addressed or made commitments to provide prior to building permit.

3. Ordinance Intent-Granting the special use will not be contrary to the general purposes served by this Ordinance, and will not permanently injure the other property uses in the same zoning district

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and vicinity; The intent behind the Marshall County Zoning Ordinance is to layout uses that are permitted by right, uses that require additional approval through the Board of Zoning Appeals (Special Uses which includes this application), and where uses are not permitted unless otherwise left to the discretion of the Planning Director. The Special Uses are identified as uses that are acceptable to a specific zoning district so long as certain conditions and criteria are met including approval of the BZA. The ordinance lays out solar projects like this as special uses within the A-1 (Agricultural District), I-1 (Industrial District) and I-2 (Heavy Industrial District) zoning districts. Therefore, the proposed use would meet the intent of the Zoning Ordinance as amended in 2024.

4. Comprehensive Plan - The proposed use will be consistent with the character of the zoning district in which it is located and the Marshall County Comprehensive Plan (Comp Plan). The Marshall County Comprehensive Plan was adopted in 2004 then amended in 2013. Within the Comp Plan itself there is no direct reference to the terms “solar” or “energy”. Also the Comp Plan does not clearly address uses like solar that are acreage intensive, but are a different level of impact on the land in comparison to “traditional” types of residential, commercial and industrial developments. Much of the development references within the Comp Plan refers to extensions of utilities and services along with locating around vehicular corridors. The project area has a number of Future Land Use designations including; Agricultural, Conservation, and Rural Village. The Comp Plan identifies the Agricultural Land Use as land that is meant to remain largely rural, with uses focusing on farming operations. The Agricultural land use category is intended to allow for some residential development. Agricultural land use areas are found in locations that are viable for farming but may also be feeling growth pressures from nearby urban communities. Urban-type services and infrastructure should not be provided to agricultural areas. Farms and other development should be able to be served by individual well and septic systems. Agricultural uses appropriate for these areas include traditional farming uses, as well as agricultural product storage and distribution facilities (commercial grain elevators), stables, natural preserves, and other animal or food production related activities. The Comp Plan identifies the Conservation Land Use as due to the location of the Yellow River within the project boundaries. The area surrounding the Yellow River has heightened environmental sensitivity which includes floodplains along rivers and streams,

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riparian areas, steep slope areas, wetland areas, and significant woodlands. This area is designated as Conservation area to recognize their sensitivity and provide them appropriate protection from development impacts. All of these natural areas provide essential amenities to Marshall County. They serve as wildlife habitats, provide natural filtration of water, recharge underground aquifers. In cases where Conservation designations occur in the context of a larger land use designation, development designs should be sensitive to impacts on the areas to be conserved. Environmentally sensitive land should be conserved in large tracts where possible to prevent the fragmentation of wildlife habitats. The Comp Plan identifies the Rural Village Land Use as a category to preserve and maintain the character of the unincorporated communities. Burr Oak was developed around the intersection of two transportation routes (State Road 17 and the railroad currently owned by NYC & STL RR Company Norfolk & Western (Historically known as the Nickel Plate Road)). Focusing new growth around these rural communities will reduce residential sprawl in the county, maximize public infrastructure expenditures, and protect farms and the environment from residential encroachment.

The Comp Plan can best be described as a community guidebook. It will help guide the Plan Commission in its decision-making process. However, it addresses many other community issues as well. When reviewing development plans, making budgets, or setting priorities this document should be used to help make decisions. Because of its emphasis on public participation this plan gives county leaders knowledge of what the community wants and needs. The Comp Plan: can assist the County when considering infrastructure or economic development decisions, provide civic groups with ideas on how to strengthen and enhance the community, and serves as the legal basis for protection and conservation of sensitive environmental and historic areas. Through the public input process during the creation of the Comprehensive Plan, the public identified 5 key aspects including Farmland and Open Space Preservation, Environmental Protection, Growth Management, Rural Character and Aesthetics, and Economic Development. These 5 topics can be generally summarized with the desire to preserve the natural and agricultural areas of the County, protecting the environment and strategically managing the development of the rural areas of the County to maintain the modern economy which “has been characterized by uncertainty and change” and

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quality of life for its residents to live and work. As identified within the Comp Plan, “As growth occurs, more of Marshall County’s rural farm and forest land is threatened with conversion to residential, commercial, or other uses. Natural lands such as these can be protected effectively through a combination of growth policies and creative design techniques.” According to the Comp Plan, “The growth of Marshall County’s employment base should not come at the expense of the natural environment. While state and Federal regulations govern industrial practices with regard to the environment, the county can implement environmental design standards with regard to the development of industrial facilities.” The long-term needs of the County comes with not stressing growth into inappropriate areas and such services would include “streets and sewers, but police and fire protection, parks and recreation opportunities, and school facilities”. The Comp Plan goes on to indicate that “Economic development can take several forms, and should seek out a diversity of industries. This includes providing opportunities for agricultural, industrial, professional office, and home workshop development in the county. Each type of employer has special needs, and those needs must be accommodated if Marshall County is to attract new businesses.”

Outside of the Land Use Map provided by the Comp Plan, there is a Suitability for Agriculture Map that denotes the grounds of Marshall County within four levels; Excellent, Good, Fair, and Poor. Generally, within the Map the ground deemed as excellent are within Bourbon Township, German Township and the Northern portion of North Township. The remaining places vary from good to poor, being the areas around the Yellow River downstream of the City of Plymouth and most of the area around West County Line. The project area is included mostly within the poor designation with some spaces within the good designation.

Other Considerations

1. Topography and other natural site features; There are a number of County Ditches and Tiles along with the Yellow River and multiple points of floodplain and wetlands that traverse the project area. Some of the County Regulated Drains include; Harry Cool, South Arm, Yellow River, Joseph Heiser, John Lichtenberger, and Burl Ballinger. On top of the water based natural and environmental features the area can be categorized as having ground that relatively flat with areas of rolling

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terrain.

2. Zoning of the site and surrounding properties; The zoning of subject property is A-1 Agricultural and I-1 Industrial Districts. The surrounding properties are mostly A-1, but the Rural Village of Burr Oak has a mixture of zoning including T-1 Town Residential, I-1 Industrial and C-1 General Commercial. The area is also adjacent to the Culver Zoning Jurisdiction which includes A-1, I-1 and S-1 zoning classifications.

3. Driveway locations, street access and vehicular and pedestrian traffic; There will be several new driveways off County and State roads that will need their associated permits. There will be a significant increase in traffic during construction, but will only result in a few additional trips over existing traffic counts during operation of the facility as the facility will be staffed by “multiple solar technicians”.

4. Parking (including amount, location, and design); There is currently one main proposed laydown yard where the majority of parking and storage will take place on 15th Road West of the existing NIPSCO substation. At the main laydown yard, there may be an operation and maintenance building where operational parking and storage would take place. Under the County ordinance passed in 2024, “Construction Parking will not be permitted along public roadways”.

5. Landscaping, screening, buffering; There are two proposed buffer plans as outlined in the application. One is used when there is no adjacent screening and the other is implemented when there is some adjacent screening.

6. Open space and other site amenities; Open space is not applicable for this specific application.

7. Noise production and hours of any business operation; A noise study was conducted and provided as a part of the application and confirmed that the County’s 2024 addition to the ordinance to include noise regulation has been met.

8. Other Considerations; There are several other conditions reviewed in relationship to the project and can be outlined within the analysis and recommendation sections.

9. Placement, design, intensity, height, and shielding of lights; Per the application, “lighting within array areas will be limited to lights at gate locations for safety and operational purposes. At the Project Substation, a motion-activated security camera system is planned to be installed with lighting to monitor the Project Substation. Lighting will be shielded and directed downwards

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towards Project components to limit local light pollution and off-site impacts. Lighting will not extend beyond the perimeter of the Facility and will comply with the Marshall County Zoning Ordinance requirements.”

10. Traffic generation; There will be a significant increase in traffic during construction, but will only result in a few additional trips over existing traffic counts during operation of the facility as the facility will be staffed by “multiple solar technicians”.

11. General site layout as it relates to its surroundings.; The general site layout can be best shown in the site plan as provided.

RECOMMENDATION

Based on the information provided and review by the Technical Review Committee, TRC provided No recommendation forward to the BZA. The TRC had some of the following concerns as a part of the October 8th comments sent to the applicant: drainage discrepancies, required applications, along with verification of tile locations, emergency plan clarifications and procedures, and an objection to the application being a violation of the Comprehensive Plan.

Staff recognizes the controversy and polarization around the proposed project. There is a balance between the rights of a landowner to do what they want with their property, but a right of the adjacent landowner for potential impacts to their property as well. The review and recommendation itself must be determined on the merits of what is proposed. The recommendation by Staff considers the application as submitted and review of the additional information that was provided or clarification that was made by the applicant and the 5 points of decision Criteria that is supported by Indiana Code and the Marshall County Zoning Ordinance. Those criteria include what was discussed above in this staff report; General Welfare, Development Standards, Ordinance Intent, Comprehensive Plan and Other Considerations (including but not limited to natural features, zoning of site and surrounding properties, and traffic generation).

After review of the application and the supplementary information Staff recommends denial of the proposed Tamarack Solar Farm as submitted and clarified. The proposed project is occupying unique agricultural ground that is key to supporting the specialty crop sector. Not all agricultural

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operations in crop production are specifically for traditional crops such as corn and soybeans, but the growing of seed via well drained soils and highly managed practices to support the agricultural crop industry as a whole. Other specialty crops require different types of soils to produce quality and efficient amounts of product that are not as successfully produced elsewhere in the County. This is what makes it difficult to broadly cast what soils are and are not suitable for agriculture. It is through the protection of these agricultural grounds under the guidance of the Marshall County Comprehensive Plan that Staff make this recommendation of denial.

An alternative option for the Board of Zoning Appeals could be to approve the project with conditions. The project as submitted and clarified meets or commits to meet the intentions of the Zoning Ordinance and Comprehensive Plan. There would be no expansion of municipal utilities and the project as proposed is leased and not owned giving the perspective that there is a sunset on the project unlike other industrial, commercial and residential uses because the land could be returned to the highest and best use at the time whether it be agricultural or otherwise desired. Conditions of approval should include but not limited to: 1. The completion and approval of the Emergency Response Plan by Culver and Plymouth Fire Departments, 2. The buffering standards shall be increased where the secondary buffering standards match that of the current primary buffering standards and the primary buffering standards be increased to include a line of at least 6 understory trees per 100 linear feet on the external facing side of the buffer, 3. The existing wildlife corridor between the natural area North of State Road 8 can still traverse South to the Yellow River as it does currently by the creation of a wildlife corridor on project parcel 11 which will require the adjustment of the existing fencing plan to accommodate a wildlife corridor no less than 100' in width with native planting and varying tree plantings to promote the use of said wildlife corridor, 4. The buffering shall be installed within 18 months of BZA approval to promote growth of the vegetation to have a partially active buffer during construction and an advance on growth for the life of the project, 5. The project has a specific sunset date so that what is suggested as "temporary" land use in fact is actually returned to use by the land owner, 6. Soil grading shall be limited to access drives and inverter locations only, 7. Buffers shall be extended as reviewed by staff, 8. Setbacks adjacent to 15764 Thorn Road shall be not less than 500' from property line, and 9. The

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applicant shall submit a final site plan should the project move forward with the approval and associated conditions and commitments that have been made along with responses that have been provided for the various comment sections from the Plan Commission. The conditions of approval as proposed by the Applicant are acceptable for the 4-year approval period and for any tolling during the litigation, but there would be no permissible expansions of solar panel locations, the panel area as submitted will be considered the largest/furthest extent of development. No inverter should move closer to any residence than was shown in the v2 application. Staff could have alternatively recommended approval with the above conditions because a series of property owners wish to exercise their development potential on their property consistent with what is laid out in the County Zoning Ordinance to what they deem is the highest and best use of their property rather than using it for crop production. The decision boils down to the Comprehensive Plan and whether or not which section applies most directly to this project.

Action Requested:

Notwithstanding the information provided by the Applicant, information by TRC, recommendation by Staff and public input, the Board of Zoning Appeals shall rule on this case as it considers the following factors; 1. General Welfare The proposal will not be injurious to the public health, safety, morals, and general welfare of the community; 2. Development Standards The requirements and development standards for the requested use as prescribed by this Ordinance will be met; 3. Ordinance Intent Granting the special use will not be contrary to the general purposes served by this Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity; and 4. Comprehensive Plan The proposed use will be consistent with the character of the zoning district in which it is located and the Marshall County Comprehensive Plan. Also, Other Considerations When considering a special exception the Board of Zoning Appeals may examine the following items as they relate to the proposed use: 1. Topography and other natural site features; 2. Zoning of the site and surrounding properties; 3. Driveway locations, street access and vehicular and pedestrian traffic; 4. Parking (including amount, location, and design); 5. Landscaping, screening, buffering; 6. Open space and other site amenities; 7. Production and hours of any business operation; 8. Design, placement, architecture, and building material of the structure; 9. Placement, design, intensity, height, and shielding of lights; 10. Traffic generation; and 11. General site layout as it relates to its surroundings.

When making its determination, the BZA may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval. Or the Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7- 4-921 and have such commitments recorded in the Marshall County Recorder's Office.

Mr. Sternberg gave background information of Invenergy. This project wouldn't have been possible without landowners who had made a decision to work with this project. These projects are only possible when there is access to the electrical grid. Marshall County is unique in the fact you have multiple high voltage transmission lines bi-secting the county.

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While there isn't a large amount of sun, they do know there is a consistent resource.

Currently Indiana is running at an energy deficit with the energy demand growing. Invenergy believes there is a need for projects like this. Leases for the project started in 2019. Shortly after leases were signed there was a moratorium placed on solar. This allowed time for a committee to be formed to create and put a solar ordinance in place. In 2021 Invenergy moved forward with the project because their company deemed they could work within. At the end of 2023 increased setbacks became a part of the ordinance. The initial application was applied for on April 3, 2024. Following the recommendation of Plan Commission staff, they amended the application to include the increased setbacks. There are over a dozen participating families. This proposal would give enough energy for probably 30,000 homes. There is no battery component for this application. His company has had an investment of over 3 million dollars planning this. A packet was given to all the board members that included a table of compliance per our ordinance. Their plan for construction will take between 1 to 2 years. The project will be monitored remotely and maintained locally by staff. A decommissioning agreement is part of the project. It obligates Invenergy as well as through the lease agreements with the land owners to decommission the project so the land can go back to its original use. They have a long-term owners mindset and want to be a part of the community. From the beginning Invenergy has talked to over 70 neighbors about the project and has made themselves available for any questions. Their team is available afterwards and contact information for questions or concerns. Invenergy is requesting approval for their application for the Tamarack Solar Project in Marshall County.

Michael Hill, Invenergy's internal counsel, from 1 South Whacker Dr. Chicago Ill. The question that whether or not to permit solar use in Marshall County has already been made earlier in the year and adopted as part of the zoning ordinance. The Comprehensive Plan is a visionary document that says goals of the community. This plan is implemented within the other documents such as the zoning ordinance and other ordinance within the community. Invenergy submits that they have met all the criteria required for this request. In response to the earlier spoken concern of specialty soils and specialty crop production note that said topic is not a part of the comprehensive plan or zoning ordinance and isn't part of the criteria for approval.

President Gustafson asked the plan director when the staff report states, “staff recommends denial, who is staff?” The plan director said that he is staff.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Bennett.

Motion carried by acclamation.

First up for public hearing is those IN FAVOR.

- Ed Reiter 14218 Tulip Rd. Is a landowner that supports the project and supports property rights. It will also have a positive economic impact on the county and secure the future of agricultural operations in the county. Has freely signed up to have their land used as part of the solar project. Believes in protecting private property rights.
- Lisa Dan 1359 Short Dr. Knox With the Center for Energy Education. Believes we need to invest in renewable energy and be more self-reliant. Offered positive educational information on solar farms and encourages the board to vote in favor of the request.
- Kim Reiter 14218 Tulip Rd. Is a landowner that has signed a contract with Invenergy. This project will have a positive economic impact on Marshall County. Will help diversify the county tax base for public benefits. Will help lower taxes for the whole county. This project will preserve agricultural ground for the next generation.
- Benjamin Sharkey 325 W. Walnut Believes we are dealing with where property owners’ rights begin and end. Has a concern whether this government will stand up for all property owner’s rights who own their land and pay property taxes. There is more to land than just crop production. It’s also there for business. This in turn boosts our local economy. With there being a lack of energy resources in Indiana there is a concern of eminent domain. Do we want to take control and do it on our terms or wait for potential control be taken from us.
- Tim McCarthy 20087 SR 10 Solar aligns with our values. It will also help recover from less productive ground. This project helps protect and diversify their family land. This solar request isn’t just a personal benefit, but a benefit to the community. Embraces this opportunity.

- Joy McCarthy 20087 SR 10 Is a landowner who believes this solar proposal is renewable, sustainable and abundant. It creates zero harmful emissions while creating a renewable energy resource. As a contracted landowner this proposal for their marginal land will allow funds to reinvest in their operations. This solar farm is a diversification to be added along side corn and soybean farming. It will also provide clean energy. Neighbors shouldn't have the right to dictate what they produce on their farmland.
- Scott Callentine 3190 Cottonwood Ln Representative of the Carpenter's Union is in support of the solar project for Invenenergy. Their carpenters are highly trained in projects such as these. This project will provide many jobs for locals. Landowners have right to lease their land. Believes Invenenergy has tried to meet all the needs.
- Bonnie Broeker 18760 12 B Rd. They are 5 generation farming landowners that are part of the Tamarack Solar Project. Their decision to sign a contract was for the value that it would bring to landowners, their families, neighboring families and the community. This is an investment in our future. The ground we are discussing is not prime farm ground. This project will bring jobs into our community. If solar is so bad, why are we putting it around our schools and other businesses? These are personal property rights and want the board to vote in favor.
- John Broeker 18760 12B Rd. They are trying to be good stewards of their land. The choices that are made concerning this request will not only affect those who signed contracts but the whole community. They have chosen to be a part of this project because it will benefit everyone including their neighbors. They want to make a positive impact on the entire community. Their land isn't prime farm ground and is in favor of this project.
- Lois Broeker 330 E. Jefferson St. Their family has agreed to lease out their centennial farm to Invenenergy. Their intent is to keep this ground in their family. Over the years there has been an enormous change in ground usage over the years. From housing developments, industrial developments, medical buildings and shopping centers. This project should be treated no differently than

other developments. Now you drive up and down county rounds and see new family residences where they were once farmland. They were allowed to buy ground and build houses with no limitations. Those that are a part of the Tamarack Solar Project should have the same rights to buy, sell or lease their land. The leases are long term, but there is an option to revert back to ag farmland. How often do residential housing and businesses ever revert back to agricultural land? Please consider allowing the twelve landowners that are part of this Tamarack Solar Project the same rights to freely exercise their rights that other property owners have had with no encumbrance.

- John Singleton 12700 Upas Rd. Has lived in Marshall County his whole life. He brought his property from his dad. They farmed their own land until the rise of equipment cost when they decided to rent out their ground. Neither of their sons or grandkids are able to takeover at this time which is the reason they decided to lease to Invenergy. They are here not only to support their request, but the other 11 owners' rights as well. They should be able to make the decisions for their own land while following the ordinances in place. They are leasing only a portion of their ground, not selling. They believe Invenergy has been forthcoming and answer all their questions. They also support other property owners' rights to do as they wish on their own property. This project is good for our whole community.
- Glen Miller 17080 9th Rd. Decided to join the Tamarack Solar project because he believes in renewable energy, its extra income for the farm and is his least productive ground. Would like the board's support.
- Paul Amor 20494 14 B Rd. Family member of a participating landowner. They are a small farming family. After much consideration they agreed to put part of their farm into the Tamarack Solar project. This will allow them to make improvements to their operation. This project meets all the county requirements and should be approved. They feel like they should be able to do on their property when it meets the counties requirements.

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- Eldon Amor 20650 W. 14 B Rd Is a landowner who can't survive on low paying crops. No money has to be expended to receive a return for this project.
- Rebecca Furry 15882 18 B Rd. Lives on a family farm. Travels for work and sees a lot of solar fields. There should be other options considered over using farm ground for solar fields.
- Gill Stanley 201 N. Ohio St. Has no direct financial interest in this project. It seems as though all criteria has been met.
- Nicholas Kline 1001 N. Michigan St. Represents a union and believes this to be a good tax revenue and bring jobs to the community. In favor of freedom to do what you want on your own property.
- Liliana Turner 16834 7th Rd. Supports the Tamarack Solar project and will eliminate emissions and bring jobs.
- Frank Lucas 22095 Elkhart Previous commissioner from another county that passed a solar farm. They have a large energy deficit. To attract new businesses, they needed to increase energy production. Their board, through many discussions kept coming back to private property rights which led them to their decision of approval.
- Max Warren 12660 Rose Rd Expresses support of Tamarack Solar project as it presents many economic benefits and positive impacts to the economy. The tax revenue will also help fund vital services. Urges the board to support this project as it will benefit the county for years to come.
- Jeff Wojcik 20530 SR 8 The ground next to him is sandy and would prefer to see a solar farm over a big subdivision. If this is going to help lower taxes and help fund fixing their roads, he's all for it.
- Joann Callahan 12750 Tamarack Rd Has built a house near the proposed Tamarack Solar project around the start of this project. In the process to have their forest and prairie designated by DNR. They loved the idea of being surrounded by farm fields. With concerns a call was made to Mr. Sternberg and within 24 hours they had a zoom call addressing concerns. Encourages everyone to reach out to him and his team with questions.

- Tyler Waddle 6719 Michigan Rd Is for the proposed Tamarack Solar project. Believes in rights and freedom.
- Luanna Broeker Singleton Is participating in the Tamarack Solar project. Is for the project and provided 92 letters from others who are for the project.
- John Grolich President of the County Fire Association. The ordinance states that there has been a meeting of fire officials and the applicant. There have been several meetings and Invenergy has also attended one of their fire meetings. An earlier concern was water supply. After talking with a well driller, they assured him there wouldn't be a water supply issue. There is a local golf course that puts a million gallons of water per day on their golf course. Another concern was water runoff. After speaking to a company from Elkhart they said they could come down and handle any situation. They would assess runoff and the PH and neutralize it. Then there was a concern about toxic fumes. Toxic fumes are dealt with on every structure fire. Fire personnel need to train for any situation, so they are ready for any situation.
- Don Fox 301 N. Shore Ln. His comments are personal and believes this project should be approved and several conditions should be dropped. Indiana Law on solar limits what local governments can do. IC provides local government cannot take any action that has the effect of unreasonably restricting the use of solar energy systems. Our considerations for solar are limited. This project covers less than 1% of ground in Marshall County. Has several questions and concerns. How can the BZA require another department of government to provide a report to them? Rights of property owners? The fire departments can handle any circumstances that come up. Does Indiana Law allow us to consider creating a wildlife corridor pertaining to solar approval? How can we require buffering to be completed within 18 months? How can we limit the grading when its not required by the current landowners? The Comprehensive Plan is a good guide, but state statute does limit us. Believes there will be an economic impact if the Tamarack Solar project is allowed.

Next to be heard AGAINST the proposal:

- Julia Baxter 16787 18th Rd Represents the 3rd generation Baxters. Believes this is a “toe in the door” for solar. Doesn’t want to see the county turn into a bunch of solar panels. Has a concern that all the promises that are being made by the solar company will be kept. With time there will be better sources of energy than solar. Please deny the application.
- Jason Kuchmay, Atty 4211 Clubview Dr. Represents the concerned citizens against solar. Has been involved in solar issues all across the state of Indiana. Has seen a division of property owners, loss of jobs, the removal of thousands of acres of product farmland. After phase one is completed along will come 2, 3, 4 and so on. The argument of being able to do what you want on your property is not that simple, that’s why there is a zoning ordinance. The impact of solar is significant. The criteria for the proposal requires that proposal not be injurious to neighboring properties. Studies do show that neighboring properties values are negatively impacted by industrial solar. In the binder presented statements from brokers with negative impacts are listed. Also, in the binder is from the Indiana Court of Appeals/Pulaski County BZA regarding property values. In the binder MAI appraiser has a study on the impact of industrial solar values.
- Connie Early 217 W. 100 N. Also in the above binder was slides from a recent application in Bartholomew County claims Kirklands report does not paint an accurate view of his studies on property value impacts. Gave examples. Ag land is critical for our food supply. There are also photos of pictures of an industrial solar farm included. Look at the industrial nature of the project. The destruction of the rural nature. These developments don’t benefit local communities as suggested. Electricity is sold off the grid and doesn’t always stay local. Taking a lot of ag farmland takes away jobs.
- Gale Lambert 3343 N. 700 W. Has several thousand acres of industrial solar 3 miles or less from home. There is a study included in the above binder by a Michigan State Professor on a solar project in Indiana. Shows negative impact on these developments. The project must be consistent with the Marshall

employees. Happy for the few that it will help their families, but not at the expense of his family and his property value. Is against the request.

- Nicole Cox Marshall County Council. Has 18 panels of solar. If she had it to do all over again the answer is no. It does not produce as promised. Within a year the company changed names and filed bankruptcy. All the guarantees and promises were not fulfilled. If we let one in many more will follow. Believes there to be deficiencies in the Decommissioning Agreement, Road Use Agreement and the Economic Development Agreement. The Economic Development Agreement was never discussed in a meeting until it was ready to be signed as a resolution to be passed in one vote. The County Council should have been involved in the Economic Development Agreement as they are the fiscal body. Within the Decommissioning Agreement and the Economic Development Agreement it states they have the right to transfer rights to a public utility company. Table or deny the request.
- Tim Harman 2940 Sycamore Ln Marshall County Council. Guarantees all Marshall County Council Members and Marshall County Commissioners as of 2025 are against solar. Believes Mr. Fox presented the wrong section of Indiana Code earlier. Wants to see a vote of denial or table. Has a concern when subsidies are removed what will happen. The people have spoke. Please deny.
- Paul Levett 16161 18th Rd. Provided a handout with map of Tamarack Solar Project. Believes with the proposed solar project there will be a decrease in property values. Is for 500' from a property line setback and will not affect property values. Shared an ordinance change in South Bend Indiana recently increasing solar setback from non-participating landowners to 500'.
- Gale Lewallen 1100 E. Shore Dr. Read a letter from Adam Faulstich 13720 12th Rd. Currently a member of the Marshall County Council. Requesting the board to table this request until 2025. First, IDEM senate bill 33 just came out. Believes there to be information in it this board needs to take into consideration. Second, there has been injunction filed for a conflict of interest. There is a likely chance that this will nullify your decision. Requesting the board to table.

- Will Patterson 1730 Dogwood Rd. Is a Marshall County Councilman and a science teacher and professor. All the council and a commissioner are against this project. There are multiple conflicts of interest in this matter. We represent the people and believe the people do not want this.
- Colleen Stephenson 8925 SR 10 Lived in Marshall County for 30 years and lives on a small farm. Understands others desires to be able to do what they want on their own property, but how can someone not care how this effect their neighbor. Nobody wants to live next door to a solar panel. This is research that shows it lowers property values. Haven't seen the research that shows these companies putting back into our communities. This all boils down to money.
- Leena Tetzlaff 19814 SR 8 Lived in West Township for 24 years. Has lived across from Bullridge Farms. Their crops have contributed to food supply and local jobs. A decrease in crop production will have an effect on our community. We must weigh the impact industrial solar will have on our community. Requesting this board deny the request.

The board discussed that before a meeting date can be decided the board needs to come up with a date that all members can be present, then a location needs to be decided that can fit the amount of people and is available. After that notification will be sent out again. Mr. Jones stated, "I cant see the next meeting being before two weeks, probably more like three to four weeks."

Ms. Kristine Wheeler, Attorney for Invenergy, had a procedural question about the legality of tabling a public hearing.

Mr. Jones, Attorney for the BZA stated that due to a lack of availability of a venue and the uncertainty of available dates the public hearing and public meeting will be re-noticed.

Mr. Sternberg commented that their desire is for everyone to be heard. They had a concern that this wouldn't be able to all be heard in one night and proposed there be back-to-back

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nights. He requested the board pick one of the nights available so that everyone leaves knowing when the meeting will be.

Mr. Jones stated that there were other dates available that the facility wasn't going to be used for other purposes. Those dates were open but not guaranteed to us.

The Plymouth High School Auditorium and the Plymouth LEC holds the largest seating capacity. With the current attendance the county buildings meeting room would not have enough seating room.

Invenergy's request is to tentatively set a date for the next meeting and if the venue is not available then make the necessary arrangements.

Planning staff recommended November 19th. Not all members could be present. Planning staff then recommended December 3rd. All five board members are available for the 3rd of December.

Mr. Hochstetler made a motion to table; after much discussion Mr. Hochstetler withdrew his motion.

Mr. Miller made a motion to recess to December 3rd, 2024, pending this locations availability, seconded by Mr. Hochstetler. Motion carried with a voice vote 4-1 with Mr. Kephart voting against.

Mr. Miller amended his motion to include the meeting time of 6:00pm, seconded by Mr. Hochstetler. Motion carried with a voice vote 4-1 with Mr. Kephart voting against.

Mr. Miller made a motion to adjourn the meeting, seconded by Mr. Bennett. Motion carried by acclamation.

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Respectfully submitted.

Secretary