

## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

The Plymouth Board of Zoning Appeals met in regular session in the Council Chambers of the City Building, 124 North Michigan Street, Plymouth, Indiana on January 4, 2022, at 7:37 p.m. Board President Art Jacobs called the meeting to order for Board Members Mark Gidley, Alan Selge, Keith Wickens, and John Yadon. Others present were City Attorney Sean Surrisi, Plan Consultant Ralph Booker, and Building Commissioner Keith Hammonds. No Board Members were absent.

Board Members Selge and Wickens moved and seconded to approve the minutes of December 7, 2021. The motion carried.

President Jacobs reviewed dates and times for the Board of Zoning Appeals meetings for the calendar year of 2022. Gidley and Wickens moved and seconded to retain the current schedule of the first Tuesday of each month at 7:30 p.m. or immediately following the Plymouth Plan Commission meeting. The only correction is the May meeting will instead be on Wednesday the Fourth. The motion carried.

Commissioners Gidley and Wickens moved and seconded to retain the current slate of officers, which is as follows:

- President – Art Jacobs
- Vice President – John Yadon
- Secretary – Alan Selge

The motion for the election of the 2021 Board of Zoning Appeals officers passed by roll call vote.

Yes: Gidley, Selge, Wickens Yadon

No: None

Absent: None

PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

The following legal notice was advertised in the Pilot News on December 23, 2021:

**NOTICE OF PUBLIC  
HEARING**

The Board of Zoning Appeals of the City of Plymouth, Indiana will hold a public hearing on January 4, 2022 at 7:30 p.m. in the Council Chambers of the City Building, 124 N. Michigan St. (Garro St. entrance), Plymouth, Indiana on the following matters:

**BZA 2022-01:** Kendall and Marcella Hoover, 14029 5C RD, Plymouth, IN 46563: A Special Use to have Confined Livestock Feeding operation consisting of a two hundred and fifty (250) cow confined dairy operation on parcel 50-42-18-000-016.000-009, located at 14029 5C RD., Plymouth, IN 46563, zoned R-1, Rural Residential District

**BZA 2022-02:** Marshall County Economic Development Corporation, 2864 Miller DR., Plymouth, IN 46563: A Special Use request for a Waste Collection and Waste Treatment and Disposal use at parcel 50-42-31-301-005.000-019 located at 2857 Jim Neu Drive, Plymouth, IN 46563, zoned I Industrial District.

Information on these matters may be obtained at the office of the Clerk-Treasurer, 124 N. Michigan St., Plymouth, IN, and telephone #574-936-2124. Written objections to the proposal filed at the Clerk-Treasurer's office will be considered and oral comments will be heard. The hearing may be continued from time to time as may be found necessary.

If you are disabled and need special accommodations, please call the ADA Coordinator at 574-936-2948.

Kathryn Hickman, Recording Secretary, Board of Zoning Appeals, December 23, 2021

December 23, 2021 PN330890 hspaxlp

**BZA 2022-01:** Kendall & Marcella Hoover, 14029 5C RD., Plymouth, IN, 46563: A Special Use to have Confined Livestock Feeding operation consisting of a two hundred and fifty (250) cow confined dairy operation.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant. He read the applicant's letter aloud. See attached letter below.

*To the board of zoning appeals,  
I am filing for a special use permit for my 200  
cow confined dairy operation. It was a requirement  
because of being just inside the city zoning boundary  
at 14029 5C Rd. We will be operating a family dairy  
farm at this address.  
Thank-you Kendall Hoover*

Booker discussed this with the Hoovers and found that a max of 250 cows was preferred.

Booker states that the city gave Mr. Hoover a building permit and he started construction. After the construction had already begun, it was found that there was an error with the building permit



## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

and that a special use variance was required to continue construction and have the operation there in the first place. The confusion on whether a special use came into practice or not was with the fact that if this dairy farm was built just across the street that no special use would have been necessary and never would have been brought before the attention of this committee for it would have fallen outside of the 2-mile radius around the City of Plymouth.

Commissioner Gidley asked Hammonds if he brought the original application for the permit. Hammonds said he had it. Gidley asked if he was given any plans before issuing the permit. Hammonds said that had received drawings of where it was going to be. Gidley asked if it was to scale or if it showed how big the building was. He said that it wasn't architectural drawings. Gidley asked how long the building was. Hammonds responded by saying 131 feet. Gidley asked why it never came to mind why they were building a 131-foot accessory building. Hammonds said it did not click with him. Gidley asked why all of a sudden, they decided they needed a variance. Hammonds explained that a homeowner in the area alerted him.

Kendall Hoover was present to discuss the request and answer the questions of the board.

Mr. Hoover goes on to explain that he and his wife wished to raise their family on their own farm consisting of his wife Marcella and his five children. They purchased the farm in question back in April of 2021. They proceeded with construction plans and went to the Plymouth Fire Department to see the Building Commissioner to receive a building permit. In August they started with excavation. In December, Hammonds called Hoover and told him that they missed something on their end and that they had to apply for a special use permit. Now his lenders saw the zoning that it fell in and needed a copy of the building permit before they could close on the loans. He then went on to explain how the farm will be handled. He personally believes that the farm would be a compliant to the rural neighborhood out on 5C road. He explains that the farm will be a tax generating entity for the community here in Plymouth.

Commissioner Jacobs asked Mr. Hoover how many cows he wished to start out with. Hoover said to start with that they would be milking about 160 to start with but hope to get around 180.

Jacobs asked when he believed he would move up in number. Hoover stated that as of now his focus was building the farm and that anything in the future will be down the road.

Commissioner Gidley asked if the lagoon was lined. Hoover stated that it is just earth and pit.

Gidley asked if he pumped out of that. Hoover agreed and said that a 40-foot-long pump will be pumping it out.

Gidley asked about the soil of the property on that side of the road. Booker said the soil was Rensselaer. Gidley adds that Rensselaer is poorly drained. Hoover says that the farm is sand from one end to the other. Booker said that he found that information from the county GIS. Hoover says that everything is sand from one end to the other except for the wetland.

Gidley asked if the wetland was going to be affected by this. Hoover responded by saying no and that he planned on preserving the wetland. Booker added that the state was going to make sure of that.



PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

Gidley asked if he was new to Marshall County. Hoover said that he was and that he and his family were from Elkhart County.

Gidley says that he heard that Elkhart County the same, if not even stricter guidelines, regarding CFO's.

Hoover adds that his dairy farm in Elkhart County is of similar size.

Board Members Selge and Wickens moved and seconded to open the public hearing. The motion carried.

**In Favor:**

Bob Byers (412 E South Street, Argos): He works for Central Star Cooperative. An agricultural cooperative based out of Lansing, Michigan and serves customers in Missouri, Wisconsin, Minnesota, Michigan, and here in Indiana. They also serve some in Ohio and are a part of sibling cooperative that serves farmers all across the nation. His job with Central Star Cooperative is that he is a DHI Technician. He happens to be Kendall Hoover's DHI Technician. He explains that he was on his farm this morning. He milked 139 cows and like he said, he wants to do 160. So, he is going to grow around 20 to start. He states that Mr. Hoover runs a very clean operation up in Goshen. He states that his rental farm is right across from the Harrison Township. He states that part of his job at Central Star Cooperative is to educate. He says that this is a Confined Feeding Operation but he wants to make it clear that this isn't where they are stuck in little pens and that this is all that they get to do. He states that Mr. Hoover hasn't done anything with his operation that isn't already approved by the Board of Animal Health and the Department of Environmental Management through the state. He works beside the Department of Environmental Management and he states that Mr. Hoover receives good check ups on his dairy farm already. Mr. Byers addresses that there will be manure and that there will be flies. And that one thing that Mr. Hoover does that prevents flies is that he uses an additive in his feed that helps prevent flies so his flies are little to none. He addresses the pictures of the parlor. He says that with that size, you may assume that it is a double 16 rapid release parallel which means that when they come in, they get milked, the gate opens, and then they rapidly exit, which makes for a more efficient milking. That double 16 doesn't mean that Mr. Hoover is going to milk 4000 to 6000 head. Mr. Hoover and many other farmers up in Elkhart County have the theory and the mindset that you build a bigger parlor, you get done quicker. He states that that is less time spent in the parlor and more time spent maintaining equipment, maintaining farm ground, keeping your property clean. Mr. Byers believes that it would be unjust to Mr. Hoover and his family, and any potential folks from wherever who wished to move to Marshall County and open a business, be it a dairy farm or whatever to deny it. He states that the first step in agriculture is education and quality. He is hoping that promoting that is something that this board can do tonight.

Stanley Kaser (14500 5C Rd, Plymouth): He states that he lives just to the west of where Mr. Hoover is building. He started to describe the previous owner who lived at the Hoover's Residence. He explained that the previous owner had over 1000 hogs at that farm and he received no complaints. He and his wife are in agreement after meeting the Hoovers once that they like them and see them as very intelligent. The ditch that was discussed in the meeting earlier runs right through their



## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

property. He says that it runs right into a small pond. It goes under the road and comes out on the other side to where his house is at. He says that up until 35 years ago, he was a city boy. His wife and him got married and they moved out to their farm. In the beginning they lived in the old farmhouse that was in the adjacent property. After that they moved across the street. Before he moved up to Indiana, he lived in Texas. He was in the Navy. His parents got divorced and then he came up to Donaldson, Indiana to live with his grandparents. His grandmother owned a chicken farm. They raised chickens that had eggs and everything else. Next door the person had several dairy cows. He says that he never had a problem with them. His neighbor also had a creek where that he dammed up and kids would come and play in it. He can remember running across the field and stepping in cow excrement.

Michael Heckaman (12928 18B Road, Plymouth): He states that he also has a dairy farm. He states that he has known the Hoovers for years and that they do run a class act farm in Elkhart County and he feels that they will here as well. He states that a lot of people are probably concerned about the manure and he also states that they have a lagoon that they have to empty a couple times a year. They inject it into the ground and it goes about 5 inches deep. They have neighbors and he has always brought it up to them that if they see anything that is affecting them to let them know. They say that within twelve hours, that they don't even smell the manure if it is injected. Of course, if it is surface supplied, it is a little bit different. He is guessing that the Hoovers probably set it aside, away from roads, away from their neighbor's property, and of course away from any wetlands or ditches which are the regulations as well. He states that his farm is a CAFO so they have more than 300 head. He states that they have to abide by all of these rules and he feels that they will. He believes that the Hoovers will be a big asset to our community. He recalls that at one time there were maybe 70 dairies in Marshall County probably in the late 50's, early 60's, maybe even in the 70's. And right now, he isn't so sure if there are even 10. He states that he has less flies with 500 head then they did with 70 head because there are ways to control them. He explains that you can spray around the calve huts and do some little things like that to help control those things.

Timothy Swihart (16094 6<sup>th</sup> Road, Plymouth): He met Mr. Hoover once and he can vouch for the soil on that farm because his father-in-law and him farmed it for 20 years. He believes that Mr. Hoover would be a great asset to the community. By employing young kids to bale hay.

Kent Rex (6070 Ply-Laporte Trail, Plymouth): He has known Mr. Hoover for about 15 years now. He has known his father just as long. The previous employer in which he worked for sold hygiene chemicals to the dairy operation to maintain their equipment. He helped install his father's dairy years ago when he built a new dairy. He highly recommends them to get this approved. He states that as far as pest control, there is many things in which you can do. He states that you can keep weeds mowed down, spray, feed additives, and fan ventilation alone would even help with fly control. He recalls on what the first gentleman spoke on, which was animal health. His current employer is a level 2 evaluator a local farm program. He knows that Mr. Hoover has to abide by those rules which means he has to be a good steward to his land, his livestock, and definitely not somebody who is going to be abusing his animals. He states that this is Mr. Hoover's way of live and what he grew up with.

Jeffery Miller (14173 6<sup>th</sup> Road, Plymouth): He states that he farms as well. He states that he owns 250 acres to the South. He states that aside from a couple wetlands spots, the rest of Mr. Hoover's farm is sand. He states that there is a lot of manure within 5 miles of that area that he put on himself.

## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

He states that he grew up milking cows. He states that there were cows on that farm at one point in time and the farm where he lived was a dairy farm. He states that he has no issue with the smell or aroma of manure and that he is building a class act operation. He is guessing that upwards of 3 million dollars probably in ground and improvements to that facility on site. He restates that he has no issues with any of it.

### **In Opposition:**

#### Cliff Caudill (6533 Oak Road, Plymouth):

Subject: BZA 2022-01

Board of Zoning Appeals,

My name is Cliff Caudill, my wife Sherri and I reside at 6533 Oak Road Plymouth, IN 46563.

I am concerned about BZA 2022-01, regarding the request for Variance by Kendall and Marcella Hoover.

The parcel in question located at 14029 5C Road Plymouth, IN 46563 is Zoned R-1.

These individuals are asking for a variance that would permit them to operate a 250 Cow Dairy operation on this parcel.

Based on the amount of excavating and new construction already completed and/or in process, I am somewhat concerned that the hearing is a formality.

However, I feel it important to express how much we are opposed to this variance being granted.

The smell from an operation of this size and scope would:

Have a negative impact on the quality of life for homes and families located on S-C, 6-A, Oak Road, and others.

The value of these Residential Properties will decrease if this variance is granted, and the operation allowed.  
Impacting the investment these individuals have made in their homes, in some cases over many years.

If there is a massive listing of homes for sale, and the resulting sell off.  
The value of these Residential Properties will decline further and faster.

Granting this variance would be a great injustice to the people that call this area home.

Regards,

Cliff and Sherri Caudill

#### Stephen Barber (13391 5C Road, Plymouth):



PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

December 26, 2021

Plymouth Board of Zoning Appeals  
Plymouth City Hall  
124 N. Michigan St.  
Plymouth, IN 46563

Re: BZA 2022-01

The request by Kendall and Marcella Hoover, 14029 5C Road, Plymouth, IN 46563  
For a "Special Use to have Confined Livestock Feeding operation consisting of two hundred and fifty (250) cow confined dairy operation", which is currently zoned as "R-1, Rural Residential District."

Dear Madams and/or Sirs,

Thank you for formally notifying me and my wife about this proposed operation, as well as informing me about the option of submitting written comments. I wish I were able to be present, in order to gain additional information about the operation and to modify my comments to reflect this information. Unfortunately we will be out of town and I apologize that I will not be able to be present in person. Because of this, as well as the time crunch surrounding the holidays, these written comments will be based upon assumptions which have not yet been fully verified. I am not a farmer and have simply tried to educate myself with the available material found online. I also apologize in advance for any errors in assumptions or misstatements. I would be grateful for any corrections you may be able to make to me.

I am certainly supportive of the agricultural endeavors within the jurisdictions of the City of Plymouth and Marshall County which properly balance the entrepreneurial initiatives of our citizens and economic development objectives of our governing bodies with the ecological and environmental requirements of all citizens. I am thankful that The City of Plymouth, Indiana Zoning Ordinance, Article 6-030.A (Development Standards, Confined Livestock Feeding Standards) states:

"The purpose of this section is to protect *existing approved* Confined Livestock Feeding operations from being encroached upon by new residential, commercial, or industrial uses; **as well as to protect existing residential, commercial, or industrial uses from being encroached upon by new Confined Livestock Feeding operations.**"

Please consider the following as you deliberate about your decisions:

1. Because the operation will consist of 250 dairy cows, it appears to be below the threshold requiring an IDEM permit (set at 300 dairy cows). Whether or not the operator(s) determined the size of their proposed operation in order to avoid the regulations of IDEM is of no consequence. The fact that they are requesting a variance enabling them to manage this NEW dairy farm a mere 50 cows under the minimum for an IDEM permit suggests that the City of Plymouth would do well to carefully consider what it will require – in order to properly balance the needs of all parties involved.

## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

- a. The Guidance Manual for Indiana's Confined Feeding Program, page 38, Table 1, determined that a "Cow (90 lb milk/day)" produces 2.4 cubic feet per day of manure. Multiplied by 250 dairy cows means that this dairy farm will produce in the neighborhood of 600 cubic feet of manure every single day.
  - i. Published by IDEM at the web address:  
[https://www.in.gov/idem/cfo/files/guidance\\_manual\\_cfo\\_program.pdf](https://www.in.gov/idem/cfo/files/guidance_manual_cfo_program.pdf)
- b. According to Michigan State University, "A milking dairy cow drinks about 30 to 50 gallons of water each day. During periods of heat stress water intake may double." Even if we take the average of 40 gallons per day, the daily consumption of 250 milking dairy cows would be about 10,000 gallons of water per day.
  - i. Published by Michigan State University at the web address:  
[https://www.canr.msu.edu/news/drinking\\_water\\_for\\_dairy\\_cattle\\_part\\_1](https://www.canr.msu.edu/news/drinking_water_for_dairy_cattle_part_1)

### Initial Concerns:

- c. **Since IDEM will not be overseeing this project, who will perform these vital tasks:**
    - i. **Assure that the manure is properly disposed of according to IDEM standards?**
      1. **This would include collection systems and distribution systems.**
    - ii. **That a permit be required for a large water well which will:**
      1. **Assure that the water table can sustain a draw of 10,000 gallons of water per day?**
      2. **Assure that a draw of 10,000 gallons of water per day will not have a negative impact on any nearby residential wells or lowlands.**
    - iii. **Assure that odor mitigation systems are adequate and fully operational.**
    - iv. **Complete periodic groundwater testing for any contamination.**
2. Returning to the City of Plymouth, Indiana Zoning Ordinance, Article 6-030.A, allow me to point out the following concerns:
- a. The City of Plymouth, Indiana Zoning Ordinance, Article 6-030.A states:
    - i. "The purpose of this section is to protect *existing approved Confined Livestock Feeding operations* from being encroached upon by new residential, commercial, or industrial uses; as well as to protect existing residential, commercial, or industrial uses from being encroached upon by new Confined Livestock Feeding operations."
  - b. As the Board is certainly aware, the rest of Article 6-030 refers to "Confined Animal Feeding Operations" which is a very specific phrase, defined by IDEM. One might assume that the Zoning Ordinance is using the phrases "Confined Animal Feeding Operation (CAFO)" and "Confined Livestock Feeding operation" interchangeably???
  - c. However, in Article 13, the only definition listed for this type of endeavor is for "Confined Feeding Operation" or CFO, which is also a very specific phrase, defined by IDEM (and smaller than a CAFO).
  - d. Remarkably, neither "Confined Animal Feeding Operation" (CAFO) or "Confined Livestock Feeding operation" are in the list of definitions in Article 13.

### Concerns:



PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

- *I am unclear how the City of Plymouth defines "Confined Livestock Feeding Operation?"*
- *Does all of Article 6-030 apply to this current request for a Special Use Variance, or is it only applicable to the IDEM definition for a Confined Animal Feeding Operation (CAFO)?*

3. Pursuant to **Use Variances, Article 9-040.A (Conditions) and Article 9-040.B (Commitments)** the BZA, within the scope of its authority, may want to **require the operator(s) to provide Written Commitments regarding the following:**
- a. Maintain adequate and proper systems for odor management, according to IDEM specifications.
  - b. Secure proper permits for a large water well.
  - c. Complete independent soil testing in order to determine how often periodic testing of ground water should be done. (please note that there is a residence across the road from the newly constructed facility that is approximately 700 feet from the facility).
  - d. Periodic testing of ground water for contamination.
  - e. Maintain adequate and proper systems for collection of manure/waste.
  - f. Assure for the proper disposal of manure/waste (this would include timely and proper application, as well as contracts with partners who will dispose of manure/waste)
  - g. IDEM requires a pretty good truck turnaround in order to avoid turnarounds on the road and to limit the deposit of debris on the roadway.
  - h. **Since IDEM is not likely to be involved, is the City of Plymouth willing and does it have the expertise to assume responsibility for assuring that the proprietors continue to meet whatever requirements that the Board of Zoning Appeals issues?**

Thank you very much for weighing out all the information contained herein. Feel free to contact me as needed or desired.

Very Sincerely,



Stephen Barber  
13391 5C Road  
Plymouth, IN 46563  
Cell phone: 574-276-0004  
email: doulosxpistou@yahoo.com

PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

December 28, 2021

ADDENDUM TO MY LETTER DATED DECEMBER 26, 2021

Plymouth Board of Zoning Appeals  
Plymouth City Hall  
124 N. Michigan St.  
Plymouth, IN 46563

Re: BZA 2022-01

The request by Kendall and Marcella Hoover, 14029 5C Road, Plymouth, IN 46563  
For a "Special Use to have Confined Livestock Feeding operation consisting of two hundred and fifty (250) cow confined dairy operation", which is currently zoned as "R-1, Rural Residential District."

Dear Madams and/or Sirs,

Please consider the following information in addition to what I have shared in my previous letter.

1. The City of Plymouth, Indiana Zoning Ordinance, Article 6-030.A & B (Development Standards, Confined Livestock Feeding Standards) states:
  - A. Purpose The purpose of this section is to protect existing approved Confined Livestock Feeding operations from being encroached upon by new residential, commercial, or industrial uses; as well as to protect existing residential, commercial, or industrial uses from being encroached upon by new Confined Livestock Feeding operations.
  - B. IDEM Permit Required All Confined Animal Feeding Operations (CAFOs) must be issued an Indiana Department of Environmental Management (IDEM) permit before an Improvement Location Permit for the CAFO may be issued.
2. Indiana Administrative Code specifically states that an "AFO" or Animal Feeding Operation may choose, elect "to be subject to IC 13-18-10".
  - a. See attached copy of 327 IAC 19-2-7.
  - b. See attached copy of correspondence from Charles P. Grady, Section Chief, Confined Feeding Compliance Section, Office of Land Quality, IDEM.

**Conclusions:**

- A. The State of Indiana allows Animal Feeding Operations below the thresholds set by IDEM to voluntarily subject themselves to IDEM for oversight, monitoring, etc.
- B. The City of Plymouth Zoning Ordinance has made it clear that they require all Confined Livestock Feeding Operations to subject themselves to IDEM by obtaining a permit.
- C. The Plymouth Board of Zoning Appeals should support the Ordinance and require this operation to obtain a permit from IDEM.

Very Sincerely,

Stephen Barber  
13391 5C Road  
Plymouth, IN 46563  
Cell phone: 574-276-0004  
email: doulouxpistou@yahoo.com



PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

On Tue, Dec 28, 2021 at 6:37 AM, Grady, Charles  
<CGRADY@idem.IN.gov> wrote:

Dear Mr. Barber:

This is in response to your inquiry regarding the construction of a livestock operation on 5C Road in Marshall County, IN.

According to the information you submitted Mr. and Mrs. Hoover is proposing to construct a livestock facility that will house two hundred and fifty (250) dairy cows.

Under the Indiana Confined Feeding regulation, 327 IAC 19-2-7, this facility would not meet the threshold of dairy cows meet the requirement to obtain a Confined Feeding Operation.

Under 327 IAC 19-2-7 "Confined feeding operation" or "CFO" as defined in IC 13-11-2-40 any:

1. confined feeding of at least:
  - A. three hundred (300) cattle;
  - B. six Hundred (600) swine or sheep;
  - C. thirty thousand (30,000) fowl; or
  - D. five hundred horses (500);
2. AFO electing to be subject to IC 13-18-10; or
3. AFO that is causing a violation of:
  - A. water pollution control laws;
  - B. any rules of the water pollution control board; or
  - C. 13-18-10

Should you have any additional questions please feel free to contact me at through e-mail or phone at the information listed below.

Charles P. Grady, Section Chief  
Confined Feeding Compliance Section  
Office of Land Quality  
[cgrady@idem.in.gov](mailto:cgrady@idem.in.gov)  
(317) 234-6965

Commissioner Yadon asks Mr. Hoover if the disposal of the waste has to be engineered. Mr. Hoover agrees. Yadon asks about the concern of the well addressed in the letter. Mr. Hoover states that the house on the property has an existing 4-inch well that is sufficient in supplying the entire farm.

Kurt Garner (12954 6<sup>th</sup> Road, Plymouth):

PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

December 30, 2021

Kurt Garner  
12954 6<sup>th</sup> Road  
Plymouth, IN 46563

RE: CFO petitioned for 5C Road

Dear Members of the Plymouth BZA,

I am aware of a petitioner's request for a confined feeding operation for 5C Road, approximately one mile northwest of my home. Typical procedural rules to notify adjacent property owners, or those within 300' fails to bring attention to this type of operation's impact on a much broader area. While noise and the appearance may not be of concern with its location on 5C Road, the board must carefully consider the impact the smell from such a facility will have on at least a one mile radius, from prevailing winds, on the surrounding households. A rough count shows, conservatively, 150 households that will be impacted by normal prevailing winds. While the operation is smaller than the Houin operation south of Plymouth, there will obviously be some impact felt by these households. I think to fully appreciate this, members should at least visit a facility of similar size to determine what impact the smell might have on surrounding neighborhoods.

The area lining Michigan Road and many of its smaller side streets north of Plymouth have developed, essentially, into suburban zoning, with a density of at least similar scale to most subdivisions around the city. My guess is that the BZA would quickly turn down a CFO from operating along the west edge of any of those subdivisions. In addition, Michigan Road acts as a major collector for this area and has the highest vehicular count of any county road. Questions should also be asked then, what additional traffic and of what nature will be placed on this road in order to transport product and byproduct.

I appreciate that the land is in agricultural use, however, CFOs and CAFOs, by their nature, are heavy-use industrial complexes which is why special permitting is needed by IDEM for larger operations, and from your board. I don't understand, if the intent was to have a CFO, why the petitioner's building has already been constructed. This must have occurred over the course of 2021 since ownership did not change until April 2021, and then recently to the petitioner in November of 2021. My point in this is to ask why this location would be selected for a CFO and not another more remote true agricultural environment with far less population density.

I think due diligence would require the board, at a minimum, table the request so that more people that will be impacted by the development can become aware, likely through press from your hearing, and then in that time study impacts CFOs of this size have on their immediate environs. Until such time, I am in opposition of the request.

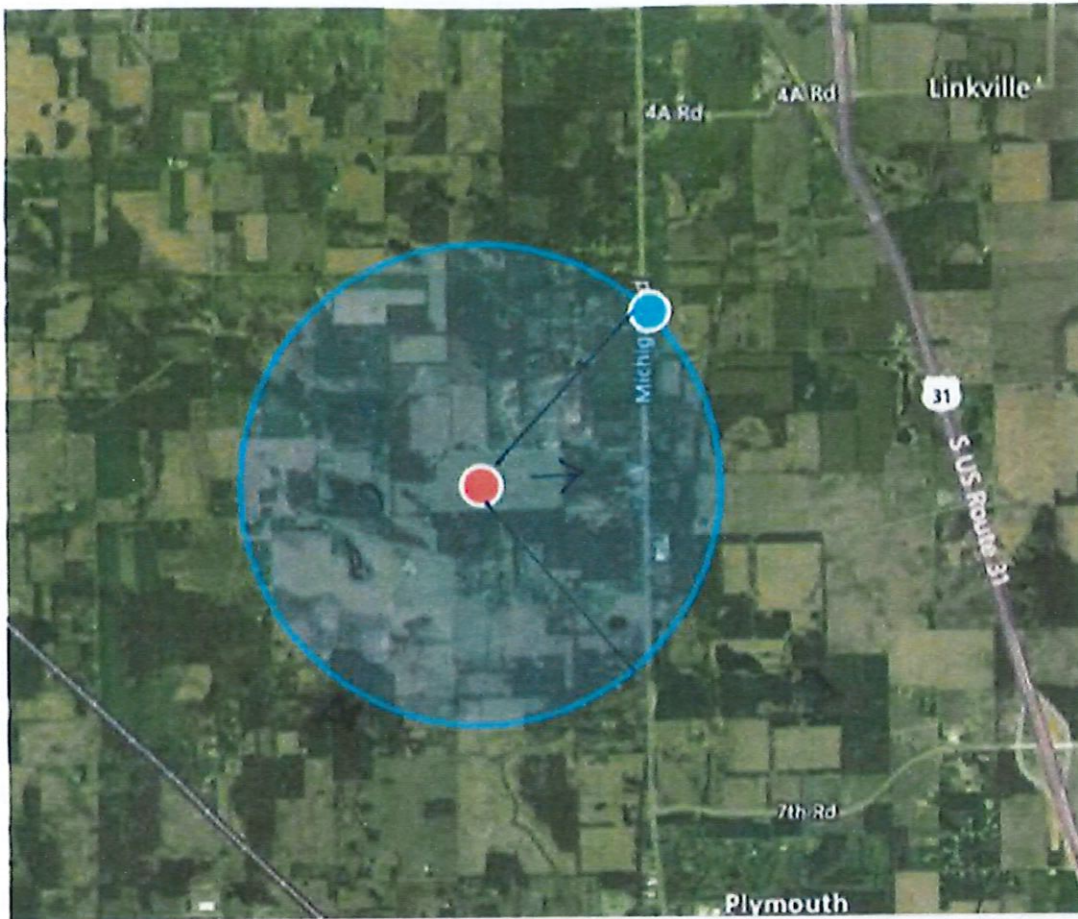
Sincerely,



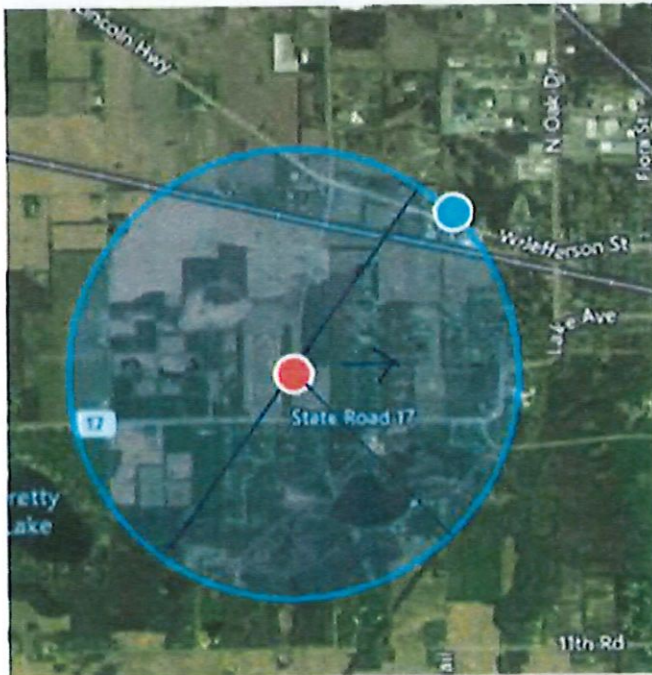
Kurt West Garner



PLYMOUTH BOARD OF ZONING APPEALS  
January 4, 2022



Above shows a 1 mile radius from the petitioner's parcel, taking in approximately 150 households in the downwind "cone" range. The "suburban" nature of this area of North Township developed early, in the 1950s, and continued into the 1980s.



At left is an equivalent 1 mile radius from agricultural land on the Pine Road extension with only slightly more households in the downwind "cone" range that would affect parts or all of the Deer Trail, Tall Oaks, Westgate, and Carriage Hills neighborhoods. Most of this development occurred in the 1970s-2000s.



## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

Joanne Mackin (13802 5C Road, Plymouth): She states that she is right across from the field. She explains her disappointment that the cows are already at the farm and that we are just now having this meeting deciding if the farm is approved or not. Commissioner Jacobs asked for clarity on whom she was disappointed with. She explained that whomever granted them permission to build it. Jacobs explains that that isn't what they are here to decide or solve today. She states that part of that is why the people here today are upset. Jacobs reclarifies that at this BZA board, all that they do is look at this request and either accept or deny. He states that whatever happened beforehand, they have no control over. She states that her property values are going to go down. She asks if she is going to have to hear cows all day and all night and smell them. She says that first of all there will be 250 cows put into the city which she doesn't understand. Jacobs states that he doesn't think they are putting them in the city but if this farm was put across the street that it wouldn't even come before the board. So, he believes that it is right along the line. She says the one side is in the city. He explains that it is in the 2-mile zone. He reclarifies that right across the street they wouldn't have to ask for this variance. He states that it is a very gray area right now. She believes that the city should decide before the place is already built. She believes that we should have been here a long time ago. She clarifies that it was a mistake and that the city should make sure it doesn't make that mistake again. Jacobs states that he wouldn't disagree with that one bit. She reclarifies that that was a terrible mistake. She states that everyone feels it. She states that she has lived there for 50 years. Jacobs states that there was no mistake. She interjects by stating the it was a mistake by not getting the correct permit or something. Jacobs explains that the board didn't do this first. He built his building and the board can still deny him. She states that he wouldn't have built it if they denied it. Jacobs agrees with her. She states that there is a lot of money in that farm and their roads are already getting torn up. She states that the traffic has either doubled or tripled. She states that it sort of looks a little shady how this all went down.

Jeff Lewis (13465 5C Road, Plymouth): He states that he lives right next to the Hoovers cornfield. He states that he is in opposition to this and that he lives there with his wife. He states that many things that were brought up today were concerns of theirs as well. Including property value, smell, and well water which is a very big concern here. He states that all of the traffic recently has been horrendous. He clarifies that if anyone has been down 5C Road, that they would know it isn't a very big road. He states that with traffic already going through there that it is already a major concern. He brings up how Commissioner Gidley asked when this came to Hammond's attention when a mistake was made. He states that he spoke with Building Commissioner Hammonds this morning. He asked for a copy of the permit for the pole barn. He states that Hammonds refused. He said that he would have it for him this evening. He said that the reason he wanted to know that was because he wanted to know when this was approved and why this was coming up now. He states that Hammond's answer for him was that he made a mistake. He states that Hammonds said that he had gotten excited about a young couple starting a dairy farm. Mr. Lewis states that that is in direct contrast to what he told the board. He believes that that should be a huge concern for the residents. He clarifies that Hammonds did know that this was a dairy farm. He states that he knew from the very beginning that this was a dairy farm. He states that Hammond told him that he went out and looked at the location. He brings up the previous woman's point of this being very shady. He appreciates Mr. Hammonds for owning up to the mistake. He states that another mistake would be approving this. He states that we can not fix a mistake with another mistake. His second concern with this is what precedent this sets for others in the city. He states that even though we are in the zoning, what's to stop someone else from coming down and saying, "I want to take that land next to Martin's on Jefferson and do this." Commissioner Jacobs interjects to clarify that every case that



## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

this committee hears is a standalone case. Jacobs states that it doesn't matter if it is one cow down the street or 50 cows. That every case stands on its own, so if we can approve or deny this one that we can approve or deny a similar case. Mr. Lewis states that he has never met the Hoovers and he is sure that they are a wonderful family, and he is sorry that it has come to this point with this but this case is a reflection back on the city in approving this to begin with. He finds it hard that the Hoover family would have done this had this been done correctly from the get go. He states unfortunately, he still is in opposition to this.

In discussion of the map of the surrounding area, Jeff Lewis states that he and Emily Watts are west to east so the smell of manure is going to be coming his way 80% of the time.

Emily Watts (13529 5C Road, Plymouth): She has lived here for over 50 years. She describes her history with cancer. She states that she is an animal person. She states that she would rather have those 250 cows out in the field running around eating grass. She states that she has family members in southern Indiana that are turkey farmers. She states that she understands what it is like to try to make a living. She states that with her health, the smell, and having to sit out in her yard that she doesn't want to have to deal with the smell of cow excrement. She gestures to a lady in the audience and states that she has been up and down that road for weeks screaming at trucks before 7:00 in the morning. She states that they are out there in the morning with big lights trying to get the cement poured and it shouldn't have gotten that far.

Gene Hundt (Hundt's Auto Salvage, 13600 5C Road, Plymouth): He states that he does have concerns about the smell. He states that he lives East of the farm as well so the wind will bring the smell to his business. The only questions that he has for either the Board or the county is that the road is narrow. And that before these guys even started, with dump trucks running down this road that it needs to be widened. Commissioner Jacobs states that unfortunately isn't solved at this board. Mr. Hundt states that a lot of families live on this road. He states that luckily, he doesn't have to go down that far. He states that there needs to be a turn lane or something put out on that highway. Commissioner Gidley asks if it is because of the traffic from the construction. Mr. Hundt states that it is the dump trucks running down to the gravel pit. They're dumping stuff. Jacobs injects stating that that is a different project entirely. Mr. Hundt asks if it is daily or weekly for when they have to haul in milk. Mr. Hoover responds by saying every other day. Someone in attendance asks what kind of truck. Mr. Hoover responds by saying it is a tanker. Mr. Hundt states that he would like to see more business in the area but the people there are going to have to pay the price because of how narrow the road is.

Shelby Borilla (13420 5C Road, Plymouth): She states that she is currently in the Navy stationed out in Virginia. Commissioner Jacobs thanks her for her service. She states that she does live out on 5C Road. She is sure that the Hoovers are a lovely family and she wished to have met them before this. She states that she has grown up on 5C Road, came out from the hospital on that road, and grown up with agriculture her whole life. She states that she truly does support dairy farmers. She addresses the previous concern that this situation is still a little shady and it isn't the Hoover's fault because they did go through the proper routes. She addresses that the well water is a big concern of theirs because they have a little well on their family farm. She states that she does have a hobby farm so she has to deal with the manure issue as well, just not to their scale. She states that the dump trucks are a concern because the roads are already terrible. They're super small roads and the few times that semis do come down there that is does not have a very good outcome.



## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

David Snider (13366 5D Road, Plymouth): He states that his concern is the smell, the water, and their property values. He asks how will they all know if they will be up to standard.

Kyle Rupert (139628 6A Road, Plymouth): He states that all of his concerns have already been listed by those before and in the letters at the beginning.

Joanne Mackin (13802 5C Road, Plymouth): She says that Mr. Hoover stated that the manure was going to be sprayed on the top of the ground and not put into the ground. Mr. Hoover states that no, he will be putting it under the ground.

Adam Slighter (14500 W 5C Road, Plymouth): He believes that the Hoovers will be a nice family and that he has nothing against them. He states that he grew up in the country and that he is pretty used to the smell of manure. He is more concerned with the groundwater contaminants. He states that he doesn't know what Mr. Hoover plans on giving the cows consistently. He brings up one gentleman earlier who brought up giving the cows additives to keep flies down. He states that with all these chemicals you are putting into the cow has got to go back into the ground and that everyone in the surrounding area has wells. His concern is that all the chemicals and antibiotics are going to be going into their drinking water.

Terrance Doody (13680 5C Road, Plymouth): He is sure that the Hoovers are a great family. He states that he has property in Fulton and Marshall County and was raised milking dairy cows on the Houin's Dairy Farm. He describes that his uncle worked at the farm in the 70's. His concern after going to a lot of dairy farms is their retainment area. He describes his one neighbor whose retainment area is concrete and has no seepage. He asks if there are things that the Hoovers could do to improve that. He states that he lives across the street and is looking to sell his home here shortly and he is concerned about the smell. He describes the smell of passing by the Houin Farm as unpleasant. He addresses the previous concern with building permit being issued before this meeting that it is upsetting to him as well. He voices his concern for the Hoovers because he knows that they have a lot of money put into this farm already.

Kurt Garner (12954 6<sup>th</sup> Road, Plymouth): He states that he submitted a letter earlier. He would like to underscore the density of housing in this area. He doesn't know if it is being appreciated to the extent that it should be. He states that 150 households, not in the 1-mile radius, but in the prevailing winds zone. He states that he submitted those maps because he wanted the Board to understand what it would look like if we were to put it on the Pioneer extension because it would be Tall Oaks, Westgate, Deer Trail, and parts of Carriage Hills that would be affected. He states that he is pretty certain that this board would not approve the CFO on the west edge of the city. He states that all he is going to say is, he appreciates the fact that the makeup of the board is such that there is representation from the 2-mile zone. He states that they should understand that North Township can not be dumping ground for bad decisions and that he was hoping that Commissioner Klotz would be here because he was one of their elected members who is a normal liaison for this board. He states that there are more people in that 150 households than in many of the subdivisions around town and probably a denser population than the town of La Paz. He asks that the Board consider that and stand opposed to it. He asks if there is some way that the Board can approve by visiting other CFO's to get a better understanding of the range of how far the smell will travel. He states until the Board has a better understanding that they should be against the proposition.



## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

Jeffery Baney (14187 6<sup>th</sup> Road, Plymouth): His question is what properties the Hoovers plan to put their manure on. The Board gestures towards the map and Jacobs states that his surrounding area is all farm land so it could really go anywhere. A neighbor in the audience states that he has 78 acres of farmland and that they could even put it there.

Becky Doody (13680 W 5C Road, Plymouth): She states that just like everyone else that she has lived there for over 50 years. She addresses that when they purchased the property that part of it is in the city and the other part is in the county. So, her question is why did the Hoover's think that they could have 250 cows in the city. She states that it isn't really a gray area. Commissioner Jacobs addresses that it is gray because it is a 2-mile zone of the city. He states that he owns 30 acres in the county that sits right against the city. He states that for him to even build a home that there are a lot of questions that need to be addressed. He states that it is hard to follow all the rules and people try and people make mistakes. He states that he is not in favor or against this proposition yet. He states that this kind of thing does happen. He states that this happens, if you build and you do things, that there is a ton of things that you have to do. He states that we are all passionate one way or another. He states that it is not easy. He asks Mr. Hundt about when he built the junkyard if it was easy or not. Mr. Hundt states that there wasn't any zoning yet when he built it. Jacobs addresses that people can come up and state that they don't like the junkyard now. Mrs. Doody explains that the people here today are expecting this proposition today to follow the proper channels now. Jacobs states that they tried, and so far, they have. He states that until they want to put cows on there, that they have to have permission from the Board. A couple people in the audience state that there are cows there right now. Jacobs states that he the Hoover's just found out through this process and he understands that a mistake was made. He states that mistakes happen, and that this is his third year on this board and he sees mistakes happen almost every time in here and that is why everyone is here today. Mrs. Doody asks so because it is a mistake that it is okay. Jacobs responds by saying no, he never stated that it was okay yet. He states that he understands and that the board has to hear all sides of this story and that he appreciates the passion. He states that he is amazed how frequent mistakes occur and that is why this Board exists. He states that out of every meeting that he comes to, someone did something that they didn't realize that they were supposed to and this board has to figure it out. The audience expresses that this is millions of dollars. City Attorney Surrisi interjects and clarifies what occurs when a city establishes zoning. Surrisi states that with closer proximity to the city, the concerns of the city have larger input compared to more rural areas. Surrisi restates that if this farm was built right across the street that nobody at this hearing today would even have any input. Mrs. Doody states that she has a 5-minute window and states that she wishes to voice her other concern of the roads. She states that it is a detriment to the area and their roads are already horrible so she believes that something should be done about that. Jacobs believes that if people wish to pursue the issue of the roads that they would have to go to the County Commissioner.

Jeff Lewis (13465 5C Road, Plymouth): Mr. Lewis would like to bring attention to what the Plymouth Zoning Ordinance states in regards to the Indiana Zoning Ordinance, Article 6-030 A and B. Commissioner Gidley clarifies that because of the size of this operation, this isn't a CAFO, it is a CFO. Mr. Lewis asks for clarification. The board describes because it is 250 head and does not reach 300 head that it falls under the categorization of CFO.

Commissioner Gidley expresses that he has been on this board for 15 years and they have seen it all. He would say that 90 percent of the cases they approve. He knows that there is a general sense



## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

that zoning is bad and the 2-mile zone is bad. He states that it isn't really a 2-mile zone and instead it is an extra-territorial jurisdiction. He states that there are places in Plymouth where it is less and some communities that are 4 miles from the city boundary. He states that the reason why this jurisdiction exists is to protect the future interests and the future growth of the community. He wants to clarify that it isn't anti-agriculture. He states that over the last 3-4 years, the Board has approved a lot of what the Mr. Booker refers to as "4-H" Style projects. He states that more and more people want to keep chickens so the board has approved more of those. The board has approved goats north of town. He wants to make it clear that this board isn't anti-agriculture just because you fall in the jurisdiction of the "2-mile." He states that the reason he is on this board is because he lives in the 2-mile zone and he was appointed to represent the 2-mile zone. He explains the other members who represent the 2-mile and wants the citizens to know that they are represented. He states that he has been re-appointed 3-4 times to represent the 2-mile zone. He states that he isn't sure if the board necessarily always agrees with how he handles these meetings but one of these things that they do agree with is his attendance. He states that it is hard to get people who get paid nothing to do something to come sit through this. He states that those in attendance today however have been great. He provides examples like pointing fingers, no screaming, no cursing, etc. He states to everyone that no matter how this board votes that they are trying to do the best for the people inside that 2-mile zone. He also addresses his concerns for the people whom live in the 1-mile radius that was presented earlier. He states that there have been a lot of stuff addressed today about this family and he hasn't met them but he is already impressed. He states that his gut reaction is telling him that if the board gives the approval for this that it should come with restrictions. He would want to make sure that this is chiseled in, start with 160 cows, and come to the board before raising that limit. With the restriction being that none of neighbors have complained in the meantime. He states that he has been concerned about this every since it arrived on the WTCA website and he read some of the comments. He states that he was pretty upset with some of the commenters because some of those writing those comments were not speaking from a position of knowing how this works. He states that this board isn't bad people. He states that they are all different but they try to do their best for the public because they are a part of the public. Commissioner Gidley states that he will get off of his soap box now but he hopes that the public understands where they are coming from before they vote.

There being no other comments, Board Members Wickens and Gidley moved and seconded to close the public hearing. The motion carried.

Commissioner Jacobs allowed Bob Byers to speak again.

Mr. Byers wished to thank a couple people in the audience. He thanked one person for pointing out that well water contamination is a big problem. He states that the Board of Animal Health monitors animal samples regularly on inspection. He thanked another person for pointing out that this was a farm field. He states that whether that farm goes in or not that nothing is stopping any farmer at any time from chiseling manure into the ground fertilizer.

Commissioner Wickens expressed that he was born and raised on a farm. He went on to explain the difference between solid waste disposal, spray on waste disposal, and chiseling in. He knows for a fact that when you chisel it in that your smell only lasts a couple hours.



PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

Plan Consultant Booker adds that chiseling it in is preferred by IDEM. He also states that when he spoke to the applicant in regards to chiseling it in that it was his practice. He states that that is the best of way of doing it and that means that they will receive the most nutrient value. He also adds that that reduces most of the conflicts with the neighbors. To Booker's understanding, Mr. Hoover is following all state regulations.

Commissioner Jacobs allowed Mr. Slighter to speak again.

Mr. Slighter asks how long and full does it get when storing the manure. Mr. Hoover states that his engineer has already taken measures to make sure that it is sealed tight with either clay or bentonite.

Commissioner Selge asks for clarification on the term pit. As in the lagoon or something else. Mr. Hoover clarifies the lagoon.

Commissioner Selge asks what would happen if the Hoovers were to break any of the rules and there was seepage.

Mr. Booker states that if he were to break any of those rules that he would fall under the auspices of IDEM and he would have to follow all the rules of IDEM that people had mentioned prior about being over 300 cows. Mr. Hoover clarifies that if he did contaminate the water that that would be his problem and that would have to be fixed on his end.

Commissioner Yadon asks for clarification on how long before Mr. Hoover will receive his first inspection.

Mr. Hoover clarifies that he has to be inspected before the cows even move to the farm. The Board of Animal Health will have to give their approval that the farm is ready for cattle.

Members Wickens and Yadon moved and seconded to approve BZA 2022-01 as presented. The motion passed by roll call vote.

Yes:	Gidley, Selge, Wickens, Yadon, Jacobs
No:	None
Absent:	None

**BZA 2022-02:** Marshall County Economic Development Corporation, 2857 Jim Neu Drive, Plymouth, IN, 46563: A Special Use request for a Waste Collection and Waste Treatment and Disposal.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant. He read the applicant's letter aloud. See attached letter below.

# PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

## City of Plymouth Board of Zoning Appeals

### Application for Special Exception

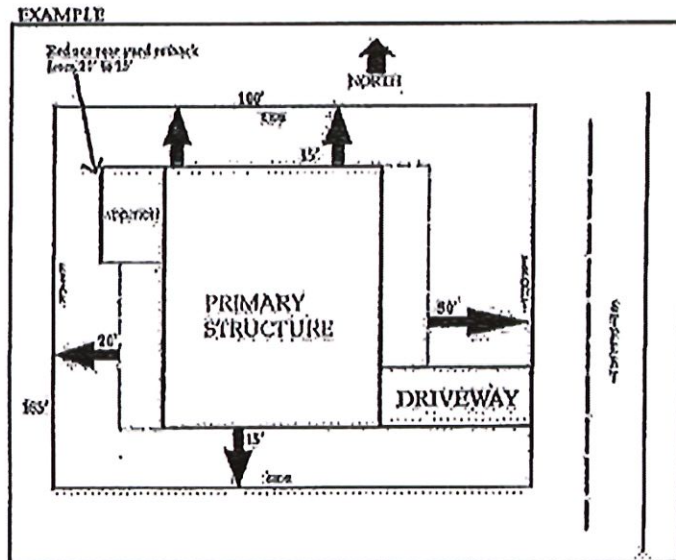
#### Application Requirements

1. This completed application;
2. A site plan showing the requested Special Exception;
3. A Letter of Intent describing the details of the request in accordance with § 11-030(A)(5)(b);
4. A complete legal description of the subject property;
5. The names, addresses, and mailing addresses of interested parties who own property within three hundred feet (300') of the subject property. This information may be obtained from the Marshall County Auditor's Office; and
6. A filing fee payable to the City of Plymouth, for advertising and handling costs of the application.

#### Site Plan Requirements

These features must be shown on the site plan

1. All existing and proposed structures;
2. Entire lot dimensions;
3. Arrow showing North;
4. All adjacent street(s);
5. Access (i.e. driveway) and parking;
6. Distances from structures to property lines;
7. Distance between structures;
8. Label property lines;
9. Show all recorded easements;
10. Show septic field



Tim Oaks, An Attorney at Ice Miller in Indianapolis, was present to talk about this request and answer the questions of the board on behalf of Divert Inc.

Mr. Oaks explains that Divert is based out of Boston, Massachusetts but they have 10 facilities across the country that they operate now in various phases. There are 6 more under production that aren't yet open, not including this one. They're a resource recovery business. They take food that



## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

has gone bad that would originally be going to a landfill from businesses like Kroger, Target, etc. He explains that this does two things. The first is that this allows for analytics to occur that they pass to these grocery stores that tells them to adjust how they are buying that saves the companies money with efficient purchasing. The second thing that they do is take the wasted food and convert it into a biofuel. Their goal is to be carbon negative. He explains that is currently what they are doing across the country. He expresses that they view this warehouse as a foothold to grow in the mid-west. Given that this location is very easy access all the way up into Chicago, Michigan, Ohio, and southern Indiana.

Mr. Oaks explains that Phase 1 is collecting the food and gathering analytics. He explains that Phase 2 would be the installation of additional equipment and with said equipment break the food down into a slurry. He explains that if Phase 2 is successful and the demand is there that they would try with Phase 3 which involves the addition of a digester. He believes that the earliest anticipated time for Phase 3 would be in either 2024 or 2025 if all goes well.

Mr. Oaks goes on to explain frequently asked questions. He states that the first is odor. He explains that because it is inside that there is really no odor. He explains that their turn around time is immediate for Phase 1. He explains that they are rigorous when it comes to cleanliness. They explain that if they didn't do that they would end up with mice and rats and that is just not acceptable. He explains that they don't have any problems with their 10 existing operations.

The other issue that is frequently asked about is truck traffic. He explains that about 90% of the traffic will take the route straight up to US 30. For Phase 1 he says that you are looking at about 2-3 trucks per day. For Phase 2 about 3-6 trucks per day. And with Phase 3 about 10-12 trucks per day which isn't necessarily anymore than what the city gets from most of the permitted industrial type uses.

Mr. Oak states that he believes Divert meets all of the requirements as detailed in the staff report and also in their submitted findings.

Mr. Oak opens up the floor for questions either directed towards him or Craig Davis who is attending through the zoom call.

Commissioner Gidley asks Mr. Oaks if he has been to any facilities operating at Phase 3. Mr. Oaks expresses that he has not. He explains that the two that are at level 3 are in the Los Angeles area and Boston area. He is told that they have no problems.

Commissioner Jacobs motions the question to Craig Davis.

Mr. Davis says that he has been to some of them that have a digester. Jacobs asks if there is any problem with smell. Mr. Davis says that there is none whatsoever.

Mr. Davis explains that both of the Phase 3 locations are co-located at their customer distribution facilities. He states that Kroger's facility in Compton, California has divert's digester on site on their property. And the other in southern Massachusetts is a Stop & Shop distribution center. He explains that their strategy has shifted and they no longer wish to go down the route of colocating digesters anymore. He explains that they wish to be more customer agnostic. He says that because of the



PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

colocation however that you would expect them to have very high expectations of Divert if they were comfortable enough to house their digester. Especially with pest and odors in more highly densely populated areas such as Compton, California and Boston, Massachusetts.

Commissioner Gidley asks if he were to drive past their Phase 3 property, what would he see.

Mr. Davis explains that he would see a very large holding tank and additional pumping equipment. It would be somewhere between 2-3 million gallons in size. He explains that aside from the digester, the rest of the operation would be relatively closed and indoors. The trucks are also unloaded inside.

Commissioner Gidley asks about the food. Whether it would just be vegetables and meat or if they would have anything boxed or in containers.

He states that they do receive some food that is packaged, such as strawberries in a plastic container. But overall it is all organic food waste. He says that they are not talking about expired box meals or canned goods or anything of that nature. He states that the bananas that he eats are usually more brown than the ones that Kroger or Target has to discard on a daily basis because it is not acceptable to sale at the public level.

Commissioner Wickens asks if the tank will be partially in ground like the one that the Houin's own. Mr. Oaks says that it is not designed yet. Davis agrees that it isn't designed yet because they haven't completed an engineering analysis on it yet. They're goal would be to maintain a very visually tight and concise asthetic. And they are wishing to stay amenable to any decisions brought upon by the city.

Wickens states that the reason he addressed that question was because that area is a seasonal high water table area.

Mr. Davis clarifies that the decision to even move to a Phase 3 has yet to even be made. They try to go into every market anticipating that as the end goal to be a renewable energy gas provider.

Commissioner Gidley asks if there is a gas truck that comes to that facility and gets filled up on the spot.

Mr. Davis says that is not the case and that their intent is to tap into NIPSCO's pipeline.

Commissioner Gidley knows about a pipeline on the north side of US 30 on the PIDCO property but isn't aware of one on the south side.

Mr. Davis states that that is part of the development work that they have yet to do because they were not there yet. He states that currently they would be at NIPSCO's mercy with that. He states that they have had preliminary discussions with NIPSCO about it but a lot of it comes down to their capacity. So what may appear to be the most accessable location may not be. He states that they are really waiting on that. All of it is based off of what they can produce and the capacity they can take. Mr. Oaks clarifies that the point of their answer is that it would be piped.



## PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

Board Members Selge and Wickens moved and seconded to open the public hearing. The motion carried.

### **In Favor:**

Bill Walter (822 W. Laporte Street): His first thought of this proposal of a waste collection site scared him. He states that he did a lot of research online and everything that he found about the company impressed him. He states that it looks like a very clean operation and a total asset to the City of Plymouth and surrounding area.

Laura Walls (2864 Miller Drive): She states that she is here as a representative owner of the current property. She states that the property is currently owned by the Marshall County Economic Development Corporation or MCEDC but this was not a standalone project for them. She states that they worked very closely with the City of Plymouth Redevelopment Commission and Marshall County Commissioners to bring this project together with the end goal of bringing a company like Divert to the City of Plymouth for high paying jobs. She states that the state of Indiana has offered an incentive offer and done their due diligence on Divert. She says that they are waiting for this process to play out before closing. She hopes for a decision tonight so they can move forward with closing.

Sean Surrisi (City Attorney): He states that on behalf of the mayor's office and the Plan Commission that they are very much supportive of this project. He states that Utility Superintendent Donnie Davidson and him walked the site together with Divert and that they have been great to work with so far. They are very exciting on where this will lead. He clarifies that this is the second manufacturing project that they have worked with alongside the MCEDC with Pretzels Inc. Because of the initial success they see a lot of potential here with Divert.

Fred Webster (320 Roy Street): He has a question for Mr. Davis. Whether or not he will be running three shifts or not for this facility. Mr. Davis states that that question is based off of customer demand. Mr. Davis says for the first phase that they would only be running one shift. He states that while they acquire additional customers, they will increase that to two shifts. He says that once they get to Phase 3 with a digester that it would become a 24/7 operation. Mr. Webster asks if they currently have any 24/7 operations going on anywhere in the country. Mr. Davis states that they do.

### **In Opposition:**

There were none.

Board Members Selge and Wickens moved and seconded to close the public hearing. The motion passed.

Board Members Selge and Gidley moved and seconded to approve BZA 2022-02 as presented. The motion passed by roll call vote.

Yes:	Gidley, Selge, Wickens, Yadon, Jacobs
No:	None
Absent:	None



PLYMOUTH BOARD OF ZONING APPEALS

January 4, 2022

There being no other business, Board Members Selge and Wickens moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 9:50 p.m.

*Kyle L. Williams*  
Kyle Williams— Recording Secretary