

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE..... OCTOBER 25, 2017
 TIME..... 6:00 P.M.
 PLACE..... CO. OFFICE BLDG.
 20 N. 3RD STREET
 LAFAYETTE, IN 47901

MEMBERS PRESENT

Tom Andrew
 Steve Clevenger
 Steve Schreckengast
 Carl Griffin
 Gary Schroeder
 Ed Butz

MEMBERS ABSENT

STAFF PRESENT

Sallie Fahey
 Ryan O’Gara
 Rabita Foley
 Linda Underwood.
 Jay Seeger, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 25th day of October 2017 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Steve Clevenger called the meeting to order.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the September 27, 2017 BZA public hearing. Carl Griffin seconded and the minutes were approved by unanimous voice vote.

II. NEW BUSINESS

Ryan O’Gara said the petitioner for **BZA-1967** has not arrived yet and staff is recommending the case remain at the end of the agenda. Staff is recommending the Board continue **BZA-1968** to the December 6th meeting.

Jay Seeger explained that it has been common for Board members to use common shorthand statements such as “see staff report” or “per staff report” on their ballots. The Court of Appeals sent a recent case that had that type of notation back to the local BZA for more detailed reasoning. He asked the Board to use specific facts or statements that they are relying on. If using a statement from the staff report the statement should be indicated and if relying on testimony from a particular witness the witness should be named. Notepads and pens have been distributed to the Board prior to the meeting to keep track of the ballot items and how you may want to fill them in as the evening goes on.

III. PUBLIC HEARING

Gary Schroeder moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the applications to be heard this evening and responses from the checkpoint agencies. Carl Griffin seconded and the motion carried by voice vote.

Steve Clevenger read the meeting procedures.

Gary Schroeder moved to continue **BZA-1968—TIPPECANOE MEMORY GARDENS** to the December 6, 2017 Board of Zoning Appeals public hearing at the Board's request. Carl Griffin seconded and the motion was approved by unanimous voice vote.

1. BZA-1957--ROGERS GROUP, INC.:

Petitioner is requesting a special exception to permit a mining operation (SIC 14) in the A and FP zone. Active years for mining have been estimated at 50-60 years. The proposed hours of operation for blasting are normally between 10AM and 2PM once every week and sometimes twice a week in extraordinary circumstances between 10:00AM and 5:00PM. The proposed hours of operation for loading and processing are Monday through Friday 6AM to 6PM, Saturday 6AM to noon, with occasional activities outside of normal hours. The 524 acre property is located along the Wabash River, just northeast of Americus at 8032 Old State Road 25 North in Washington 3 & 10 (N1/2 & W1/2) 24-3.
CONTINUED FROM THE SEPTEMBER BZA AT STAFF'S REQUEST. WITH CONDITIONS

Gary Schroeder moved to hear and vote on **BZA-1957—ROGERS GROUP, INC.** Carl Griffin seconded.

Ryan O'Gara presented the zoning map, aerial photos of the site, and the site plan. He referred to the aerial to point out the Flood Plain (FP) and Agricultural (A) zoning on this site. There have been special exception and variance petitions in the past connected with the Rogers Group but all previous requests have been withdrawn. Agricultural zoning is a dominant feature in the surrounding areas. He said the site is currently used for crop production and added that there are approximately 960 residences and some local businesses within a two-mile radius of the site. The Wabash River lies to the north. The 420-acre Frederick Hoffman Nature Park is under development to the southwest along the river. The County Parks and Recreation Department has identified trails, a nature center, camping areas, and active recreation as part of the improvements at the park location. Prophetstown State Park is located farther downriver from this site. Old SR 25 is classified as a rural secondary arterial by the adopted *Thoroughfare Plan* and average trip data from 2015 shows almost 1,600 vehicles traveled this road per day and that is considerably down from the 9,701 vehicles traveling the road daily in 2011 prior to the opening of the Hoosier Heartland Highway. There were 625 trucks using the road in 2011 (12.3% of all vehicles) but there were only 68 (3.8% of all vehicles) in 2015. The petition states that 50 to 200 vehicles will use the road once the quarry is fully-operational and that number includes an average of 75 trucks per day using Old SR 25 to deliver product, 2-3 loaders operating in the quarry pit and processing area, 2-3 haul trucks serving the loaders, and a water truck to control dust. The petition also states there will be a maximum of 10 employees traveling to the site at the largest shift and the site will have 14 parking spaces, meeting the *UZO* requirements. The County Highway Department reviewed the proposal without the benefit of a driveway access permit application and said petitioner's plan generally meets the construction guidelines and details. The plan incorporates 20' wide Type B & C bufferyards along its property boundaries and all the open use setbacks for the abutting properties are met. Approvals from the Army Corps of Engineers, IDEM, IDNR, and the Tippecanoe County Drainage Board were sought and received because there will be a disturbance in the Wabash River's floodplain. He went on to say a Reclamation Plan for the site has been submitted. He then presented various photos of the site and pointed out the area where the driveway will be located.

He then read the following staff comments from the staff report verbatim:

"An active period for mining of 50 to 60 years would be a significant impact when one considers incorporating this use into any community. The potential negative effects associated with a quarry (blasting and equipment noise, dust, increased truck traffic, etc...) are the main reasons why the use is only permitted by special exception per the Unified Zoning Ordinance. In this case, the presence of numerous homes and farms in the vicinity (approximately 960 residences within a 2-mile radius) and the significant proposed land disturbance activity in a floodplain have given staff pause to consider the long-term ramifications of implementing this use in this location.

The *Comprehensive Plan* has, since its adoption, classified the subject property as prime agricultural land and promoted the preservation of such land as a primary goal for the community. The purpose of distinguishing certain agricultural land as “prime” from more typical agricultural land is to ensure that the economic health of the community’s agricultural industry remains strong by reserving the most productive land for crop production. To make the “prime” determination, the *Comprehensive Plan’s* decision-making model considers eight factors most likely to influence future land use. These factors are connected to issues of resource management, environmental protection and land use economics:

1. Soil productivity: the relative ability of a given soil type to yield crops;
2. Soil limitations: the relative ability of a given soil type to withstand various kinds of development;
3. Tendency to flood (or floodplain environments): whether or not a given soil type is regularly subject to ponding or stream or river flooding;
4. Forestation: a simple reference to the presence or absence of significant numbers of trees;
5. Sanitary sewer availability: relative access to a trunk line known to have excess capacity;
6. Accessibility: a measure of proximity to major and minor roadways and their intersections;
7. Railroad and airport proximity: a distance measure to these major transportation facilities and their area of influence; and
8. Current and expected use: a generalized indication of how land is being used in the present, including all major development projects currently in the drawing- board stage or for which some form of official approval has been granted.

A value from +2 to -1 was assigned to each specific interaction between factor and potential use category (Residential, Agricultural, Industrial, Commercial and Open Space). The range of values corresponds to the range of interactions as follows:

- +2 = highly desirable
- +1 = more than acceptable
- 0 = neutral or not applicable or just acceptable, and
- 1 = usually not acceptable

The interaction between soil productivity and potential land use was shaped by the adopted goal of the *Plan* to preserve prime agricultural farm land. Thus, high productivity greatly enhances the agricultural land use potential (+2), while the conversion of such land is discouraged (-1), especially in the absence of sanitary sewer. The subject property scored the maximum score of 4 points for both open space and agricultural uses (hence the prime agricultural land designation) but only scored a -1 out of a possible 12 for its potential as an industrial site such as mining.

The *Comprehensive Plan’s* Land Use Plan builds on this designation in its clearly stated policies. Relative to introducing industrial uses in rural, agricultural areas, under “Environmental Considerations” (*Comprehensive Plan*, Volume 2, Land Use Plan, Introduction), Goal I, Objectives 1 and 3 promote the protection of: “...sensitive environmental areas” and the preservation of “...prime agricultural lands”. The presence of the Wabash River’s floodplain on this property already speaks to environmental sensitivity relative to Objective 1 and concerning Objective 3, there are two contributing factors in determining whether certain agricultural land is both prime and worth preserving: the productivity of the soils and an area’s tendency to flood given the floodplain location.

Petitioner seeks to mine directly in a Flood Plain zone. This portion of the Wabash River’s floodplain is routinely inundated when the river overflows its banks after heavy rain events. Land disturbance of any kind in floodplains can change the pattern of water flow and potentially increase flooding and flood damage on adjacent property by blocking or redirecting the flow of water and subsequently increasing the width, depth, and/or velocity of flood waters. This petition not only seeks to carve out a deep pit from which to extract the material to be processed, but it also is placing its large “overburden” or “spoils” pile (the layers of soil, sand and rock removed to reach the material to be mined) immediately adjacent to the pit, all in the Flood Plain zone. According to the petition’s site plan, this pile of fill will stretch just over a mile in length (5,350 feet), rise between 67.5 to 72.5 feet in height above the ground level, have a maximum top width of 20 feet and contain 2:1 side slopes. With a land elevation of the site approximately 536 feet above sea level and a Base Flood Elevation of 540 feet, this literal “island” to be created by the proposed spoils pile is in direct violation of Section 2-27-18(e) of the Unified Zoning Ordinance which expressly prohibits in the **regulatory floodway** “...islands created of fill material...”. The purpose of this

ordinance of course being to prevent property damage from floods by not having flood waters encounter unnatural barriers, potentially causing the aforementioned potentially damaging increase in width, depth and/or velocity of the water by blocking or redirecting water flow.

The Unified Zoning Ordinance permits mining uses in Flood Plain zones only by special exception so the facts of the proposed use, as they impact a specific location, may be scrutinized publicly and so an informed decision by the ABZA may be rendered on the appropriateness of a mining use for that location. Relative to petitioner's site, given the adopted policy concerning prime agricultural land, the impacts to this section of the Wabash River's floodplain and the proximity of numerous residences and farms, it is staff's opinion the proposed use is inappropriate and potentially damaging at this location.

Given the goals of the *Comprehensive Plan*, the proposed future for this property and its low score as an industrial site, staff has determined that this request **WILL** substantially adversely affect the adopted *Comprehensive Plan for Tippecanoe County*.

Petitioner's plan proposes an island of fill material, which is referred to by petitioner as overburden, that would be stacked not just within the Flood Plain zone, but within the floodway portion of the FP. Fill within the floodway is not permitted by the ordinance. Petitioner was informed about the non-compliance of the submitted proposal with this UZO requirement (2-27-18). However, petitioner has chosen not to comply. The regulatory flood elevation at this location is approximately 540 feet, but petitioner's site plan indicates that the fill would exceed this elevation by 67.5 feet to 72.5 feet. The fact that an island would be created in the **regulatory floodway** in violation of the ordinance raises significant concerns particularly since Tippecanoe County, as a qualified member of the National Flood Insurance Program, is empowered to regulate floodplains to minimize threats to life and property caused by floods through our zoning ordinance; to violate our own adopted ordinance is to risk probation or suspension from FEMA.

The petition indicates the hours of blasting and the hours of operation with a caveat stating that possible operations "outside normal hours" during "extraordinary circumstances" may occur. A further request from staff to the petitioner to provide clearer hours of operation resulted in an unsatisfactory response, claiming an inability to depict fixed hours due to the demand driven nature of this use. Because of this ill-defined set of operational hours staff has no choice but to interpret the processing activities as having the ability to operate 24 hours with blasting being able to occur between 10am and 5pm, Monday through Saturday, no more than twice a week.

The petitioner submitted a lighting plan only for the primary processing area. When staff requested a lighting plan for the entire site, the petitioner responded that lighting in the quarry itself cannot really be depicted because the lighting will be placed on different locations throughout the life of the quarry. Therefore, staff was unable to review a comprehensive lighting plan for this petition except for the processing area. If the petition is approved, exterior lighting for the site shall be limited only to what is shown on the approved site plan. Additional exterior lighting that is brought to the site and is not depicted on the approved site plan would constitute a zoning violation and be subject to an ordinance prescribed enforcement action. A new special exception petition would need to be filed with the ABZA and approved to add more lighting.

At its meeting on September 6, 2017 the Executive Committee of the Area Plan Commission voted that granting this request **WOULD** substantially adversely affect the Comprehensive Plan.

Staff asked petitioner to provide clearer hours of operation but received an unsatisfactory response. Staff can only assume the processing activities will be able to operate 24 hours a day. Petitioner has submitted a lighting plan for the primary processing area. Staff was unable to review the comprehensive lighting plan for the entire site, the petitioner said the lighting itself cannot be depicted because the lighting will be placed at different locations throughout the life of the quarry.

He then referred to the staff report addendum that was written on October 25th and said:

In a conversation with the Indiana Department of Natural Resources, Division of Water, staff raised questions about the impact of this petition and the proposed use on the county's participation in the National Flood Insurance Program (NFIP). Specifically, staff questioned whether non-compliance with our own floodplain regulations as adopted in the Unified Zoning Ordinance (UZO) and approved by DNR

could result in suspension from the NFIP. DNR's response indicated that one incident alone would not likely result in suspension, but local action of specific non-compliance would be noted, and any future actions would be carefully scrutinized. Such scrutinization could potentially result in the community's suspension from the NFIP. The following sanctions are imposed on communities that are suspended from the NFIP:

1. *No resident will be able to purchase a flood insurance policy.*
2. *Existing flood insurance policies will not be renewed.*
3. *No Federal grants or loans for development may be made in identified flood hazard areas under programs administered by Federal agencies such as HUD, EPA, and SBA.*
4. *No Federal disaster assistance may be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood.*
5. *No Federal mortgage insurance or loan guarantees may be provided in identified flood hazard areas. this includes policies written by FHA, VA, and others.*
6. *Federally insured or regulated lending institutions, such as banks and credit unions, must notify applicants seeking loans for insurable buildings in flood hazard areas that there is a flood hazard and that the property is not eligible for Federal disaster relief.*
<https://www.fema.gov/participation-national-flood-insurance-program>

Petitioner believes its plans comply with the UZO floodplain requirements. Staff believes petitioner's plans do not, and in such case, if the special exception is approved, petitioner must apply for a Fill Permit and Improvement Location Permit. Petitioner is bound by the plans it filed for the special exception and may not change them. At that point, the County Building Commissioner must decide if the plans meet the floodplain requirements of the UZO. Legal counsel has stated to staff that he would advise the County Building Commissioner that he should not issue a fill permit because the plans approved by the ABZA do not comply with the floodplain requirements of the UZO."

He summarized the ballot items and concluded with a staff recommendation of denial, with the following conditions if the request is approved by the ABZA:

1. A driveway permit from the Tippecanoe County Highway Department shall be obtained prior to the issuance of an Improvement Location Permit; and
2. The terms and conditions of the Tippecanoe County Drainage Board's approval shall be adhered to.

SUPPORT

Rabita Foley read letters of support from:

Gerald Beck, Poisel Construction, 5845 Poinsettia Drive, Lafayette, IN 47905,
Perrin Fultz, 9536 East 100 South, Lafayette, IN 47905,
Christopher Alter, Exterior View, Inc, 5798 East 50 South, Lafayette, IN 47905,
Sean Sullivan, Garden Art, 5220 North 225 West, West Lafayette, IN 47906,
Rebekah Ridenour, 1106 Waterstone Drive, Lafayette, IN 47906,
Debra Cates, 2202 Raymond Drive, Lafayette, IN 47909,
John Hack & John Hack II, 3700 South 175 West, Lafayette, IN 47909,
Tony Holt, 8501 South 700 West, West Point, IN 47992,
Brad Pedigo, American Paving & Asphalt, 2149 Wabash Avenue, Lafayette, IN 47909,
Donald Windler, Winco Construction, 4801 US 52 West, West Lafayette, IN 47906,
Jay Reynolds, Builders Association of Lafayette, 2633 Duncan Road, Lafayette, IN 47904,
Charles Rooze & Michael Weathers, Heartland Excavating and Concrete, 40 Aretz Lane,
Lafayette, IN 47905,
John Zanker, 7 East 700 South, Lafayette, IN 47909,
Rickey Wrede, Wrede Rocks, 3728 US 231 South, Lafayette, IN 47909,
Ty Vanderkolk, JVC Construction, 1216 West 400 South, Lafayette, IN 47909,
Andy Wise, 11900 South 625 West, West Point, IN 47992,
Mark Welsh, 504 West 800 South, Lafayette, IN 47909,
Steve Kessler, 12834 South 850 East Clarks Hill, IN 47930,
Aaron Bridge, Bobcat of Lafayette, 2616 South Beck Lane, Lafayette, IN 47909,
Brent Neibert, 3610 West 700 South, Lafayette, IN, 47909,
Michael Snyder, 34 Poland Hill Drive, Lafayette, IN 47909,
Tom Chambers, 8760 East 100 North, Lafayette, IN 47905,

Frank Tunis, Tunis Concrete, 1800 East 430 South, Lafayette, IN 47909,
Kevin Rheude, 3931 Thomas Jefferson Road, Lafayette, IN 47909,
Tom Osborn, Osborn Farm Partnership, 8536 East 1000 South, Clarks Hill, IN 47930,
Shayla Burkhalter, 1785 Sandstone Court East, Lafayette, IN 47909,
John Sanders, Lafayette Lawnworks, 7400 North 50 West, West Lafayette, IN 47906,
Gorley MacKenzie, 3604 Farnsworth Drive, West Lafayette, IN 47906,
Troy Kruger, 7229 South 250 East, Lafayette, IN 47909,
Gary & Connie Standiford, 1338 East 510 South, Lafayette, IN 47909,
Paul Ely, Ely Concrete, 2304 Brothers Drive, Unit D, Lafayette, IN 47909,
James Marlatt, B.J. Marlatt Inc. 2821 SR 25 North, Lafayette, IN 47905,
Ritch Winstead, Winstead Enterprises, 3223 Olympia Drive, Lafayette, IN 47909,
Rick Pendleton, 6215 South 300 East, Lafayette, IN 47909,
Fred Reichart, 6020 US 231 South, Lafayette, IN 47909,
Larry Gamble, 5911 West 800 South, Lafayette, IN 47992,
Jeff Findlay, 2103 West 550 South, Lafayette, IN 47909,
Edward Purdy, Purdy Materials, 3633 Old US 231, Lafayette, IN 47909,
Brian Garrett, Reith-Riley Construction Co., 3425 O'Farrell Road, Lafayette, IN 47905,
Robert Fox, Fox Hauling, 2887 SR 25 North, Lafayette, IN 47905, and
Paul Kirkpatrick and Stephen Roy, Fairfield Contractors, 3481 Concord Road, Lafayette, IN 47903

Andrew Gutwein, 250 Main Street, Suite 590, Lafayette, IN 47901, attorney representing the petitioner, said he and Christopher Shelmon are here tonight along with several representatives from the Rogers Group, representatives from TBIRD Engineering, and the property owner are all present. Each of those attending will speak in an effort to address the various issues that have come up and explain how quarry operations work as well as to answer any questions the Board may have. Staff believes this request will substantially, adversely affect the *Comprehensive Plan*. He agrees that this land is farmed because the Bosma family has farmed this land for over 50 years. He does not agree that the property is prime agricultural land as described in the staff report as "the most productive land for crop production". The *Comprehensive Plan* may indicate that this is prime agricultural land but the *Comprehensive Plan* also places this property immediately adjacent to an urbanizing area. Our county has three agricultural categories, A, AA, and AW, with AA (Select Agricultural) zoned land considered to be areas of high and highest potential for agricultural use and this is our best farm ground. The Bosma property is zoned A (regular Agriculture) and FP (Flood Plain). Presumably this land has not been zoned AA because it is not the best farm ground and it does not have the highest potential for crop production. The majority of the property is FP and he has a hard time understanding how the property can be zoned FP and prime farm ground because one would assume you would lose your crop if an area floods from time to time. The Bosmas have some very good farm ground and some marginal farm ground. The quarry will be located in the marginal rocky farm ground. The good farm ground that surrounds the rocky area will still be farmed. He went on to say mining is specifically allowed by special exception in all three agricultural zones as well as the FP zone. Approving a project in a zone where it is specifically allowed will not substantially, adversely affect the *Comprehensive Plan*. This project is not permanent but he agrees that 50-60 years is a very long time but it is much shorter than a typical project that receives a special exception would be expected to last. Mobile home parks, self-storage units, campgrounds, and golf courses all require a special exception and all of them will generally last longer than 50-60 years. A stone quarry is not permanent and once the mining operation is completed future recreational opportunities will be completed. Fairfield Lakes and the Bicentennial Nature Area in Tippecanoe County are located on former mining sites. Those two locations along with France Park near Logansport are a very popular areas and this site could be a popular area in the future. Tonight he will show that a quarry can be properly maintained in this location without an adverse impact on the surrounding properties.

He then distributed copies of the power point that will be presented along with some of the material that will be talked about.

Andy Williams, 2944 East Covenanter Drive, Bloomington, IN 47401, Rogers Group Divisional Vice-President, said this is the only location in Tippecanoe County that has the proper reserves to allow the company to economically harvest, process, and sell Class A INDOT quality stone. This will be the closest quarry to the center of demand because this market consumes over 2,000,000 tons of materials a year

and operating at this location will cut the distance to the nearest quarry in half. The site is a non-urban area and agriculturally zoned with an existing levee built by the Army Corps of Engineers all around the FP land at the bottom that will protect us from all but the highest flood levels. This site has high-quality road access because any SR 25 deficiencies were addressed before INDOT turned the road over to the county. The customers that come to the quarry to purchase and haul the materials need fuel and food so the quarry should be an economic benefit to the community. Every construction project in this town and county needs stone to be used as base stone under concrete or asphalt pavements, a major component of concrete and asphalt, backfilling around all infrastructure (water and sewer lines), foundations for houses, schools, bridges, factories, etc., and ag lime on agricultural fields. Some of the most productive farmland in Tippecanoe County can be made even more productive and efficient with properly applied ag lime. Rogers Group was founded in Indiana, has been in business since 1908, and is still privately held. The core value of the company is unwavering integrity, standard of excellence in every undertaking, and placing the highest value on people and that is why the company has approached this project the way it has. The project has been in the works for seven years and every box has been checked. The company has spent over \$1,000,000 on multiple studies. Many competitors just start mining and fight it out in court later but that is not the way Rogers Group approaches business. He presented a map showing the locations of the 12 Rogers Group operating units (resale yards, quarries, sand and gravel operations, and a regional office) that employ over 150 people. The company produces and sells crushed stone, sand & gravel, finely ground high quality limestone & calcium for animal feed producers, glass plants, roofing plants, and other markets. High calcium stone is shipped by rail out of Bloomington to power plants to clean the air through their scrubbing process. Approval of the special exception for the quarry will bring site construction jobs because it will cost between \$10,000,000 and \$20,000,000 to get the mining operation up and going. Indirect suppliers will be affected because of equipment, fuels, and other supplies. Local truckers/transportation will be used and the operation will provide lower cost construction aggregates to the marketplace. Competition will be increased and transportation costs will decrease because fewer trucks will be needed. Fewer trucks means increased safety. Property, wage, and sales tax will increase. Rogers Group is an industry leader in safety and the company has received numerous awards. Many operations in Indiana have gone several years without injuries. The company is also heavily involved in the community.

Trent Carney, 2944 East Covenanter Drive, Bloomington, IN 47401, production manager, said the company is very involved in the community. The company put on a Boy-Scout Jamboree that was a 3-day event at one of the quarries and about 215 scouts came out to enjoy the quarry and learn about the mining process. The Scouts were able to earn a Mining Merit Badge. Rogers Group has been involved in Hoosiers Outrun Cancer since its inception and many employees and employees who have survived cancer participate. Rogers Group sponsors two teams at the Little 500 at Indiana University and host a celebratory event either before or after the race. The Mitchell Quarry sponsors a local parade and participates in the annual Persimmon Festival. Rogers Group sponsors visits to the quarry for senior citizens and school groups and the company makes sure there are parks and greenspace on the quarry sites. The company also supports PALS, an equine rehab facility for people with disabilities to work with horses and donates sand, stone, and limestone for the arenas. Newton County Stone recently hosted a Student for a Day, a school program where students are able to look at different jobs and aspects of mining. A geology event is put on every year with the Indiana University Geology Department at the Mitchell Quarry. Rogers Group has been recognized by the Indiana Minerals and Aggregates Association and the National Stone, Sand and Gravel Association for its outreach programs.

Christopher Shelmon, 250 Main Street, Suite 590, Lafayette, IN 47901, attorney representing the petitioner, said he has been unable to communicate with the Board but he does not think this is the first time the Board has heard about this project. This is not a normal request because this project has been seven years in the making with countless hours of study, engineering, and other planning to deliver the product being presented today. Rogers Group first met with the BZA in 2010 to address the area as a potential site for the quarry. After initial discussions with staff regarding the site and site plan, staff determined that a permit from IDNR would be required due to the location. By 2011, the Rogers Group had engaged TBIRD Engineering to start on the initial engineering required required to achieve the IDNR permit. TBIRD communicated with IDNR throughout the permit process and the application was formally submitted in April 2013. In order to obtain the permit, Rogers Group and TBIRD needed to demonstrate that:

1. The project will not adversely affect the efficiency of or unduly restrict the capacity of the floodway;
2. The project will not constitute an unreasonable hazard to safety of life or property; and
3. The project will not result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

The permitting process generally takes about three to four months so this special exception petition was formally submitted in June 2013 but DNR spent extra time on the application due to the large amount of input and citizen comment. DNR even held a public event for comment in this very room and he believes many of the same people present tonight also attended that meeting. The remonstrators listed their fears to DNR, Rogers Group, and the engineers. Rogers Group and TBIRD specifically performed numerous studies as part of the application process. The Flood Plain was delineated, a separate flood plain study was done along with two wetlands, a turtle, a bat, a general wildlife, and an archeological study. After DNR reviewed the analysis of the studies, the engineering, and dozens of models, the application was approved in January 2014. As is their right, a couple of neighbors and interested persons requested a review of the permit. Those petitioners were able to present areas of concern related to inadequacies or issues of the engineering or modeling related to the permit. The petitioners failed and could not even raise a question of fact that the project would violate a requirement or that the permit was improperly granted. Shortly after that Rogers Group requested and received their Drainage Board approval and an IDEM permit for an NPDS Ruler 12 discharge permit as well as US Army Corps of Engineers discharge permit. A local ordinance was passed which specifically banned mining in Tippecanoe County just as these permits started to stack up. Because of that we had to address that ordinance and go to court where the ordinance was ultimately struck down. After all the decisions were final the Rogers Group refiled the petition for special exception in 2017. The process was slow but the real question is what does it all mean. The state and the county have the same limitations on projects within the floodplain. The entire area, including all projects already existing and potential proposed projects, may not increase the 100-year Flood event by more than 14/100 per foot (1.66"). On average, a Rogers Group project would increase the floodway by less than 1/2" over the 100-year flood plain.

Jay Seeger informed Chris Shelmon that his allotted five minutes are up.

Chris Shelmon asked the Board for additional time to address some final issues due to these unique circumstances and the breadth of the staff report.

Gary Schroeder and Carl Griffin said they would like to grant Chris Shelmon additional time so they can hear what he has to say.

Legal counsel and the remaining four Board members had no objection.

Christopher Shelmon said on average, the project has less than a 1/2" impact on the 100-year flood event, and the most impact on any given cross-section studied was a little over 3/4". This project was based on a "worst-case scenario". The 100-year flood event in that area is 16' of water and this project would add less than 1/2" of water. He pointed out that there are only two homes north of Old SR 25 and those homes are respectively 20' and 90' above the base flood elevation. After it was determined that the project is safe and the ordinance banning the operation was undone the issue of the spoils pile came up. Staff brought up this issue seven years after the project was initially discussed and has determined that it is in contravention of some associated Flood Plain *UZO* restrictions. The site plan is fundamentally the same as it always has been because the spoils pile was shown in the floodway in the 2013 special exception filing, and again in 2014. That is the reason Rogers Group had to go to the DNR to prove that the mining operation would not have an impact. The purpose of that section of the ordinance says it is "to prevent harm to lands within the Flood Plain zone" and that is what the DNR specifically addresses. He added that the spoils pile is a permitted accessory use. According to *UZO* 4-1, "a use which is incidental to and located on the same premises as a primary use is an accessory use". Mining is permitted in a Flood Plain and all mines have overburden because it is needed to get down to the actual materials. The main question in the staff report is if the spoils pile creates prohibited islands of fill. He displayed a photo of the site where the spoils pile will be located in the cornfield and explained that it will not be fill and will not create an island. The term "fill" is not specifically defined in the ordinance however "suitable fill" and the "general intent of fill" is addressed. The ordinance states that suitable fill is fill designed for a specific purpose whether to be suitable for building a structure, having inhabitants, or having people access it.

Petitioner is proposing a pile of dirt with no intention of people being on it. "Island" is not defined in the ordinance and the staff report is the first time we see a definition. He displayed a slide from Black's Law Dictionary that defines an island as "a tract of land surrounded by water but smaller than a continent. Land that is continually submerged except during abnormal circumstances". Islands can be natural or man-made and if we were proposing to put the spoils pile in the river we would be creating an island. He does not think these semantic games are the real issue. The main point is that the spoils pile is a permitted use as an accessory use and the specific spoils pile, the main reason for the DNR permit, will not adversely affect the floodway and will not adversely harm any neighboring land or person. All of the potential or possible negative effects mentioned or addressed in the staff report are scientifically disproved.

Van Medlock, 421 Great Circle Road, Nashville, TN 37228, Director of Environmental Services for the Rogers Group, said he will be discussing air quality, water quality, and the mining operation as it relates to noise. Air quality is regulated by Federal, state, and local restrictions. Rogers Group will be operating under an IDEM permit that will regulate the process equipment and the process production, establish operating requirements, and assure that we keep production records that show compliance with the conditions in the permit that are required to be kept on file, on site, and available for inspection. Employees monitor dust emission. The primary sources of emissions in the air permitted are process emission from a crusher screen to conveyors, and emissions from the load out/stockpiling and the truck traffic. He then listed the NSPS requirements for any equipment manufactured after April 2008. Rogers Group employees are trained to observe observations daily and make sure corrective actions are taken before we reach those limits. The plants use a dust suppression system that uses on-site water to control the emission and the water can be recirculated. The dust is encapsulated and allowed to go to the pit farm where it is allowed to settle out. Rogers Group will run a water truck to control those emissions and prevent any dust from leaving the site. Rogers Group has an IDEM permit that allows for dewatering from the pit. No chemicals are added to that groundwater and stormwater runoff but it is considered process wastewater because the water comes into contact with the stone and material. Rogers Group is required to have a certified wastewater operator to oversee the implementation and operation of the wastewater treatment system. Rogers Group has a mining permit from the Indiana Mineral and Aggregate Association. That and along with Tippecanoe County regulations will help guide and direct the day-to-day plant operation. With the new crushing equipment available, the noise has been significantly reduced around the property lines to around 55dBA. He went on to say he is in charge of over 600 air, water, and mining permits and Rogers Group had only three violations in 2017 and most of those were related to paperwork. He said there will always be issues with mining operations but he thinks the most important thing is how you respond to the issues.

Andrew Gutwein submitted a copy of some of the regulations Van Medlock referred to.

Erich Hart, 105 North 10th Street, Lafayette, IN 47901, said he is one of the engineers with TBIRD Design Services who worked on the construction plans, floodway analysis, site drainage study, and permits for this project. IDNR addressed the impacts on the Wabash River floodway, fish, and wildlife before issuing a permit for construction in the floodway. IDEM and the Army Corps of Engineers reviewed the documentations and approved the project. The Tippecanoe County Drainage Board addressed compliance with compensatory storage, treatment of stormwater quantity, and stormwater quality before approving the project. The construction plans were developed in accordance with the *UZO*. The project will require a new driveway off Old SR 25. Since the Hoosier Heartland opened Old SR 25 is using 16% of its original design capacity. This project will only add 75 vehicles per day, increasing the capacity to 17%. Per the *UZO*, the construction plans included landscape plans showing the required bufferyards and planting details. The bufferyard will extend around the entire perimeter and include more than 1300 trees and 4500 shrubs with the only unobstructed view at the new entrance.

Tim Balensiefer, 105 North 10th Street, Lafayette, IN 47901, said TBIRD is a local engineering/surveying company operating in Lafayette for over 18 years. He assured everyone that every project TBIRD is involved in is handled with the utmost integrity and the company's goal is to protect the health, safety, and welfare of the public. TBIRD was in charge of the permitting processes and also in charge of overseeing the groundwater modeling report that was distributed earlier. The report was completed by two outside consulting firms because there are no local firms that do these reports. The report is actual data gathered from the site. The summary/conclusion on page 25 of the report states that there is no private residential

well impact south of the property owned by the quarry. The report addresses the Fen in the area (low marshy area) and Rogers Group will be installing a grout curtain wall as part of the quarry operation.

Phyllis Hasser, 603 North Jefferson Street, Florissant MO, 63031, area manager and vice-president for Vibratex, a vibration consulting and monitoring firm. The company monitors hundreds of quarry locations around the country. The US Bureau of Mines Report of Investigations 8507, published in 1980, contains the most restrictive criteria that are based upon the measured structural responses and cracking based on specific blast events. The study included many types of residential structures (one-story, two-story, brick, frame, plaster interior, drywall interior, etc.). The two ground vibration factors are peak particle velocity and frequency. She explained that peak particle velocity tells us how much energy is in a wave, measured in inches per second. A blast within regulatory limits is not a permanent displacement because the particles go back to their place of rest. Frequency measures the nature of the wave, and that is measured by how many times the wave moves peak top to peak in one second (1Hertz). Structures respond more to low frequency than they do to high frequency. Energy has to be kept low with lower frequency and higher with higher frequency. She displayed a bar graph showing the vibration standard and said at a peak particle velocity of .02 human beings can start to feel and notice the vibration but vibrations have to be .50 (100x stronger) to cause damage. There is a disconnect between what people can feel and what causes damage. A recent study shows that temperature and humidity changes from day to night can cause more of an effect on a structure than a blast in regulatory limits. Indiana has a 1" per second peak particle velocity limit. Most of the highest peak level velocity at a Rogers Group quarry that is similar to the one being proposed here are below .25. She went on to say that air blasts do cause structures to respond. There are dBA limits but they are not the limits we would normally see or hear. 133dBA is the same as a 125mph gust of wind. Rogers Group has remote monitoring stations set up to measure the vibrations so that when they are triggered the data is automatically uplinked for monitoring.

Chuck Palmcook, 3518 Township Road 142, Findlay, OH 45840, Technical Manager for Region 4, Austin Powder Co., displayed a graph showing what is permitted by the state but the Rogers Group has set a standard limit of ½" and it is up to his company to make sure they stay below that limit. He then showed an actual blast at a Rogers Group operation that is only .25" as well as several others, all under the .50" limit. He then showed an actual blast from a Rogers Group quarry and that is what a blast here will look, sound, and feel like. The barest minimum amount of explosive is used to break the rock and get it on the ground in a usable form. Using more explosive often creates risk from higher vibrations and air blasts while creating unwanted results like too much fragmentation. He then described the process used for recording and analyzing model blasts and added that each blast lasts less than a second. It is his company's job to make sure the blasting does not affect the neighbors.

Adam Regich, 2339 North 925 West, West Lafayette, IN 47906, said he has been involved in mining for the last 14 years and for the last seven years he has been employed by the Rogers Group. He pointed out that a stone quarry is not much different than a sand and gravel mine. This Board has approved many mining operations in Tippecanoe County, most recently in 2014 when a sand and gravel operation expanded its footprint on the south side of Lafayette. Tippecanoe County's growth and increased demand for stone, sand, and gravel is the reason for that expansion and this request. The process for stone or sand and gravel is very similar because both require extraction of a natural resource from beneath the earth's surface. Once extracted, the material is crushed, screened, sorted, and washed. Mining limestone or sand and gravel is a process of taking big rocks and turning them into small rocks with nearly identical processing and handling equipment. The first difference between mining limestone and sand and gravel is that limestone deposits are large consolidated slabs whereas sand and gravel deposits are loose in the ground. The consolidated limestone requires blasting to begin the sizing process. He explained that blasting is a controlled use of explosives to break the rock. Blasting lasts for less than two seconds and will occur no more than twice per week. That equals 208 seconds or less than four minutes per year. Once the blasting is complete you cannot tell the difference between a quarry and a sand and gravel mine. Most sand and gravel deposits are less than 100' deep whereas a stone quarry is 200'+ deep and that is due to geology. This proposed quarry is fundamentally the same as the existing sand and gravel mines in Tippecanoe County. The mine will be a mere 60 acres in the middle of a 525 acre field that is owned exclusively by the Bosma family. Normal business hours will be Monday through Friday from 6:00am to 6:00pm with occasional extended hours for special jobs. Extended hours are usually for loading trucks and added that it is illegal to blast at night. He asked the Board to allow Tippecanoe County to expand and grow with locally mined materials and approve this special exception request.

Larry Bosma, 7830 Old SR 25 North, Lafayette, IN 47905, said his family owns the farm where the proposed quarry will be located. His parents bought the property 54 years ago and he understands that Standard Oil drilled the farm in the 1950's and did not find any oil. They did find good quality limestone. In the 1970's a local company drilled and took core samples to start a stone quarry because the stone was good. The county supported the mining but the timing was not right and the company failed. A former resident informed him that the Millers were aware of the possibility of a quarry when they bought their home over 40 years ago. He is baffled when people complain about things when they move in by it. He has heard he and his brother are selling the farm and moving away. His brother built a new house closer to the pit and he plans to farm another 10 years. He and his brother are leasing the property to the Rogers Group and retaining ownership. The pit will be in the highest part of the farm field and it does not grow a lot because the area is very rocky. The proposed pit area needs irrigation to grow crops and it is not prime soil. He irrigates about 500 acres and in the driest months he pumps millions of gallons of water a day because it takes 27,225 gallons to make 1' of water on one acre. Sometimes he irrigates for weeks at a time and there has never been a complaint from a neighbor about lowering their well. He remembers the quarry field flooding when a neighbor's levee gave way, and when they were working on the dam at the reservoir. The flooding was aggravated by the bridge the county built just north of Americus. The bridge is 50% shorter than it should be and they put a ¼ mile levee there that backs the water up a foot all the way to Delphi. His house would be the closest to the quarry and he asked the people living next to the Delphi quarry about noise. The neighbors said there is some noise from the crusher and they have never seen dust where they live. The traffic on the road will not be increased by much and at least 30 more stone trucks drive by his house on Old SR 25. He said he struggled with the decision to sign on with this venture and prayed about it a long time because some of the residents in the area are very good friends of his. He does not think anyone will be significantly bothered after seeing the research, water samples, and core testing. He visited the nice homes that were built next to the Rogers Group quarry in Bloomington.

Andrew Gutwein said we have heard a lot of numbers and we will hear a lot more when we talk about the quarry tonight and we need to put it all in perspective. The Bosma property already has an irrigation well that pumps about 1,200,000 gallons of water a day and that is two or three times what the quarry will pump. The hydrology report, based on core samples and wells made on this site, that was specifically done for this site, shows that Rogers Group will pump a maximum of 440,000 gallons of water a day when the quarry is at full depth. The average flow rate for the Wabash River is over 1,000,000 gallons per minute. The 440,000 gallons the Rogers Group will pump daily is less than a ¼ teaspoon. He then displayed a ¼ measuring teaspoon and a gallon jug filled with water. 1" of rain is about 27,000 gallons of water on an acre and Tippecanoe County receives about 38" of rain per year. That means each acre in Tippecanoe County receives about 1,000,000 gallons of water. It will take about 155 acres of land to take up the 440,000 the Rogers Group will pump per day (160,000,000 gallons per year). Only about 1/3 of the rainwater gets back into the soil and that means we need 465 acres. The Bosma property is about 550 acres and the quarry operation will only use about 10% of the property. The 550 acres will receive about 570,000,000 gallons of water from rain and this is significantly more than the quarry will ever pump out. It is easy to understand how we can say the quarry operation will not dry up the neighboring wells. Rogers Group is so confident the neighboring wells will not be dried up that if you live within ½ mile radius of the quarry and get a well survey before the mining starts, the company will restore at least as good of a well as you have today. The only difference between this quarry and the sand and gravel operation is the blasting. Professionals in the field told us how the blasting is conducted, monitored, and regulated. The blast happens in the blink of an eye and any audible activity is only a couple of seconds. The state blasting limit is equivalent to a 25mph wind gust and data shows that Rogers Group consistently maintains about ¼ of that state limit. Changes in weather have been proven to have more impact on a home than a properly executed blast will. Indiana residents use 8,343 pounds of crushed stone a year per person. There is a sand and gravel or quarry in 86 of our 92 counties. Staff stated that there are too many people living nearby to this location and that this is prime agricultural land. There are concerns about the Wabash River but he showed a state map locating the 10 crushed stone quarries and six sand and gravel operations upstream on the Wabash River and its tributaries. The Americus site has about 837 people in a two-mile radius. The Mitchell quarry has about 309 people within a two-mile radius. The Delphi quarry has 4,600 people within the two-mile; Monon has 2,000 and Rensselaer has 8,500 in the two-mile radius. Geist Reservoir has a large quarry operating with 16,000 in the two-mile radius and Carmel has 27,000

people within a two-mile radius. The great thing is that once the mining is done we get places like Keystone at the Crossing. These mining operations co-exist with neighbors across our state every day.

Tom Buck, 3425 O'Farrell Road, Lafayette, IN 47905, said he has been purchasing limestone for 35 years and is knowledgeable about the product and how the product is made. He knows the Board has knowledge and experience to make its decisions. He asked the Board to make a decision based on the meaningful facts. He does not believe the economic impact of a new limestone quarry has been presented in a meaningful way. Taxpayers will reap the benefits of lower costs per ton. The County wheel tax was a big issue years ago but he knows with local competition the effects of lower costs will be the equivalent of multiple numbers of wheel taxes each and every year.

OPPOSITION

Mayor Tony Roswarski, 515 Columbia Street, Lafayette, IN 47901, said it is important that the Board knows he met with representatives of the Rogers Group and the Americus Coalition to hear both sides of the story before deciding to testify today. He said he is speaking tonight as President of the Wabash River Enhancement Corporation (WREC). WREC is a 501c3 agency created to serve as the point for planning and implementation of enhancements of the Wabash River Corridor in Tippecanoe County. WREC does not support the development of a quarry in the Wabash River Flood Plain and respectfully requests the Board deny the request. WREC and its community partners have invested over \$2,600,000 in comprehensive planning to enhance the river corridor. The planning, led by the Army Corps of Engineers hydraulic study, the Wabash River reconnaissance study, and local corridor master plan efforts for the entire 30+ mile Wabash River corridor and the Lafayette/West Lafayette urban riverfront, demonstrates the desire and intent of our community to create a Community of Choice in Tippecanoe County centered around an enhanced Wabash River Corridor. WREC has begun to implement these plans with the \$2,800,000 Riverside Promenade, Phase 1 development project in downtown Lafayette. WREC has also acquired 25 strategically located properties and has begun environmental clean-up in an effort to begin implementing the communities' master plan for the river. The plans call for the development of the Wabash River greenway along a 30+-mile radius of the Wabash River Corridor. Our greenway goals include improving Wabash River water quality and its environment and reducing flooding through preservation, and conserving Flood Plains, wetlands and related outstanding environmental areas in the corridor. Developing a world-class outdoor recreation setting highlighted by a loop trail system connecting the corridor to improve access to, along, and across the Wabash River along with enhancement to existing and new corridor greenspace while recognizing and celebrating the importance of history of our nation and state that occurred in and along the river corridor. Another goal is developing in the heart of the Wabash River Greenway an exciting urban riverfront that connects Lafayette and West Lafayette to each other and to the river. WREC believes that constructing a quarry in a floodplain that will be discharging over 400,000 gallons of water a day into the river, along with a spoils field that is almost a mile long and wide as a football field, could affect the river in a potentially negative way. That could be from the velocity of the water, erosion that might occur along the banks, constricting the flow, or increased sediment. Anything that could affect us down river is a cause for concern. Any significant damages or changes to environmental areas and endangered wildlife habitats that would destroy part of our history in a key segment for the potential of the greenway system is simply not within WREC's mission and we do not believe it is sustainable or a good idea for the future. As the mayor of Lafayette, he appreciates many of the kind letters that have said that the economy is booming in Tippecanoe County and we have more jobs than we have people to fill them. That is a good problem to have. The Rogers Group are fine people and this has nothing to do them but rather it is the location of the quarry in the Flood Plain and the impact it could have on the Wabash River development and the economy of the future. Our future is not with that quarry or any quarry but with attracting and keeping talent in this community, like innovators, entrepreneurs, and new business creators. Developing the workforce for the next generation is the future of Tippecanoe County and those people look for quality of life amenities and often choose where they want to live before choosing where to work. They are looking for homes in communities that are recreational, green, environmentally sustainable and that is the future of Tippecanoe County. Development of the Wabash River in our urban core and the greenway plays a significant role in how this community will move forward years from now. He asked that this petition be denied.

Stan Lambert, 322 Buchanan Drive, West Lafayette, IN 47906, said he supports Tony Roswarski's testimony and asked that this request be denied due to the impact on our community's Wabash River Greenway Plan. WREC's mission is to enhance the quality of life in the Wabash River Corridor by

providing sustainable opportunities to improve health, recreation, education, economic development, and environmental management. Sustainable enhancement is defined as being sustainable environmentally, economically, and tying in to the local cultural and social fabric of our community. A proposed enhancement must also be something that will work not just in the short term but in the long term. Any recommendation for a proposal to enhance the corridor must meet all of these criteria. WREC uses these same criteria when considering any proposed development in and along the Wabash River corridor such as the proposed quarry. WREC does not pretend to be experts in hydrology or environmental science but we have studied in depth the natural and built conditions of the Wabash River corridor. He presented documentation that includes a selection of some of the comprehensive planning WREC has completed at a local cost of \$2,600,000. It is WREC's position that many of the design and operational characteristics for starting and operating the quarry within the 100-year floodplain are not found ecologically and do not allow for sustaining the quality of life presently enjoyed by area residents in and around Americus. A 400' deep hole in an area with a sporadic or unconsolidated aquifer and in which there are 100's of nearby residential wells pulling from a depth of 3200' will probably cause local wells to experience severe to catastrophic dropping of the water table in those wells. This happened at other quarry sites across the nation and there is no way we can say that it will not occur here locally. A spoils pile that effectively bisects and reduces by half the existing site's flood plain will eventually cause flooding issues. The spoils pile could cause failure of the 100+-year Deer Creek Levee across the river, flooding issues upstream in Delphi, or flooding issues downstream in Tippecanoe County. Reducing the flood plain constricts the area for high water to flow and that increases velocity and the occurrence of soil erosion. Sediment is the #1 pollutant by volume in the Wabash River statewide. Within 1000' of the proposed quarry location is one of the state's most rare and high value Fens. A Fen is a water source occurring when an aquifer breaches the ground surface and its value is in the tremendous variety of wildlife it can support. The pristine water that drains to the river from the Fen improves the river water quality, especially during times of low water when the drainage can support river fish and wildlife communities. A drop in the water table would significantly harm or destroy the Fen. He urged the BZA to reject the request for a variance to build a quarry in the Wabash River Flood Plain.

State Senator Brandt Hershman, 200 West Washington Street, Indianapolis, IN 46204, said he is the Senate Majority Leader and a Tippecanoe County resident. He thanked the Board Members for their service because they have one of the toughest jobs in government because the requests are often contentious and emotional issues. He believes in local authority and this request is not a state issue. This is only the second time in 17 years he has appeared before a BZA and both were regarding this project. He feels strongly that it is bad public policy to approve this request. He understands the Board has to separate emotion from fact but the facts in this case are not flattering to petitioner's request. The petitioner has refused to answer a number of questions posed to them that have a direct impact on the project. He has lived in the area for 15 years and knows the neighborhood. He added that this request does not affect him personally but it does affect his constituents. The day before yesterday was the 5-year anniversary of the opening of the Hoosier Heartland Corridor. Not long ago a section of the road was named for Mark Davis, a champion for economic development but even more so he was a champion of safety. He witnessed first-hand how dangerous Old SR 25 was, is, and could be with the reintroduction of heavy truck traffic. It is not just a safety issue but also a financial issue for the county because Old SR 25 is no longer a state responsibility any longer. The truck traffic to be introduced on Old SR 25 will almost certainly require expensive and repetitive major maintenance on that piece of road. He said the support letters were almost universally not from anyone living anywhere near the project and saving \$2.00 a ton on trucking costs is a poor reason to negatively impact residential neighborhoods for the next 6 decades. He supports our County Commissioners 100%. He appreciates the concern about saving INDOT money but he assured the Board that state highway construction will be just fine without this quarry. He knows the problems that quarries can cause. Andrew Gutwein mentioned the quarry in Rensselaer and he knows folks who live around that quarry and they have had problems for years with dust, vibration, and water table impacts. Rogers Group sees a business opportunity and he does not think it is bad company. The company looks to go where the stone is and he does not blame the Bosmas for wanting to maximize the value of their property but we have rules on usage of property. Neighbors and the public good must be respected. Rogers Group business interest and the owners' property rights do not outweigh the negative impact of public good in this case. The best-laid engineering plans sometimes fall victim to the unpredictability of Mother Nature. We get substantial flooding that affects the Flood Plain and he wonders what happens when the million gallons a minute in the Wabash that was referenced earlier ends up in the quarry by mistake. Equally important is the peaceful enjoyment of pre-existing neighbors. We need to

look at who was there first and how the area was planned to be used. If you build next to an airport there will be airplane noise. Build next to a hog barn there will be odor. He does not have much sympathy for the residents if the airport and hog barn were there first. Nobody who built in these residential neighborhoods expected a stone quarry to appear next to them. This project is not in the public interest, or well thought out and will impact the growth, safety, and peaceful enjoyment of the neighbors for generations. The quarry is unnecessary and he opposes it.

District 27 State Representative Sheila Klinker, 200 West Washington Street, Indianapolis, IN 46204, said she served on the Area Plan Commission for four years and she knows the Board has a tough job. She saluted Andy Gutwein for the professionalism of those who spoke earlier. She is here to represent her constituency. She has represented many of the folks that will be affected by tonight's decision since 2011 and has attended many meetings held by those who feel strongly about this issue. The neighbors do not want to stop business but this is an area they feel will be injurious to their wells and property values. She does not believe this is the right place for this business even though it is a great business. She thinks the Rogers Group is a good company but hopes the company can find another location because her constituency and WREC's goals will be affected.

District 26 State Representative Sally Siegrist, 3665 Chesterfield Street, West Lafayette, IN 47906, said none of her constituents live in the area near the proposed quarry but as a former member of the WREC Board she agrees 100% with Mayor Roswarski and Senator Hershman that there are better places for a quarry. She asked the Board to deny this request on behalf of her colleagues and the people who live in that area.

Liz Solberg, 4030 Sylvan Trail, West Lafayette, IN 47906, said she is speaking on behalf of the League of Women Voters of Greater Lafayette. She said she also co-chairs the Environmental and Sustainability Issues Committee and also coordinates Wabash River Corridor Issues for the League. She explained that the League is a non-partisan organization that encourages citizen participation in government. As part of that mission the League studies issues and, if a consensus is reached, takes supportive action. Comprehensive planning has been a major focus of our community and the League and produced commendable results on flood plain protection, preservation of highly productive agricultural land, wetlands preservation, water and air quality safeguards, and sustainable land use. All of these contribute to quality of life and especially to the quality of place that are so crucial to vibrant economic development. She went on to say the League also strongly supports the zoning ordinances and codes that accomplish these planning goals. The decision made tonight could negatively impact important natural features of our community and she urged the Board to deny this request.

Ryan O'Gara read letters of opposition from:

West Lafayette Council, Ordinance, 222 North Chauncey, West Lafayette, IN 47906,

Tricia Tonagel-Bender, Bender Construction, 7114 Wentworth Lane, Lafayette, IN 47905,

Janice Prosser, 9106 Brandenburg Lane, Lafayette, IN 47905,

Mike Shelton, 20 Tall Timber Lane, Lafayette, IN 47905,

Vanessa Rainwater, 7701 Summit Lane, Lafayette, IN 47905,

Jessica Shelton, 18 Tuscany Court, Lafayette, IN 47905,

Theresa Eddy, 8400 Old State Road 25 North, Lafayette, IN 47905,

Olga Puskos, 2371 Deerpath Drive, Schererville, IN 46375,

Howard & Susan Rothenberger, 8512 Timber Lane, Lafayette, IN 47905,

Janice Szczepanski, 8305 Timber Lane, Lafayette, IN 47905,

Mike Voelz, 3708 North Connie Drive, Lafayette, IN 47905,

Daniel & Victoria Cassens, 5038 Morehouse Road, West Lafayette, IN 47906,

Marisa Marcussen, 8880 East 500 North, Lafayette, IN 47905,

William & John Brown, Carroll County Board of Commissioners, 101 West Main Street, Delphi, IN 46923

Daniel Anderson, 10430 East 900 North, Lafayette, IN 47905,

Don Lehe, State Representative, District 25, 200 West Washington Street, Indianapolis, IN 46204,

Jody Tishmack, 1801 Sycamore Ridge, Lafayette, IN 47905,

Peter Waser, 6317 Stair Road, Lafayette, IN 47905,

Charles & Judith Bunnell, 6220 Wood Haven Drive, Lafayette, IN 47905,

Tina Vancel, 3028 Henry Street, Lafayette, IN 47909,
Susan Deno, 3821 Maplewood Drive, Lafayette, IN 47905,
Randy Deno, 3821 Maplewood Drive, Lafayette, IN 47905,
Curtis Vancel, 3028 Henry Street, Lafayette, IN 47909,
Battle Ground Town Council, PO Box 303, Battle Ground, IN 47901,
Debra Frost, 7506 Old State Road 25 North, Lafayette, IN 47905, and
Margaret Ebbeler, 3605 Driftwood Drive North, Apt. #103, Lafayette, IN 47905.

Kyle Cray, 415 Columbia Street, Suite 1000, Lafayette, IN 47901, said he is an attorney and will be discussing some of the legal aspects of this evening's subject. In June and July of 2014 the Tippecanoe County Commissioners passed an ordinance in an attempt to protect all people in urbanized areas of Tippecanoe County from the ill effects of mining and quarrying. In January 2015 the Rogers Group sued the County Commissioners and the BZA as well as other parties. One purpose of the complaint was to prohibit and nullify the new ordinance. The ordinance was upheld in our county court, it was overturned in the Indiana Court Of Appeals and was refused a hearing in the Indiana Supreme Court. The Court of Appeals ruled that the ordinance was specifically a zoning ordinance and as such did not meet the requirements of the 600 series procedures for submitting and approving a zoning ordinance. Another purpose of the lawsuit is why we are here this evening. The Rogers Group also wished to invalidate the entire Tippecanoe County *Unified Zoning Ordinance* by arguing that the requirement for a special exception hearing violates Indiana Code Section 36-7-4-1103 because it would prevent Rogers Group from exercising its mineral rights. The courts ruled that the Rogers Group must comply with the requirement and must obtain a special exception from the Area BZA before maintaining a mine in the Flood Plain zone. The Rogers Group was unhappy with this result and asked for clarification on that ruling but the petition was denied. In June 2016 the Rogers Group petitioned for transfer to the Indiana Supreme Court but they had twisted their petition wanting the BZA to rule only on flood plain criteria. By a vote of 3-2, the Supreme Court voted not to grant a transfer and to allow the ruling of the Indiana Court of Appeals to stand. That is why we are here tonight. The opinion issued by the Indiana Court of Appeals states: "If Rogers Group believes that the legislators had a contrary intent, its remedy lies in the legislative process and not in this court". Every presenter that speaks after him from the Americus Area Community Coalition will refer to a particular ballot item when considering a no vote related to their presentation. While some things like noise and traffic are self-explanatory, other things are not. *UZO 1-2* says that the Board will serve the purpose of promoting the health, safety, convenience, and general welfare of the area in and around this proposed quarry. Continuing under *UZO 1-2*, the code talks about securing from flooding and other dangers promoting health and general welfare. He asked the Board to please remember the adequate light and air issues when reviewing the discussion about dust, silica, and air-related illness in Puerto Rico. He also asked the Board to remember the transportation discussion when reviewing the bus routes in the area and consider the provision for adequate water when potential loss of ground water is discussed. *UZO 1-2* refers to uses that conserve the value of buildings and land.

Barb Knochel, 7026 East 550 North, Lafayette, IN 47905, Wabash Township Trustee, said she wants to talk about the conditional approval given to the Rogers Group by the DNR on January 30, 2014. The permit was renewed by request and now requires Rogers Group to begin work by January 30, 2018. A new permit will be required if this does not occur. The permit has nine general conditions and 24 special conditions that must be adhered to. The Rogers Group must adhere to all information provided in 22 miscellaneous correspondences with the DNR. She asked who will follow-up on these dozens of pages of information but believes no one will. Concerns from the homeowners that are not part of the special exception are the Fen, aquifer, blasting, and the adverse effects of the underground stone formation or on the homeowners' water supply. DNR dedicated two conditions to the spotted turtle. The first condition says that an exclusion fence must be erected around the entire construction site for as long as the quarry exists. If that cannot be done by March 1st, they cannot begin construction until after May 30th of that year. The second condition says that if you ever find a spotted turtle on the site you have to move it back outside the fence as close to its habitat as possible. In order to do that you have to get a permit to handle the species. She wished DNR had concerns like that for the local residents. Bats are the other species mentioned for special conditions. No tree greater than 3" in diameter with loose bark can be cut down between April 1st and September 30th without written approval. There is a concern about minor waterways on properties and three conditions discuss minimizing the disturbance, not allowing construction equipment to cross your bank, and not constructing additional runoffs or causeways. Trees are a concern because for every tree over 10" in diameter that is removed the Rogers Group must plant five trees that

are at least 2" in diameter at chest height. Seven conditions are concerned with the river bank and working or construction in the waterway and none of it has anything to do with digging or operating a quarry in the flood plain. One condition says Rogers Group must build a slurry wall as proposed but "as proposed" is not defined. If there really was a concern, they would have identified the plan and established testing and follow-up. Seven conditions are associated with removing refuse from the flood plain and she is not sure the people at IDEM even looked at the site proposal. She is not sure you can be so concerned with refuse in a flood plain and allow a pile of refuse the width of a football field, six stories high, and up to a mile long that will remain an eyesore to all forever. Condition #22 says they must obtain prior written approval for construction, evacuation, or filling in the floodway beyond the scope of the project. That means that once Rogers Group is here they only have to request approval to keep expanding their operation along the Wabash River and no one will even know about it. All Rogers Group has to look out for is the spotted turtle and everything is okay. The BZA is the last stand for the quality of life for hundreds of citizens of Tippecanoe County.

Cathy Shelton, 20 Tall Timber Lane, Lafayette, IN 47905, said she will explain the APC's decision regarding the Rogers Group proposal. An Executive Committee public meeting was held on Wednesday, September 6th. There was to be a discussion on whether the Rogers Group request was in the interest of the *Comprehensive Plan*. APC staff presented its report stating that the special exception request will adversely affect the *Comprehensive Plan*. This was to be followed by a discussion from the Rogers Group or its representative as to why this open-pit mine would be within the body of the *Comprehensive Plan*. The attorney for the Rogers Group said he was not prepared to speak. She thinks if they would have talked to APC staff about the procedure to be followed they would have been prepared to speak. There were nine presenters in opposition to the open pit mine and the first presenter outlined what the Executive Committee was about to do. Two presenters took us on a three dimensional tour around the affected area around Old US 25 and into the quarry. That presentation will be shown again tonight. A subsequent presenter established the term "prime farm land". She then displayed a map of northeastern Tippecanoe County highlighting all the land that meets or exceeds a 125 bushel threshold. Another presenter said her land yielded 175 bushels of corn per acre and two farmers testified to a yield of over 200 bushels per acre. The farmer with the Fen on his property made a powerful presentation of the benefits of the Fen to the area and its vulnerability to its needs for surface water. The next presenter informed the Board of the Deer Creek Levee and its benefit to the 5,000 acres of farmland with yields of over 200 bushels per acre on the north and west sides of the Wabash River. The final presenter summarized the prior presentations and stressed the adverse effect of the open pit mine on the community. The Committee asked if anyone would like to offer a rebuttal. She believes counsel for the Rogers Group stated: "Not at this time". By a vote of 6 to 0 the Committee voted that the construction of an open-pit mine within the Flood Plain of the Wabash River would adversely affect the *Comprehensive Plan* for our county.

Kay Miller, 8143 Old SR 25 North, Lafayette, IN 47905, said she is the Co-President of the Americus Area Community Coalition (AACC) that is a non-profit environmental group representing the homeowners in the area of the proposed quarry. She asked Mr. Gutwein and Mr. Shelmon to inform Larry Bosma that she and her husband were not aware of any proposed quarry until after closing on their house 40 years ago. Some of the speakers are experts in their field but most will be average working people who have come together tonight to speak out against the development of the Rogers Group industrial mining complex. The sound, light, and traffic from the quarry will be annoying but the loss of property value, loss of wells, and the environmental impact are the more important issues. She and her husband began petitioning over four years ago and along with neighbors have over 1480 signatures from Indiana citizens who are older than 18 years who oppose a quarry near Americus. Most of the signatures are from people who live in the area and others are people who visit or do business in the Americus community. AACC wanted to know what concerns people had so a survey committee, consisting of seven volunteers, visited 120 of the 150 homes in the area. There was a 93% response rate and surveys were collected from 151 people who would be directly affected by the quarry. The following seven items all received "very concerned" response levels from over 90% of the people surveyed:

7. Fugitive dust emissions;
6. Degradation of Old SR 25;
5. Dewatering or loss of well;
4. Hours of operation;
3. Increased truck traffic;

2. Increased noise; and
1. Loss of property value.

She went on to say that 84% of those surveyed were concerned about:

1. Loss of wildlife;
2. Compliance issues;
3. Wabash River Corridor integrity; and
4. Child safety.

She added that 99.3% of those surveyed said they did not want a stone quarry in Americus. Tonight's presentation uses the Board's special exception ballot. The Tippecanoe County UZO describes the term "general purpose" to promote health and general welfare. #3 on the ballot is whether or not this request will subvert the general purposes of the ordinance. This quarry does not promote health and general welfare. Many government entities like DNR are limited to viewing one small piece of a project. AACC believes item #3 of the ballot is the most important because, like the County Commissioners, it allows the Board to look at the big picture. The general purpose also mentions facilitation of adequate provision of transportation and water. Conservation of land and building values is also listed as a general purpose. Rejection of this request will preserve the safety, health, and financial security of the people currently living in the area for generations to come. A hole in the earth will always be a hole in the earth and a quarry is forever.

Barbara Devine, 9711 Brandenburg Lane, Lafayette, IN 47905, said she will explain the quarry project to the Board. She said a stone quarry is an open pit or underground mine created with the purpose of extracting dimensional stone. They are massive operations complete with blasting, dewatering, and a number of other public nuisance issues. Currently Tippecanoe County has the less intrusive sand and gravel dealers and they meet our county's stone demand without the harmful side effects of a quarry. The sand and gravel operations do not blast, dewater, or mine deeply in the earth. Stone quarries are massive industrial mining facilities that can be difficult to visualize. AACC hired a 3-D modeling consultant to render a video of the quarry using the plans provided to DNR by the Rogers Group. She added that the model has been rendered on top of Google maps to ensure accuracy of the scale and location.

Michael Devine, 9711 Brandenburg Lane, Lafayette, IN 47905, presented the video tour of the quarry from Old SR 25. He pointed out the 77' high, 310' wide, and mile long overburden pile that is built from the overburden material excavated at the site. He then highlighted the residences abutting the site on three sides. The video shows the operation from the perspective of a truck driving into the pit. Assorted piles of limestone brought up over 400' from the bottom of the quarry pit by a large off-highway mining truck is reduced to usable size by a series of rock crushers. After the limestone is crushed it is conveyed to the sorter and distributed to piles that differ by the size of the aggregate. The computer simulated mining truck begins its descent into a simulation of the quarry pit. The proposed pit is about the size of the Delphi quarry but the Delphi pit is wider while the Americus pit will be deeper. Rogers Group has estimated that their pumps will remove less than 3,000,000 gallons of water a day and that is the approximated pumping volume of the Delphi quarry. There will be 25 pumps located along the slurry wall boundary of the pit. It is difficult to sense how deep the quarry really is so the Statue of Liberty, rendered to its exact height of 305'1" tall, was used as a reference. Two and three quarters statues stacked on top of each other will fit into the pit and that would put the pit about 108' above sea level. It is hard to visualize how many people will be impacted by this development so he displayed a model showing the location of 153 residential homes with over 400 residents located within a 1-mile radius of the quarry. Over 2,500 people are located within a 2-mile radius of the quarry. He said a quarry of this magnitude will negatively impact our neighborhoods forever.

Allen Hoffman, 4740 Masons Ridge Road, Lafayette, IN 47909, summarized his professional history and said he will discuss an island and how it violates the UZO. Article 2-27-18(e) of the UZO under Flood Plain zones talks about building in a Flood Plain. While it is correct that the Rogers Group wants to remove in excess of 500,000,000 cubic feet of soil, sand, and rock from the site, they want to build a tremendously large refuse pile. Upon completion, the pile will be over 100 yards wide, 60' above the FP, and over a mile long with at least 20' flat on top. It would take almost a minute and a half to drive past this man-made mountain if you drive the speed limit along Old SR 25. He presented a slide showing a large hole in the ground and a long refuse pile but from Old SR 25 you would only see the refuse pile. If the area floods the refuse pile would look like an island and would be over 600' from the nearest land. The UZO states "however islands created of fill material shall not be permitted" and the UZO offers no

remedy. The Area Plan Executive Committee voted that this open pit mine in this location is against the *Comprehensive Plan for Tippecanoe County*. The September 21st staff report was sent to all parties and the Rogers Group chose to appear at the September BZA meeting and demand the Board hear their application for special exception at the October BZA meeting. Tonight the Board is reviewing an incomplete application with an unapproved site plan that has been submitted by a multi-billion dollar corporation with over 100 mines, gravel pits, and asphalt plants in the United States. It appears that the Rogers Group would have the resources to settle this issue in a timely issue but rather demanded to be heard no matter how unacceptable the site plans are. He has seen plenty of bully tactics used in his 30+ years of management and he thinks he is seeing the same tactics here tonight. The Indiana Court of Appeals confirmed the Board's right to hear this case. He asked the Board to enforce its own zoning ordinance by voting no on item #2 on the ballot.

Terry West, 5 Tall Oak Lane, West Lafayette, IN 47906, summarized his professional experience and said his work has been primarily in applied geology and has written a textbook that covers almost all the subjects that have been discussed tonight. The Rogers Group is going to have a 420' excavation through river alluvium down to bedrock and then into the bedrock material below that. A black New Albany shale deposit is right at the bottom of the sand and gravel deposits. Black shale has pyrite in it and has radon effects. The piles adjacent to the site will be made of soil and overburden but will also include black shale. Black shale is a hazardous material because it makes acid when you put water on it. He presented a slide showing a pile of black shale next to a highway project that has been draped so the black shale is not exposed. The yellow color dripping from the bottom of the pile is acid water/iron oxide. The Tennessee Highway Department put all the exposed black shale into the pile and covered it with soil and neutralizers calcium carbonate because of the acid production. The Highway Department did not want any of the piles exposed to the atmosphere because they know they generate acid mine drainage. He distributed copies of the log made at the quarry several years ago. A well was drilled and it was learned that the upper part is soil and black shale below that. Below that is very questionable quality rock. He does not think this is a good site for a stone quarry because the rock is poorer quality than what they have at the Delphi quarry. He thinks product from this quarry will not qualify as Class A aggregate because it has too much churn and pyrite in it and also shaley material associated with it. He then presented a log from the Delphi quarry that shows what quality stone looks like. The Delphi quarry has over 200' of quality limestone and produces some of the best limestone in the state. He thinks the cast-over piles will be larger than anticipated because some of the limestone will be wasted because it will be poor quality. He recommends the black shale be taken off-site to a sanitary landfill if this site is mined. He said this is a poor location for a quarry because there are groundwater problems associated with the site and major draw-down will be taking place. He added that a slurry wall is a difficult thing to build and he does not think the Rogers Group will be able to do it well.

Sandra James, 8511 East 950 North, Delphi, IN 46923, gave up her time so a video on hydrology could be shown. According to the video presenter, domestic wells obtain their water from sand and gravel overlaying shale and/or limestone bedrock. Dewatering the quarry will lower ground water levels. Computer modeling suggests drawdowns in wells will vary between 1' and 20'. A map was presented that shows the area in Americus where the shale thins out in the area of the river. Any water pumped from the river for the limestone operation will be pulled from holes in the overburden. The video presenter then summarized the drawdown with regard to pumping rates. Petitioner is proposing a slurry wall and talks about underflow. Underflow is water that flows from the outside of the slurry wall through the shale into the overburden and intercepted by a trench. We will see dramatic drawdowns in the residential areas if Rogers Group only pumps 3,000,000 gallons of water per day. The 3,000,000 gallons per day was combined with an aquifer connectivity of 100 feet per day (moderately low). If the petitioner would choose to pump water from the aquifer and not construct a slurry wall there will be a dramatic drawdown in the wells of the residents across Old SR 25. The shale is not impermeable and the IDNR indicated that the shale is a permeable aquifer.

Michael Taylor, 8505 Timber Lane, Lafayette, IN 47905, said he will be addressing item #4B on the BZA ballot that refers to the placement of outdoor lighting. The county ordinance defines light as glare caused by illumination caused by fluorescent lighting that cannot exceed 0.5 Foot Candle (FC) when measured in a residential zone. He presented the hand-sketched lighting plan presented by the Rogers Group, a multi-million dollar corporation, as their detailed lighting plan. The plan does not include an explanation of any of the dimensions. Rogers Group plans to mount several floodlights on two poles but the plan does not

say how many floodlights, how many watts, and the direction they will be facing. Rogers Group submitted a table showing a 1000 watt bulb being used but that information is contradicted by the specification sheet submitted that shows a 1500 watt bulb. Due to the lack of communication, the planners have to assume the higher wattage bulb will be used. He displayed an instrument that was used to take a reading at the Delphi Quarry in order to demonstrate the Rogers Group noncompliance. Readings were taken at verified distances from the lighting sources in question. He then displayed a photo of the type of light used at the Delphi quarry and other quarries. Readings were taken at various distances and the data points range from .641FC at 200' to .087FC at 500'. Using the Rogers Group site plan, the light pole will be about 220 feet from the property line along Old US 25. He then presented a graph showing the 0.5FC reading will be exceeded. He presented a slide of lighting on the conveyors at the Delphi quarry and noted that the Rogers Group did not include this type of lighting on the site plan for the Americus quarry. The lights on the conveyors will illuminate when the conveyor is in operation and he learned the lights cannot be turned off. The FC output of the conveyor light is higher and the conveyor lights at the Americus quarry would be approximately 130' from the property line on Old US 25. Readings from the Delphi quarry show the allowable 0.5FC limit will be exceeded. After analyzing the data it is clear the lighting compliance requirements cannot be met. He urged the Board to vote "no" on ballot item #4B.

Elizabeth Hoffman, 7701 Rolling Hill Drive, Lafayette, IN 47905, said she will discuss the proposed hours of operation as listed in the special exception petition. With regard to blasting, the petition states blasting will "normally occur", "as close as possible", "extraordinary circumstances", and "could occur". All those disclaimers appear in two sentences and she does not think petitioner is making a firm commitment. The state requirement for blasting is 1" per second of vibration at the nearest residence or business. During October 2015, the Rogers Group purchased the two closest residences to the location of the proposed open-pit mine and that means they can now use larger blasting charges due to a longer distance to the closest residence. The petitioner states they will self-impose a requirement of ½ of the state's maximum value (1/2" per second) but they do not say what effect the blasting will have on local residences. She observed a blast at the Delphi quarry in July 2014 and observed minimal seismic activity. She learned the vibration for that blast was calculated at less than ¼" per second. The vibration was so low because it is the value that keeps the neighbors from complaining. She also learned there is no blasting at the Delphi quarry when it is cloudy or windy because the neighbors complained. The ½" per second vibration is too high for this type of residential area. She thinks the criteria for notifying residents is also very vague because it does not state how far the residence(s) have to be from the blast. It also does not state how the residents have to be notified. The Delphi quarry telephones the closest resident but enforcement is difficult when the notification process is vague. The hours of operation seem well-defined until you read the verbiage regarding normal operating hours. It says if the company gets some undefined project, the quarry may work any hours but she should feel assured that they will only do this for as long as the undefined job lasts. The petition states the quarry will work limited hours from November to February but she is not sure what that means. The added quarry truck traffic on Old SR 25 will conflict with the school bus route schedules. She reminded the Board that the Hoosier Heartland was built to remove this type of traffic from Old SR 25. She questioned whether machine maintenance would take place during normal business hours because that has not been addressed. She assumes the equipment will have to be turned on when they are performing maintenance on it. She feels the AACC has presented compelling evidence to warrant a no vote on item #4B on the BZA ballot.

Bill Gilman, 316 North 850 East, Lafayette, IN 47905, said he has a 40% hearing loss due to exposure to ammunition explosions during his military service. He said he will be addressing item #4C on the BZA ballot, materially injuring people and property in the vicinity due to noise production. The UZO lists daytime and nighttime noise limits. The maximum noise reading during the day is 55dBA and the maximum night reading is 45dBA. Sound has to be measured on a Scale A and taken at slow speed and that is how all the sound readings that will be presented tonight were taken. He displayed a photo of the instrument the AACC purchased that has been certified to meet the OSHA requirements for accuracy. He went on to say all readings were taken at one second intervals and the internal storage capacity of the equipment is over 1000 data points. Prior to taking the noise reading, the instrument was certified to be within 0.1dBA of the 140dBA calibration standard by the Purdue University Audio Metric Facility. The device used to take the measurements was taken to the lab after all the readings were taken and remained within 0.1dBA of the 140dBA standard. He displayed the site plan for the quarry processing area and said the conveyors, rock screens, and crushers are the major sound generators. The closest conveyor to the property line is noted as an "A" on the plan with the closest screen as "B" and the closest

crusher as "C". The natural sound level at the site, taken at 9:30am at various locations, was less than 55dBA with the average for the 175 readings being 42.17dBA. All the sound readings taken at the Delphi quarry were under the 55dBA requirement.

Pat Wilder, 5440 Old SR 25 North, Lafayette, IN 47905, displayed a photo of the type of industrial rock conveyor that will be used at the Americus quarry. The site plan shows the distance from the closest conveyor to the property line is 270'. Sound readings were taken at three different distances from the conveyor and all the readings exceed the maximum 55dBA allowed at the property line. She presented a graph with the sound and distance from the property line plotted and a computer ran a regression analysis. The average sound reading from the conveyor to the property line was 65dBA. The graph shows that the conveyor would need to be located 600+ from the property to put 50% of readings within the 55dBA requirement. She then presented a slide showing all the data averages on vertical lines and gives a better picture of all the data accumulated and used to project noise levels from the noise source.

Becky Sargent, 3301 Old SR 25 North, Lafayette, IN 47905, presented a photo of an industrial rock screener that will be used in the processing area and said she will also talk about noise. The screener has three decks to screen out three different sizes of stone simultaneously and it is noisier than the conveyor because only one conveyor feeds it with three conveyors exiting. Numerous data points were taken at distances of 250' to 450' from the screener to the property line and 100% of the data points exceeded the maximum daytime specifications of 55dBA. She then displayed a graph with the average sound value and the distance from the screen to the property line plotted on a graph. Computer generated regression analysis shows the average sound reading from the distance of the screener to the property line (360') was 68dBA. The screener would have to be 600' from the property for 50% of the data to meet the daytime specifications. She added that the maximum distance for the processing area is 700' from the property line and that means all the equipment would need to be moved an additional 350+ to achieve 50% compliance of the processing area.

Sheryl Burke, 7861 Retriever Lane, Lafayette, IN 47905, presented a photo of a typical industrial crusher, the noisiest piece of quarry equipment which will run almost continuously. The noise from the blasting is louder and shorter in duration. Various data point readings were taken at several distances from 300' to 900' from the screen to the crusher with the average reading falling between 73.3dBA at the nearest point to 62.18dBA at the farthest distance. All readings exceeded the maximum daytime specifications. The final readings were taken from the observation tower that is 1700' from the crusher. The average value observed was 62.2dBA. She presented a graph with the readings and distances charted. Regression analysis shows that the conveyor would have to be moved back an additional 2700' to meet the daytime specifications.

Terry Burke, 7861 Retriever Lane, Lafayette, IN 47905, said the Rogers Group said the sources of sound at the quarry, other than blasting, are processing & screening the stone, loading trucks, and the operation of a water pump. Rogers Group states the noise will be substantially mitigated due to the location of the site but no reference has been made to the crusher. He presented a slide showing that a common way of depicting sound is by drawing a circle around the sound source at the desired dBA specification. The picture displayed shows the average value and 50% of the readings still exceed the 55dBA specification. There are at least 16 conveyors in the processing area and each emits noise. He next presented a slide showing the sound circle at 55dBA but the circle would be much larger if all four screens are included. The Bosma property line would be exceeded by over 500' in order to meet the 55dBA specification. He then presented the sound circle for the crusher that shows there is a ½ mile overlap on to the adjacent property. Data shows the 55dBA sound level would travel 7000' from the crusher and that distance includes the Americus business district and the Wolf Campground as well as over 230 homes and 130 campsites. There is no way the operation can meet the 45dBA nighttime specifications even if only one piece of equipment is turned on. An operation like this does not belong in a densely populated area. One thousand data points were presented and 100% of data exceeds the specification for maximum sound mitigating to an adjoining property. The mining equipment cannot be moved back far enough to comply.

County Commissioner Tracy Brown, 20 North 3rd Street, Lafayette, IN 47901, said he lives in northeastern Tippecanoe County. He said he is a native of Delphi and lived there for the first 23 years of his life. He presented a slide showing the proximity of the home he lived in in the early 1970's to the Delphi quarry. He said the quarry was a lot smaller back then and has grown significantly since then.

These projects keep getting bigger and deeper. He asked the Board to imagine how the Americus quarry will look in 50 years. He remembers dust and noise were a constant growing up. Dust was on everything around the quarry depending on which way the wind blew and how the trucks exited the site. He also remembers the constant noise from early in the morning until sunset. In the 1970's, the EPA set 55dBA as the recommended noise level. He asked the Board to consider that fact when hearing all the noise information presented this evening. Exceeding the 55dBA requirement at night can affect sleep and that should be considered when hearing about an open pit mine that will be open and operational seven days a week and during any seasonal overtime that is deemed necessary. The American Journal of Preventative Medicine states that small decreases in noise could add up to major economic savings. The analysis suggested that a 5dBA noise reduction could reduce the prevalence of high blood pressure and coronary heart disease. Prolonged exposure to constant, repetitive noise can cause health problems. Blasting in a quarry is sporadic because there is no fixed timetable for blasting and he remembers the windows in his Delphi home shaking when the quarry blasted. He does not know why we would want to force the 1000 people in the vicinity of this open-pit mine to go through a similar situation. In or about 1976, his family lost their water the first of many times. More and more people in the neighborhood lost their wells as they dug deeper in the quarry. He remembers his dad talking about the well being dry during the work week when they were pumping the water out into the Wabash River and water would come back on the weekends. He thanked the Board for giving him the opportunity to share his experiences with them and asked the Board to deny the special exception request.

Bill Miller, 8143 Old SR 25 North, Lafayette, IN 47905, said he is a professional driver with a CDL and School Bus endorsement. He will be talking about ballot Item #3 and how the general purposes of the ordinance is subverted. He said he will also address item #4A. His route has included SR 25 North and Old CR 25 North. The stretch of Old 25 N from the new roundabout at I-65 to the Tippecanoe/Carroll County line is a scenic route with 23 curves in 10.2 miles. The curves also include blind spots in areas with reduced visibility. SR 25 was a heavily traveled road with numerous semis and dump trucks. The new Hoosier Heartland was to reroute the trucks to make SR 25 safer for residents and drivers. In 2015, Tippecanoe School Corporation had 12 high school and 11 middle/elementary school stops on this road segment. That makes 230 stops per week. He did not like seeing dump trucks on the road when he was driving. He went on to say dump truck drivers are safe and professional drivers but a fully-loaded dump truck has a hard time stopping when it comes around a curve and sees a school bus stopped. He displayed slides of newspaper articles recounting accidents between quarry dump trucks and school buses.

Jeff Gregory, 7521 Ridgeview Lane, Lafayette, IN 47905, said dump trucks on Old SR 25 are unnecessary and unwanted. He then played several television newscasts reporting on accidents involving quarry dump trucks and school buses. He said the original Rogers Group petition stated that there would be an additional 300 trucks driving out of the quarry each day but now they are saying there will only be 200 trucks. Rogers Group said most of the truck traffic would be in the early morning but the school bus routes begin at 6:00am. He believes trucks were moved off SR 25 for good reasons.

Merrell Cree, 7800 Tall Timber Drive, Lafayette, IN 47905, said he intends to show the Board what the proposed stone quarry might cost the people in the Americus area. He said he will be addressing item #3, subverting the general purpose of the ordinance from the view of conserving the values of buildings and land. 95% of the respondents to the AACC survey are very concerned with the potential decrease of their property values. The homes in the area were valued using both zillow.com and the County Assessor's website. He presented a map showing that the 153 homes located within one mile of the quarry have an average value of \$178,680. That makes the total value of the properties approximately \$27,000,000. According to the IN.gov website, the average yearly tax per home is \$1342. He then presented the varying loss of value tables that were created by reducing the average home value by 5%, 10%, 15%, 20%, and 25% in order to calculate new tax values. A 25% reduction in property values generates a 33% reduction in property taxes. Tippecanoe County's supposed tax increase from the Rogers Group quarry is all but wiped out by the loss in property tax revenue if the property values are reduced by 25%. To most people, their home is their largest asset and it is not fair that one company can reduce millions of dollars of home equity for hundreds of homes and owners. He went on to say Blue Ridge Environmental Defense released the results of a study conducted in North Carolina that showed reductions in property values near an asphalt plant of up to 56%. The average loss was 27%. The Center for Spatial Economics, an independent consultant group, reported that a 2012 study shows a 19% reduction of property value of

homes within a mile of a quarry. He concluded by saying that 72% of the AACC survey respondents said they would consider moving if the quarry opens.

Mike Sczcepanski, 8305 Timber Lane, Lafayette, IN 47905, said he will talk about safety violations issued to the Rogers Group and the fines assessed. He does not believe safety is a company priority. The data he is presenting tonight is from the US Department of Labor through the Mine Safety and Health Administration. These agencies have put safety violations into the public record. The Rogers Group operates about 10 aggregate dealerships boring through underground mines in Indiana and produces materials as fine as sand and as large as dimensional cut limestone. The facilities are located in seven Indiana counties that are more sparsely populated than Tippecanoe County. Rogers Group has been formally cited 392 times for safety violations in a recent six-year period just in Indiana, resulting in \$100,981 in fines. He presented slides showing the violations and fines from individual Indiana mines owned and operated by the Rogers Group. One of the violations was for improper handling of explosives. The 10 Indiana Rogers Group facilities are 6 sand and gravel operations and four aggregate operations. One would think about 60% of the violations would occur in quarries but that is not the case. The Rogers Group quarries had 342 violations, resulting in \$95,000 (94%) in fines. Quarries are more prone to safety violations. Rogers Group has 1,197 safety violations nationally over a six-year period. The company was cited for committing more than one safety violation per day with a cost of \$711,746. It seems like fines alone are not a reason to clean up the safety record and that safety is not a priority.

Chrissy Michael, 3909 Thad Court, Lafayette, IN 47909, said she is a Registered Respiratory Therapist. She said she will be presenting information about the effects of dust on the respiratory system. She presented a drawing of the adult respiratory tract and said it provides the exchange of air to carbon dioxide. The nose is an air filter that warms, cleans, and humidifies the air we breathe. Air enters through the nose and mouth and travels down the airways into the lungs. Particulate matter is the sum of all solid and liquid particles suspended in the air and when inhaled have the potential to cause damage. Dust particles range from one to 20 microns in size and can settle into the lower respiratory tract. The smaller the particle the farther it can travel into the respiratory tract and may even enter the bloodstream. The respiratory tract can process and eliminate great quantities of dust. She presented an image captured by NASA that reflects the poor air quality in our area. She also presented a detailed pollutant map and said those who live in an area of high pollution are at a higher risk for complications because the respiratory tract is already working so hard to eliminate pollutants. Dust irritates the mucosa and membranes and it can cause fibrosis (scarring of the lung tissue) as it travels further into the respiratory system. Exposure to silica dust, such as the dust resulting from blasting, can result in a disease called silicosis. Patients with chronic silicosis show no signs of the disease at first but the dust will form nodules in the lungs and granulate over time and cause severe impairment of the respiratory tract. The only cure for silicosis is a lung transplant. She concluded by saying all dust can be harmful to human lungs.

Joan Chapman, 8316 Timber Lane, Lafayette, IN 47905, presented the blasting slide that was previously shown. She said she will be talking about ballot item #3 that refers to promoting the health and general welfare. Inhalation of crystalline silica dust may also lead to pulmonary tuberculosis. Dust can aggravate the heart and induce asthma and other chronic respiratory disorders. Breathing silica dust and other free radicals caused by blasting and quarry work are irreversible. People with pre-existing heart and lung conditions will suffer from reduced air quality and increased particulate matter pollution. An AACC survey was sent to 92 Americus area homes during May and June of 2014 and 40% of the respondents had pre-existing respiratory conditions. About 10% of the US population have respiratory conditions according to the World Health Organization. People living in this area have four times the national average of respiratory conditions. When a West Coast group of remonstrators went looking for help to stop the development of their quarry, they found help from a group of physicians.

Bill Marcussen, 8880 East 800 North, Lafayette, IN 47905, presented a video showing what physicians had to say about the health effects of a proposed stone quarry in California. He thinks it would be negligent to allow a mine producing so much particulate matter to operate so close to homes.

Jason McCoy, 6974 West 300 South, Lafayette, IN 47909, said he will be presenting pollutant data for Rogers Group facilities currently in operation and demonstrating that Rogers Group is a #1 pollutant in Indiana. Every three years the US EPA collects pollutant data where the data is compiled into the Emissions Inventory System (EIS). A website tracks that data and provides pollutant data and mapping

for over 86,000 companies across America. Rogers Group made it to #1 on the list of particulate matter polluters in Owen County, IN, topping the results from the Owen County Landfill. It would take 100 pick-up trucks that can carry 1,500 pounds of dirt to haul the particulate matter from the Rogers Group operation. Rogers Group is the #1 air polluter in Newton County because it puts out over 386,000 pounds of air pollution annually. The company puts out 31,671 pounds of the smallest, most inhalable, and farthest traveling size of particulate matter. Rogers Group makes a dual appearance in Lawrence County having both an aggregate dealership and a stone quarry in the county. The Mitchell crushed stone operation puts out 314,992 pounds of air pollution annually but that number is dwarfed by the stone quarry. The stone quarry puts out almost 3,000,000 pounds of particulate matter pollution into the air every year. Each resident of Lawrence County will receive 70 pounds of air pollution (7.5 gallons) per person. The asphalt plants that accompany the quarries bring their own health hazards. Everything from headaches to cancer are associated with asphalt plants and these operations should not be located in neighborhoods. The Rogers Group asphalt plant near Washington, Indiana came in third place with 11,495 pounds of air pollutants containing carbon monoxide and volatile organic compounds along with the particulate matter. The Rogers Group operations in Bloomington again make a dual appearance at #2 and #5. He summarized by saying that the Rogers Group emits 7,184,900 pounds of air pollution into Indiana every year and that is one pound of air pollution for every citizen in the state. He does not think families should be subjected to dust, carbon monoxide, and volatile organic compound emissions.

Teresa Maxwell, 10357 West US 421, Delphi, IN 46932, said a study done in two communities in Puerto Rico by the University of Puerto Rico in 2005 shows that a quarry can make you sick. She presented a map showing the two cities that were studied. One city was exposed to particulate matter from quarries and the other city had no such exposure. Representative samples were taken from 288 residents with 155 from the city with the quarry and 133 from the city without. A 1984 study was done in another quarry location in Puerto Rico that documented that although safety measures were taken at the quarry, dust and particulates reached the surrounding community. The 1984 study did not address the impact the quarries had on the persons living in the communities or near the quarry. Nineteen outcome variables were studied in the 2005 study and there was a higher prevalence of respiratory diseases for residents living near a quarry.

Michael Deno, 3821 Maplewood Drive, Lafayette, IN 47905, said we have seen what happens when a quarry becomes active and also what happens during the life span of a quarry. Quarries continue to do harm long after they have outlived their usefulness. Indiana ranks #4 in non-employee abandoned mine fatalities and 20-30 Americans die every year in abandoned quarries and countless more are injured. Long after the dewatering pump has been shut off the quarry pit will fill with water and become a 420' deep, ice cold lake. The barren terrain above the pit attracts dirt bikers and ATV riders. He presented a slide that shows how a body responds to sudden emersion in cold water. Climbing in an abandoned quarry is especially dangerous because the rock of a high wall or mine has been fractured by blasting and can be highly unstable. In 2004 an Evansville teenager dove off the cliff in an abandoned pit mine. After diving off the cliff, he had trouble swimming to shore and died in 15' of water. He then recounted six other circumstances where Hoosiers died in abandoned quarries. Three Kentland residents died on a foggy morning in 2008 when the car they were riding in went off the road and into the Rogers Group quarry pit. He thinks it is worth mentioning that the Rogers Group did not stop mining while the bodies were being recovered.

Nate Hoffman, 7701 Rolling Hill Drive, Lafayette, IN 47905, summarized the previous presentations by the remonstrators. He said they tracked the history of this proposed industrial mine and showed the concerns of local area residents. There are many issues of concern when a quarry moves into the neighborhood and how resistant people are to the idea in general with good reason. The issues have no band-aid solutions. Rogers Group has offered no compromise on the hours of operation and will still be able to operate seven days a week, 24 hours a day. Work operations for maintenance and operations not related to sales will go on whenever the company chooses. The sound values of the Delphi quarry were presented and we proved the Rogers Group will be unable to comply with the county ordinance related to the production of sound. We showed that the Americus quarry cannot be in compliance with county ordinances related to outdoor lighting. Traffic generated by the quarry will be a safety issue and water table drawdown by the quarry will exceed the quarry property boundary. Quarries can lower property values in the area. The particulate matter will leave the quarry and affect the respiratory health of people living nearby. People die in active and non-active quarries. He understands it is the job of the Board of

Zoning Appeals to work with businesses, to establish compromises, and help the economy of our county but every once in a while there can be no compromise because there are no compromises and there is too much at stake to find middle ground. There is no way to mitigate the loss of property value, no solutions to the decline in our health, and no way to ensure the safety of those who will be living in close proximity to this industrial mining complex. Tonight the Rogers Group has promised the community to make local charity donations, to produce building materials, and to create six jobs. There are many local companies that donate to charities and do not bring the negative impacts to homeowners that a quarry company will. Current mineral extraction operations in the county are more than able to handle the demand for aggregate materials. Andy Williams of the Rogers Group told the Lafayette Journal & Courier: "We continue to rely on facts, engineering, and experience and the opposition continues to rely on fear". The Board heard over two hours of facts gathered over the last four years. He asked everyone in the audience that opposed the development of the Americus quarry to stand up. (The majority of the audience stood.) This project comes at a cost to those who call the area home and there can be no compromise and no middle ground on something like this. The risks are unacceptable and this request must be voted down.

County Commissioner Tom Murtaugh, 20 North 3rd Street, Lafayette, IN 47901, thanked the Board Members for their service and what they do for the community. He said he will be delving further into some of the most compelling arguments he heard tonight. He said Tippecanoe County has been accused of being anti-business in several of the letters that were read because of the county's opposition to this request. He agrees with Mayor Roswarski who said this is so much bigger than just one business because this is about the quality of life for this and future generations. Senator Hershman gave compelling reasons why this request is just wrong and invasive for this area. Many state officials spoke against this request and letters of opposition from other government entities were read into the record. When a representative from the Rogers Group shared with us the number of residents surrounding other quarry locations, he questioned how many of the folks they were referring to made the conscious decision to locate near the quarries due to cheaper housing, lack of other housing, or a variety of other reasons. He thinks it is important to note that those residents located in the area after the quarry was established. That is not the case here and it is not fair to them to have to be subjected to this kind of invasive operation. He went on to say he also served as the WRC vice-president and he is passionate about that project. It is important that we abide by the planning that has been done over the last several years and comply with the heritage of the Wabash River and not "muck it up" for future generations by putting a quarry in the proposed location. He referred to the staff report addendum and said he was shocked when he read it. By granting this special exception we could make it noncompliant with our own Flood Plain regulations as adopted in *NUZO* and approved by IDNR. Noncompliance could result in a suspension of our participation in the National Flood Insurance Program (NFIP) and that could be a huge thing for our community. NFIP suspension would limit the ability for people to get flood insurance, disqualify us from getting disaster assistance in the event of a natural disaster, and prevent us from getting certain types of financing like FHA and VA for our first time homebuyers. He urged the Board to think carefully when making a decision tonight.

Penny Indelicato, 248 Jennings Street, West Lafayette, IN 47906, said she lives in University Farms Subdivision and said the aquifer runs through her property and she wants to see the quality and quantity of that water taken care of. She went on to say she is the activities director for the Chapter 3440 Mid-North Indiana Lafayette Harley Owners group and it is a world-wide organization. The goal is to have fun riding motorcycles, promotes safety, and contribute to the community. Her group has 60 members and uses the Old SR 25 corridor for many of the charity rides and on any given weekend you can find motorcycles running up and down the road. Since 2000, the group has raised \$250,000 for the community that comes back in charity donations. Motorcycles, dump trucks, and rocks do not mix. She asked the Board to keep Old SR 25 a scenic byway for recreation.

Elizabeth Blair, 8287 Old SR 25 North, Lafayette, IN 47905, read a letter from Dr. Delano Arvin while presenting slides of the photos of flora and fauna he and his family have found on their 176-acre property in the Americus area.

Cynthia Cunningham Hallar Cook, 6995 Goldsberry Road, Battle Ground, IN 47920, said she and many of her relatives were born and raised in the Americus area. She has had to cope with the devastation from numerous floods. She has a geo-thermal system and it depends on water to run. She will lose

drinking water as well as heating and cooling if she loses water. She moved back to the Americus area from an area in northwestern Indiana that was very polluted. The air here is so much cleaner where she lives now that she no longer has to take allergy shots. The area is beautiful, quiet, and peaceful and she would like to see it stay that way.

Sally Mohler, 4033 Willowood Drive, Lafayette, IN 47905, said she has a national certification in speech language pathology. She summarized her credentials and work history. She presented a video with sound of the US 52 eastbound bridge over the Wabash River demolition, courtesy of the Journal & Courier and WLFI-TV. She said the sound traveled 8.5 miles north, up the river, past the quarry site. People in Lafayette and West Lafayette may hear similar sounds from the quarry blasts. She then presented an audio-gram with the lowest pitched sounds at the upper left. Normal adult hearing is 0 to 20dBA. Various speech and environmental sounds are displayed on the diagram according to their loudness and pitch levels. The speech "banana" is in the middle of the chart and it includes some of where the different speech sounds fall. Most conversations occur between 40 and 50dBA. The sound from a truck is close to 100dBA and blasting from limestone quarry operations range from 150 to 215dBA. The stone crushers operate at 100dBA or higher. The next slide shows the OSHA standards governing the restriction on noise exposure for unprotected individuals. As sounds increase, the amount of allowed exposure decreases. The noisiest piece of equipment at the mining site and that value is used to compare to the chart.

Carl Griffin said the Board has heard about land value, traffic generation, hydrology, sediment, flood plain, flooding, increased flood height, climate change, road repair, noise pollution, air pollution, lighting, the fact the river is a natural treasure, parks and greenspace, wildlife, plants, animals, historical value, property value, and health. He said everyone wants the Board to reliably fill out the BZA ballot and we all have already been here for six hours and five minutes.

Steve Schreckengast said the Board has listened to five speakers regarding noise.

Christopher Mohler, 4033 Willowood Drive, Lafayette, IN 47905, said studies support the findings that noise will disrupt deep sleep and REM as well as increase the pulse, blood pressure, heart rate, and changes in brain activity. Those consequences will affect a person's work performance and job productivity. Distinguishing different sounding words and diminished problem solving skills are other noise side effects. Other studies show chronic noise exposure results in elevated levels of chemicals associated with increased stress and can also result in fear and mild anger due to lack of sleep. The health, wellbeing, and quality of life for area residents will be severely compromised if the special exception is granted.

Patricia Kirkpatrick, 3401 East 1150 South, Lafayette, IN 47909, said she is the great, great granddaughter of pioneer settlers of Tippecanoe County and she recounted the history of the Cunningham historical farm. She added that the family cemetery is on the Bosma farm. The property is historical and very precious. The Board is tasked with protecting our community from inappropriate development. According to 2012 USDA statistics, Tippecanoe County has lost 21,000 acres of farmland to development.

Dale Wolf, 7414 Old SR 25 North, Lafayette, IN 47905, said he and his wife have owned Wolf's Leisure Time Campground since 1997. The quaint and peaceful campground is located about 1.1 miles from the proposed quarry. He and his wife have hosted campers from all 50 states and 19 countries who visit the campground to enjoy the peaceful nature of this section of the county. Based on the 2015 Economic Impact Report for Indiana, tourism for Indiana is up 11%. Visitors added \$356,400,000 to our local economies and \$0.78 of each tourism dollar spent goes back into the local area. Tippecanoe County tourism continues to bring millions of dollars into our community.

REBUTTAL

Patrick Jarboe, 105 North 10th Street, Lafayette, IN 47901, said the IDNR permit for construction in the floodway addresses flooding issues and applies to both state and local criteria. He added that the same rules apply to construction in a floodway regardless of location, waterway, or project height. All flooding issues and concerns have been addressed during the permitting process.

Van Medlock said a remonstrator presented a slide that referenced pollution sources and the rankings within each individual county. He is not sure where that data came from but he knows it has been over eight or nine years since the Rogers Group owned asphalt plants in the state.

Andrew Williams said there has been a lot of fallacy and sensationalism tonight and he can ignore most of it. A remonstrator indicated that there was an incident where a car went into one of the quarries in Newton County. He admitted that that happened but the speaker implied that the quarry continued to operate in that circumstance and that is absolutely not true. That instance happened in February and Rogers Group was sued over that incident. It was found that Rogers Group had zero responsibility for that fatality. The driver of the car was traveling 70mph in thick fog and he ran across a railroad track, through a berm, and over a fence about 200' into a quarry full of water. The quarry was not even being mined at the time.

Christopher Shelmon said there have been a lot of fear and hypotheticals, might ifs, and possibilities tonight. He would like to first address staff's interpretation of the ordinance regarding an island of fill. An island is defined as being surrounded by water at all times except under extreme circumstances. Staff wants a pile of dirt to be considered an island when it will be surrounded by water only under extreme conditions. He said safety is very important to the Rogers Group and is a part of their culture and who the company is. While attending a meeting in the Gutwein Law conference room, one of the maintenance employees was replacing an air filter in the air conditioning unit while standing on the top rung of a ladder. Andy Williams left the meeting to ask the maintenance man to step down because he was not operating safely. He then said he lived as close to the Rensselaer quarry as the Miller's do to this proposed quarry. He did not hear things, see dust, feel vibrations, or have issues with traffic. He conceded that every once in a while you would hear the sound of "thunder" in the distance. He added that he played in the river and swam in the reclaimed quarry on the other side of the St. Joe River.

Andrew Gutwein said the question here tonight is not if it is popular with the neighbors but whether the site is appropriate for a mining operation. He congratulated the Americus group on being the best organized opposition group this county has ever seen. We know the materials are here and that this is the only place in our county that has these materials. We also know the materials are needed for all construction projects in our communities and having the materials closer will result in fewer road miles and less impact on our environment. The site is correctly zoned for a quarry, all the checkpoint agencies have been satisfied, and all the necessary permits have been issued. The concerns expressed tonight are concerns that are addressed every day throughout the state. There are many other quarries up and down the Wabash River. We are all afraid of change but the Board needs to think about our entire market and all of our 185,000 Tippecanoe County residents and not just the small, well-organized local minority. He thanked the Board for its service and time tonight.

Tom Andrew said the Rogers Group said there would be no issues with the mining operation draining the wells in the area and if there were problems the company would take care of them. He asked how long it would take to get the wells fixed.

Andrew Gutwein replied that the wells would be fixed in a matter of hours. The company has talked with Findlay Well Drilling and they are already familiar with the area. The company also has experience with farmers who have lowered the water table in wells in other areas of the county. The first step is to lower the pump a couple of feet and if that does not work, the pump may need to be replaced with a deeper pump. A new well may be needed in some instances. The studies show that none of the wells in the area will be drained.

Steve Schreckengast addressed his question to counsel. He asked how the conflict between our ordinance and the permit from DNR, IDEM, and the Army Corps of Engineers can be resolved if there is something that conflicts with the entities issuing permits for construction in a floodway/floodplain. He then asked when the addendum was written.

Jay Seeger replied that the addendum was issued today. He went on to say each governing body has their own rules and regulations and they all can have differing standards. You can meet one entity's standards but may not be able to meet a different one. It is a matter of, we can have a set of standards

and the Army Corps of Engineers can have a set of standards because they are not governing land use per se but rather governing the navigability and the viability of the waterway.

Steve Schreckengast thinks that means our standards deal with land use in a floodway. He asked who trumps who if that is the case.

Jay Seeger replied that we are the only ones governing land use in the floodway.

Steve Schreckengast asked how we can get an addendum like this the day of the hearing after working on this proposal for several years. He is not sure if doing that is fair to the petitioner.

Jay Seeger said when the staff does their staff report and reviews the issues some things come up later in the process. He said he had staff contact DNR to verify last minute issues that could come up. The addendum was based on the response we got from DNR at that point in time.

Sallie Fahey added that staff does not review cases for four years. We review cases once there is a complete filing and that usually occurs 30 days before the meeting. It takes a couple of weeks to check the file and prep the file for review. In general staff has about two weeks to write a report.

Steve Schreckengast looks for fairness on both parts and when you get an addendum the day of the meeting it does not give the petitioner much time to prepare his response.

Tom Andrew asked if people cannot get flood insurance if this request is granted.

Jay Seeger explained that granting this request potentially puts the county at risk for being suspended from the National Flood Insurance Program (NFIP). It does not take away our flood insurance but it will ultimately be up to the NFIP to determine whether or not what we have done jeopardizes our participation in the program. We have no control over that but it is the type of thing that could eventually lead to that.

Gary Schroeder asked if the standard is just something we have or a standard the DNR has.

Jay Seeger said the standard is DNR's and the NFIP's. They are telling us that this is one thing out of line with what we are supposed to be doing.

Gary Schroeder pointed out that DNR issues a permit. He does not understand that.

Jay Seeger said he does not understand a lot of things DNR does.

The Board voted by ballot 2 yes to 4 no to deny **BZA-1957—ROGERS GROUP, INC.**

<u>Yes Votes</u>	<u>No Votes</u>
Tom Andrew	Steve Schreckengast
Gary Schroeder	Steve Clevenger
	Ed Butz
	Carl Griffin

Steve Clevenger asked if the petitioner for **BZA-1967—INDIANA BECKNELL INVESTORS 2011, LLC** has arrived.

Ryan O'Gara said no one is present to represent **BZA-1967—INDIANA BECKNELL INVESTORS 2011, LLC.**

Gary Schroeder moved to continue **BZA-1967—INDIANA BECKNELL INVESTORS 2011, LLC** to the December 6, 2017 Board of Zoning Appeals public hearing. Carl Griffin seconded and the motion was approved by unanimous voice vote.

IV. ADMINISTRATIVE MATTERS

None

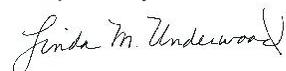
Steve Clevenger stated that unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

VI. ADJOURNMENT

Gary Schroeder moved for adjournment.

The meeting adjourned at 12:40 a.m.

Respectfully submitted,



Linda Underwood
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director