

**MONROE COUNTY PLAN COMMISSION**  
**Hybrid Meeting - Minutes**  
**May 16, 2023 – 5:30 P.M.**

**CALL TO ORDER**

**ROLL CALL**

**INTRODUCTION OF EVIDENCE**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES: March 21, 2023; April 18, 2023**

**CALL TO ORDER: Margaret Clements called the meeting to order at 5:30 PM.**

**ROLL CALL: Bernie Guerrettaz, Geoff Morris, Margaret Clements, Julie Thomas, Cheryl Munson, Edward Oehlman, Trohn Enright-Randolph, Chris Cockerham, City of Bloomington Representative**

**ABSENT: *Jerry Pittsford, Dee Owens***

**STAFF PRESENT: Tammy Behrman, Assistant Director, Drew Myers, Senior Planner, Daniel Brown, Planner II, Anne Crecelius, Planner II**

**OTHERS PRESENT: Tech Services, David Schilling, Legal, Kelsey Thetonia MS4 Coordinator, Lisa Ridge, Highway Department Director, Paul Satterly, Highway Engineer**

**INTRODUCTION OF EVIDENCE:**

**Tammy Behrman introduced the following items into evidence:**

The Monroe County Zoning Ordinance (as adopted and amended)

The Monroe County Comprehensive Plan (as adopted and amended)

The Monroe County Subdivision Control Ordinance (as adopted and amended)

The Monroe County Plan Commission Rules of Procedure (as adopted and amended)

The case(s) that were legally advertised and scheduled for hearing on tonight's agenda

**The motion to approve the introduction of evidence carried unanimously.**

**APPROVAL OF AGENDA**

**Motion to approve the agenda, carried unanimously.**

**APPROVAL OF MINUTES**

**Motion to approve minutes from the meetings of March 21, 2023, and April 18, 2023, carried unanimously.**

**ADMINISTRATIVE BUSINESS:**

1. **Meeting Calendar Amendment:** 7/5 BZA changed to 6/28

**UNFINISHED BUSINESS:**

1. **PUO-22-2**      **Wiley Farm at Fieldstone Tract F Amendment 1 Planned Unit Development Outline**  
**Final Hearing.**  
One (1) 30.23 +/- acre parcel in Van Buren Township, Section 02 at S Kirby RD, parcel #53-09-02-300-081.000-015.  
Owner: Authentic Homes Inc.  
**Zoned PUD.** Contact: [drbrown@co.monroe.in.us](mailto:drbrown@co.monroe.in.us)
  
2. **REZ-22-8**      **Starts Rezone from AG/RR to LB**  
**Final Hearing.**  
One (1) 17.29 +/- acre parcel in Clear Creek Township, Section 11 at 7955 S Fairfax RD, parcel no. 53-11-11-300-014.000-006.  
Owner: Starts Living Trust c/o Lorraine Fowler  
**Zoned AG/RR, ECO 1/2/3.** Contact: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)
  
3. **REZ-23-1**      **Lake Lemon Marina Rezone from LB to LB**  
**Final Hearing.**  
One (1) 3.14 +/- acre parcel in Benton North Township, Section 35 at 9554 E North Shore DR, parcel #53-01-35-100-017.000-003.  
Owner: Werner Group, LLC  
**Zoned LB.** Contact: [dmyers@co.monroe.in.us](mailto:dmyers@co.monroe.in.us)

**NEW BUSINESS:**

1. **SPP-23-2**      **Pedigo Bay Major Subdivision Preliminary Plat Amd 3**  
**Preliminary Hearing.**  
**Waiver of Final Hearing Requested.**  
Eight (8) parcels on 15.3 +/- acres in Section 35 of Clear Creek Township, at 2591, 2597, 2599, 2600, 2603, 2621 E Pedigo Bay, parcel # 53-11-35-200-002.000-006, 53-11-35-200-004.000-006, 53-11-35-200-012.000-006, 53-11-35-200-020.000-006, 53-11-35-200-022.000-006, 53-11-35-200-026.000-006, 53-11-35-200-028.000-006.  
Petitioner: Pedigo Bay Homeowners Association  
**Zoned: FR, AG/RR, SR, and ECO 1.**  
Contact: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)

## **ADMINISTRATIVE BUSINESS**

### **1. Meeting Calendar Amendment: 7/5 BZA changed to 6/28**

**BOARD ACTION:** Clements introduced amendment and asked if there was a motion to approve.

Thomas: **So, moved.**

Morris: **Second.**

Behrman: There has been a motion and a second. I am going to go ahead and call the roll on this one. Margaret Clements?

Clements: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Geoff Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: That is 7 and the calendar is adopted.

**Motion to approve Meeting Calendar Amendment: 7/5 BZA changed to 6/28, carried unanimously (7-0).**

**UNFINISHED BUSINESS**

**1. PUO-22-2            Wiley Farm at Fieldstone Tract F Amendment 1 Planned Unit  
Development Outline  
Final Hearing.**

One (1) 30.23 +/- acre parcel in Van Buren Township, Section 02 at S Kirby RD, parcel #53-09-02-300-081.000-015.

Owner: Authentic Homes Inc.

**Zoned PUD.** Contact: [drbrown@co.monroe.in.us](mailto:drbrown@co.monroe.in.us)

**BOARD ACTION:** Clements introduced the petition.

**STAFF ACTION:**

Brown: Thank you. Since this was presented at the last meeting in March, would the Commission like to hear the whole presentation or just the new information as well as staff recommendations?

Clements: I think the new information would be most critical so thank you for asking.

Enright-Randolph: Madam President?

Clements: Yes, Mr. Enright?

Enright-Randolph: I was just going to excuse myself real quick and I will be right back and I just wanted to make you aware of that. I think we still have a quorum.

Clements: Ok, we do still have a quorum. We look forward to your return. Ok, so, just the new information pertaining to this, and we would be excited to hear what you have to say.

Brown: Thank you. These are the Drainage Board comments from the April 5<sup>th</sup> meeting. They have given some conditions of approval. The first being require release rates based on critical release rates in accordance with Chapter 761. They also require monitoring during the construction, water level monitoring to make sure the proper release rates are being met. Post construction they ask for monitoring by a 3<sup>rd</sup> party to ensure basins are functioning properly for that first year especially after heavy rainfall. They also ask that the preliminary and final drainage plan be reviewed and approved by the Drainage Board. Their recommendation is also that the spillway issue needs to be reviewed by an engineer. It is potentially needing off-site improvements for downstream improvements. If it is determined that the off-site improvements are inadequate, they may be able to require fixes. Item number 3 is in the Stormwater Ordinance already, require as-builts of all detention facilities. Those will need to be provided and 4, if approved the final drainage plan must be approved by the Drainage Board. The other new information is that the neighbor meeting took place between the HOA and the petitioner on May 3<sup>rd</sup>. We received this letter on May 4<sup>th</sup> summarizing the meeting. “This letter services to give us a synopsis of the subject meeting required to hold for communication, collaboration and helpful feedback for a new plan adjacent to existing neighborhoods. This meeting was offered and held on May 3<sup>rd</sup> at the Monroe County Convention Center in the Finch Room at 5:30pm. It was advertised to the Fieldstone Community Association Administrator, Michael Rousey, to advertise to all HOA members. Michael Rousey was responsive through email to spread the word to homeowners. It was also

advertised to Summerfield Community Association through the Jamar Properties Management. Jamar Properties was also responsive through email to pass along through the HOA. The meeting offered all current plans as displays for all to comment on and a presentation was given to provide any feedback, ask questions or provide comments.” He lists the attendees of the meeting as the presenter, Daniel Butler of Bynum Fanyo and Associates, Project Engineer, the project owner team, David Jenner of Authentic Homes, project owner team, Reed Haven of Authentic Homes, project owner team, Beth Robinson of Remax Reality, Dawn Mayon, President of the Fieldstone HOA at 307 South Windstone Court and Maryanne Mohney, President of 685 South Fieldstone Boulevard. He then goes over the meeting notes. First was welcome and exhibit setups. Then Dawn asked to read the current petition being circulated to all HOA homeowners. Dawn believes that 300 to 600 homeowners will sign a petition. Daniel clarified the proposal to Monroe County. The clarification included an expansion of amendments to current PUD.

- 1) Road routing through petition property due to now known environmental constraints and current PUD road routing would be at the backyards of current residents.
- 2) Revise property to single use family lots rather than multi-family that the PUD currently allows.
- 3) Add the commercial storage to 3.3 acres only on the property.

Some additional conversation of concerns of storage in this area. Dawn explained that boat and rv storage could be advantageous for the neighborhood because of violations of on property storage. We have also received 2 letters of opposition from members of the public. The first is from a Daniel Turner. It reads, I just learned today of a proposal. This letter is dated May 12<sup>th</sup>.

Behrman: Do you want it fully read, or would you just like to take a few moments to read through it?

Clements: We can take a few moments to read it here.

Brown: Ok, I apologize.

Clements: Thank you. That is ok, Mr. Brown. Can you see it?

Enright-Randolph: Do you have a page number on the packet of that? The page number in the packet?

Brown: This was not included in the packet. When it went out, we received it afterwards.

Enright-Randolph: Ok, no worries.

Clements: A few comments have come in through chat as you can see.

Thomas: There is someone named Brian Page who just said that they sent in a letter to you as well, Mr. Brown.

Clements: Another person said they were unaware of the meeting, the neighborhood meeting. Ok, is everyone done reading the letter? If we could continue.

Brown: Very well, here is the next letter of opposition that we received. Hopefully, this one is a little more legible. This comes from a Carlos Laverty, the Airport Director at the Monroe County Airport.

Enright-Randolph: Madam President, I was curious do you think it would be appropriate to ask if Daniel is able to summarize these letters just for the public's benefit?

Clements: Mr. Brown, would you kindly summarize these letters? You don't have to read it verbatim but if you are able to summarize them, fine or if reading them verbatim is easier for you, you are welcome to do that too. Mr. Enright-Randolph requests it.

Brown: Certainly. So, for the Daniel J. Turner letter, he says that he was unaware of the meeting that took place. He only learned about it through the Herald Times article. He would like to see the development continue only as residential usage. He is against the placement of the storage units on this property. He also acknowledges something that was listed in the article about sewer requirements, and he says, I am sorry, I am going to read this part verbatim, "I want to recognize the politics involved with this issue and the constraints that the developer now that the City of Bloomington has decided not to provide municipal sewer to new developments outside of the City limits. My hope would be that these politics would not impact the neighborhood feel that the residents of Fieldstone and Stonechase currently enjoy. I hope that the developer will continue to work with the city to determine the best way forward especially since the area is planned for residential development."

Clements: Mr. Brown is there a City of Bloomington Utilities Will Serve letter for this development?

Brown: Not to my knowledge, no.

Clements: Ok and if a new administration takes affect would it be possible that the City of Bloomington Utilities could change its stance on extending utilities to this area for a housing development?

Behrman: We would require a Will Serve letter. It is not required to do convenient storage, which is the use that they are proposing to add to the PUO. But it would be required once they decided to do a preliminary plat and begin making the residential lots. I can't speak to when an administration change may be.

Clements: Is it possible? Let me just say that. Is it possible?

Behrman: At this point in time if sewer becomes available, they could put the density in if it is adopted into the PUO.

Clements: I'm sorry, Ms. Munson, Councilor Ms. Munson if you don't mind.

Munson: I have a question on who originally set the density for this development. Was it not the City of Bloomington? That was long before my time here.

Brown: It was about in 1994 or 1993, I believe.

Munson: Thank you. I just wanted that point made known.

Clements: Thank you for bringing that to our attention but it is my working assumption that with an administration change it would be possible, although not 100% sure, of course, a new administration could direct the CBU to supply utilities to this area. Of course, they are not required to, but they would be under different leadership and therefore under different administrative control and possible cooperation and collaboration with the county could be more likely, let me just say that. So, the next letter if you don't mind summarizing, Mr. Brown.

Brown: Yes, the Airport Director is expressing concern about increased noise complaints from residents who may occupy the new residential dwellings since the project site is relatively close to the airport. He also expresses that he was not notified about this meeting taking place. Though he does mention that he received a letter dated January 20, 2023, which I think might be the neighbor notice letters that were sent out. He is also apprehensive about an encroachment issue associated. The removal of the bufferyard open space, he says, and the construction of roads and convenient storage could infringe on the airports operations that may lead to safety risks, obstruction of flight paths. So, he is expressing that he is against this petition.

Clements: Ok, thank you. Yes, Mr. Guerrettaz?

Guerrettaz: Was Carlos specific about what his concerns were with the storage units being in the sight line, flight path versus single-family residential homes or?

Brown: It seems that, he seems to be against development in that area in general based on what I am reading.

Guerrettaz: Thanks Daniel.

Clements: Yes, Councilwoman Munson.

Munson: Yes, Mr. Lavery, airport Director, specifically referred to the removal of the bufferyard/open space and I would like to see what the bufferyard is supposed to be for the airport relative to this project development. I think that is an important point for all of us.

Enright-Randolph: Clarification question. Is the bufferyard the same as the noise zone? No, ok, thank you. Ms. Behrman, Assistant Planning Director.

Behrman: I was working to pull up the map and put the noise, the airport noise sensitivity map next to this property. They don't overlay each other. But because one of the airport parcels was within 660 feet that is what triggered him to get the letter. Unfortunately, it got mailed to the courthouse and put in a mailbox that probably wasn't frequently looked at. That has happened to me before. Give me just a second and I will try to pull up the map with the airport proximity.

Clements: I am just going to answer Mr. Brian Page's question in the chat. He said if the storage unit will not be connected to sewers will the unit connect to a septic field, and I would just like to state that there would be no need for a septic field or sewer because there won't be bathrooms or water hookup for the storage units because it is not housing. It is just storage.

Behrman: What should be coming up is the Elevate website with the petitioner's parcel highlighted. The airport noise sensitivity, it is a little bit difficult to see. It is this hashed mark here and I can back it out a bit. You can see the highlighted blue is the petition site and none of this petition site is actually within that airport noise sensitivity zone. If development happens, we don't need to do any extra steps to notify homeowners about noise. I believe this is under some state and maybe federal statutes as to why this exists. There is another airport layer that could be added that has not been added where maybe there could be more notification put in place. It just has not been added yet. There have been discussions with GIS and Airport and Planning to add that, but it has not taken active yet.

Clements: Ok, Mr. Brown if you would continue with your presentation. We got a little sidetracked, but they were good questions. Thank you for your patience with us.

Brown: The staff recommendation has not really changed. We still recommend both a positive and negative recommendation to the County Commissioners subject to the Highway Engineer and MS4 Coordinator reports. We recommend forwarding a positive recommendation to the County Commissioners for the new road configuration and removing part of the bufferyard open space based on the petition's compatibility with the Monroe County Comprehensive Plan with the following conditions;

- 1) Petitioner to propose an alternative connection to Bedrock that better avoids the Sinkhole Conservancy Areas.
- 2) Petitioner to revise the proposed impervious cover percentage to discount the road for the residential areas.
- 3) Subject to Drainage Board comments and compliance with Stormwater Drainage Ordinance.
- 4) Petitioner to propose language regarding the timing and extent of the road network buildout in coordination with the timing of the proposed future residential development.
- 5) Petitioner to amend the roadway design to require cul-de-sacs instead of stubs at the end of streets.

The second part is that staff recommends forwarding a positive recommendation for changing the housing densities for Tract F, G and I with the following conditions;

- 1) Petitioner to designate common areas for all drainage easements when property is subdivided.
- 2) Petitioner to propose the following minimum design standards for each area:
  - a. Minimum lot width
  - b. Minimum buildable area
- 3) Petitioner to designate conservation easements around the sinkholes and non-buildable area to preserve wooded areas.

Staff also recommends forwarding a negative recommendation for adding 1 use, Convenient Storage, to Tract F to the County Commissioners based on the petition's incompatibility with the Monroe County Comprehensive Plan.



## **RECOMMENDATION**

Staff recommends both a “Positive” and “Negative” recommendation to the County Commissioners subject to the Highway Engineer and MS4 Coordinator’s reports –

- Staff recommends forwarding a “positive recommendation” to the Plan Commission for the new road configuration and removing part of the bufferyard open space based on the petition’s compatibility with the Monroe County Comprehensive Plan with the following conditions:
  1. Petitioner to propose an alternative connection to Bedrock that better avoids the Sinkhole Conservancy Areas
  2. Petitioner to revise the proposed impervious cover percentage to discount the road for the residential areas
  3. Subject to Drainage Board comments
  4. Petitioner to propose language regarding the timing and extent of the road network buildout in coordination with the timing of the proposed future residential development.
  5. Petitioner to amend the roadway design to require cul-de-sacs instead of stubs at the end of streets.
- Staff recommends forwarding a “positive recommendation” for changing the housing densities for Tract F, G, & I with the following conditions:
  - 1 Petitioner to designate common areas for all drainage easements when property is subdivided.
  - 4) Petitioner to propose the following minimum design standards for each area:
    - a. Minimum lot width
    - b. Minimum buildable area
  - 5) Petitioner to designate conservation easements around the sinkholes and non-buildable area to preserve wooded areas.
- Staff recommends forwarding a “negative recommendation” for adding 1 use (‘Convenience Storage’) to Tract F to the Plan Commission based on the petition’s incompatibility with the Monroe County Comprehensive Plan.

Should the Plan Commission wish to forward a positive recommendation for changing one use of Tract F from high-density residential to convenience storage, staff suggests the following conditions:

1. Subject to Drainage Board comments and compliance with the Stormwater Drainage Ordinance

## **PUD REVIEW CONSIDERATIONS**

Section 811-6 (A) of the Monroe County Zoning Ordinance states: “The Plan Commission shall consider as many of the following as may be relevant to the specific proposal:

- (1) **The extent to which the Planned Unit Development meets the purposes of the Zoning Ordinance, the Comprehensive Plan, and any other adopted planning objectives of the County.**

*Findings:*

- The existing and proposed development appears to be inconsistent with the Comprehensive Plan per the Suburban Residential district;

- The current use and potential expansion of the site would not support commercial uses;
  - The MCUA Phase I plan designates the petition site as “Suburban Residential”;
- The current zoning is Fieldstone PUD, Wiley Farms Tract F created by the City of Bloomington in 1994;
- The Comprehensive Plan designates the property as MCUA Suburban Residential;
- The current approved uses for the petition parcel have been determined to be the ‘high-density residential’ uses listed in the petitioner letter from the 1994 city of Bloomington PUD filing;
- The petition parcel has remained vacant since that time;
- The petitioner requests to add one (1) new use;

**(2) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the Planned Unit Development regulations.**

*Findings:*

- The proposed plan will need use definitions to be defined;
- Design standards were found specifically listed in the PUD documentation;
- The site will not meet the design standards of the underlying zone, High-Density Residential;
- The petitioner has not indicated that any other deviation from the Zoning Ordinance would be sought at this time related to density, dimension, bulk, use, required improvements, and construction and design standards;
- Site plan improvements including parking, landscaping, and bioretention requirements will be addressed at the development plan stage;
- See Findings under section A, regarding use;

**(3) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.**

*Findings:*

- See Findings under section A;
- One of the purposes of the PUD, under Chapter 811, is to encourage a harmonious and appropriate mixture of uses;

**(4) The proposal will not be injurious to the public health, safety, and general welfare.**

*Findings:*

- See Findings (1), (2) and (8);

**(5) The physical design and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects common open space, and furthers the amenities of light, air, recreation and visual enjoyment.**

*Findings:*

- Parking minimum requirements will be reviewed for the petition site once a design is

- submitted for review;
  - The site will meet the design standards of the underlying zone, General Manufacturing (MG);
  - Development plan requirements including parking, landscaping, and bioretention requirements will be addressed at the development plan stage.
- (6) **The relationship and compatibility of the proposal to the adjacent properties and neighborhoods, and whether the proposal would substantially interfere with the use of or diminish the value of adjacent properties and neighborhoods.**
- Findings:*
- See Findings (a), (b) & (d);
  - Other immediately surrounding uses include single-family residential to the southeast and east, duplexes/condominiums to the northeast, and vacant land to the west, east, and south;
  - Much of the surrounding area is zoned Planned Unit Development, Estate Residential 2.5;
  - Development plan requirements including parking, landscaping, and bioretention requirements will be addressed at the development plan stage.
- (7) **The desirability of the proposal to the County’s physical development, tax base, and economic well-being.**
- Findings:*
- See Findings under Section 1;
- (8) **The proposal will not cause undue traffic congestion and can be adequately served by existing or programmed public facilities and services.**
- Findings:*
- Access is derived from S Fieldstone BLVD which is designated as a Local Road in the Thoroughfare Plan;
  - All utilities are available to the petition site;
  - See findings under (d);
- (9) **The proposal preserves significant ecological, natural, historical and architectural resources to the extent possible.**
- Findings:*
- There are known karsts on the property;
  - Drainage will be reviewed under a PUD Development Plan if the this petition is adopted;
  - The area was originally listed as a ‘high-density residential’ part of the Fieldstone PUD request to the city of Bloomington in 1994.

**QUESTIONS FOR STAFF – PUO-22-2 – Wiley Farm**

Clements: Thank you, Mr. Brown. I just want to make a statement. I see a hand raised by Gentry Services, LLC. We will first have some questions for staff by members of the Plan Commission. Then the petitioner will have 15 minutes to make his case to everyone and then there will be comments from the public who are in favor of the petition and then comments from the public who

are against the petition. Each person can speak for 3 minutes. Then the petitioner has a 5-minute rebuttal period. So, Mr. Gentry, we are sorry, but we will recognize you at that the appropriate time. We do see your hand raised. Coming back to members of the Plan Commission, do you have questions for staff? Mr. Enright-Randolph?

Enright-Randolph: Yes, and I know the answer to this but please indulge me. I have mentioned this a number of times, which finally puts my position squarely where I am comfortable with expressing that. I have mentioned how can we balance this and has there been any commitments if that new use was supported, which I will get to that in a second, that they will commit to building some of these single-family homes. So, if they build x amount of storage units are they going to build x amount of single-family homes, making that commitment? It is an easy answer.

Behrman: There has not been a written commitment. Frankly, right now under the circumstances there cannot be residential expanded into this area.

Enright-Randolph: Right but they could still kind of roll that into this bake in the cake if it was approved, contingent on it being approved and such. There are ways for that. That makes it really clear for me that I won't be supporting the additional use and I am going to expand just real quickly on that. Because you can see incremental change, which isn't that significant but without dedicating themselves or committing themselves to build these homes and we just leave these storage units there over time they might just request the next phase to these storage units. Would you bring up Exhibit 3, the site plan and for the public highlight the area that they are asking to have the conditional use?

Brown: It is this area that my mouse is currently circling.

Enright-Randolph: So, with no commitments with building the single-family homes, will you highlight the area that they kind of what to rezone to build those single-family homes? Which I will be in support of but were you able to make a curser around it. Ok. You are quicker than me looking at both screens, so thank you. Incremental change. Over time this could change the character and one of our charges is to look at the Comprehensive Plan, which talks about the character of the area and without seeing homes being built alongside these commercial uses that could drastically change the character over time where then next thing we know we could incrementally see these all being built into storage units and I am not comfortable with that and I am not comfortable without the petitioner making some commitments that we will see both of these things developed on this site. I am in support of all of the staff recommendations, and I am putting my cards out that on the table like I always do when I have made a determination and that is how I stand.

Clements: Thank you Mr. Enright-Randolph: Do other members of the Plan Commission have questions for staff? If not, if the petitioner or the petitioner's representative here please come to the podium, sign in, introduce yourself and then you will have 15 minutes to make your case to us. Thanks for coming in today.

**PETITIONER/PETITIONER'S REPRESENTATIVE – PUO-22-2 – Wiley Farm**

Jenner: I will try this. I was just told about 2 hours ago that I was on my own. I believe that Daniel is online for questions if you get to them and need for him to speak. Basically, I think there was an article in the paper that helps spell out what happened here. The property was bought to develop and to put homes on. I bought it to make money with. It already had a PUD sitting on it that went along with what we do for a living anyways. That is what we are known for authentic homes. We have bought a lot of homes. We are currently building for Cook right now as well as doing customs and other projects, so, we came with the intention of that but then got stopped because we can't get any sewer. They don't know when we are going to get sewer. They can't give me that answer. So, we wanted to develop an idea that was not too intrusive that could work in this area that didn't require sewer. That is the other big thing. This is what we came up with. We would be happy to work on what this thing would actually look like, things like that to help I blend into the area. I know that you talked about a commitment. We would have done been halfway through this process of this project if it had of went as planned by now. One thing I can tell you, you give us the 3 and half acres, the other we will throw the density down and everything is zoned and ready to go for that. I don't think the needs for housing are going to change anytime soon for this area. We still have a great need. My hope is that in the near future that they would open that up and we put those homes in. I don't know if there is any kind of written thing that can be done to make that be there. Who knows I could be broke by then. I hope not. But it would be done to where that is what it would be prescribed for at that point, for single dwelling homes. I think that is everything in a nutshell that we have. We put it out on the table I think everybody to see. I know that at the meeting the other people that were there they didn't have any great ideas either on something that we could do that would generate dollars on this piece of property. So, this is where we are at and with all of the other unknowns, we would like to proceed forward in trading off this 3 and half acres for the density level being knocked down in the other sections. Thank you.

Clements: Thank you sir. I am just going to check with my colleagues to see if they have any questions for you. Mr. Enright-Randolph?

Enright-Randolph: I have been wanting to ask this question because I am not sure if it has ever been asked in a way where I have understood. If you don't get the additional use, are you still wanting to seek the rezone for the other portion?

Jenner: It doesn't do me a lot of good.

Enright-Randolph: Right.

Jenner: That is where I am at is that right now where we stand is I would like to do the tradeoff for the single dwellings for this because we would be having a different conversation if the sewer was available, and everything was going like we would like to see it go. So, I guess to clear that up that is what we are laying on the table right now is we would like to trade. For the 3 and half acres we would take the other density down and have it rezoned for single family homes.

Enright-Randolph: I will just go ahead and say the ability to build those homes simultaneously of those storage units, I would have a different opinion. I don't know if I would have a clear decision

but thank you for addressing some of my comments that I made prior to you speaking and I really hope that we find an ideal situation where it favors both parties and we are able to add to our housing need here. We need more options to buy, and I applaud you for your efforts as a home builder. So, thank you.

Clements: Are there any other questions? Yes, Commissioner Thomas?

Thomas: My question is very similar to Mr. Enright-Randolph's and that is I just want to verify that it is all or nothing so that you are not interested in a partial ruling in your favor. Because what I can see is it seems that if the storage units don't happen that the rest of this is not helpful for you. So, I just want to verify that it is all or nothing in terms of this petition even though the recommendation from staff was split.

Jenner: Right, at this point, yes.

Thomas: Ok, thank you.

Clements: Ok, thank you. We will now move to the public and I would like to have people who are in the room who are in favor of this petition to please come to the podium and sign in and speak in favor of the petition for 3 minutes or if you online or on zoom please raise your virtual hand or press \*9 to be recognized. I see Mr. Gentry's hand is raised online, so if you could unmute him. You will have 3 minutes. Welcome. Thank you for showing up tonight.

Gentry: I speaking as opposed, not for.

Clements: You are opposed, ok. Well, since you are unmuted, why don't you go ahead, and we will make note of that.

**SUPPORTERS - PUO-22-2 – Wiley Farm: None**

**REMONSTRATORS – PUO-22-2 – Wiley Farm**

Gentry: Good evening. My name is Terry Gentry, property owner across the street from this, speaking on the impact of the stormwater flow related to this petition. I will answer any questions at the end. The petitioner's discharge flow after crossing under Fieldstone Boulevard heads down flowing down the dam spillway without a channel and then through my property without an easement. Let's talk channels. There are 2 types of drainage channels. Regular/defined or 2 undefined. The petitioner's flow through my property will be an undefined channel. This leads us to the common enemy document. What is the common enemy document? It is any surface water that does not flow out of a defined channel. Under this document an effected landowner may deal with it in a manner that best suits his own convenience. Such sanction dealings include walling it out, diverting it, or accelerating its flow by any means. The common enemy document has been upheld be the Indian Supreme Court in 1982 and reaffirmed by the Indiana Appellant Courts in 2008, 2018, therefore it exists as public record and as an effected landowner I give my notice to an act, the common enemy document. I will answer any questions that you have.

Clements: Thank you Mr. Gentry. I turn to my colleagues if you do have any questions. We have no questions at this time so thank you for appearing. Is there any member of the public who would like to speak in favor or in opposition to this petition? Please come to the podium, raise your virtual hand or press \*9. Thank you, if you would kindly come and sign in. Would you please state your name?

Maynen: I am Dawn Maynen. I am the Fieldstone HOA President and I spoke here last time.

Clements: Yes, I remember. You have 3 minutes. Thanks for coming.

Maynen: Thank you for having me. There are 3 things that I see that are up on this proposal. One was the routing of the public road; one is the scaling down of the homes and the third was for this usage. I was one of the one that attended the meeting when they held it at the Convention Center on behalf of Fieldstone and Centerfield. There was another resident that joined that was also a board member and I would like to read a petition that is currently circulating. I think it highlights some of the key points that I tried to get at the last time, that 3 minutes goes super quick. We, the undersigned residents of Fieldstone are writing to express our collective concerns regarding the proposed development of a self-storage facility in Fieldstone. We urge you to join us in opposing this development in order to preserve the character, safety and quality of life in our cherished community. Our objections are to the self-storage and once again I want to clear that up. I am not against the rerouting of the public road. They are pulling it away from more residential. I am good with that. I am not in opposition to the homes being scaled down, whatever use that is. We are strictly against the self-storage because it is an incompatible land use. The storage unit is not in harmony with the existing residential, recreational or commercial uses in our neighborhood. A large industrial-like structure would negatively impact the visual appeal and character of our community. There is increased traffic congestion. As we know the community building is being built up in the front. That would add to it and the influx of vehicles from the self-storage facility would add to traffic burden on our local streets including congestion and the risk of accidents. The noise and light pollution. Self-storage facilities normally operate on a 24-7, so it would result from my noise from vehicle traffic, loading, unloading, increased lighting throughout the night. It would disrupt the peace and tranquility of our neighborhood. The environmental impact the development of this facility could potentially harm the local eco system as well as we are including green space and flora and we would like to preserve these natural resources for future generations and this self-storage facility generates few job opportunities and contributes minimally to the local economy. Instead, we would encourage a development that goes ahead with economic growth and provides benefits to our community and there are other land uses. There was something that said I was in support of the larger storage unit and I just want clear that up because I feel like I am on time, if we absolutely had to have a storage unit not having residential but having more commercial where a trailer is parked for 4, 5, 6 months out of the year is way better than having stuff come in every hour on the hour. That was all that I said, and I think it was misconstrued in the minutes. It said I was in support of it and that is not the case. Mr. Enright-Randolph hit it right that I think there is a new administration coming into the City of Bloomington and I think there can be some kind of compromise. Initially I would love to see those homes built and I think Authentic Homes would be as well. Thank you.

Clements: Thank you so much and how many signatures do you have on your petition?

Maynen: Right now, we have got a lot of them online and we stopped getting signatures because after attending the convention meeting on May 3<sup>rd</sup>, I think it was we paused on getting any more signatures. We probably could have got, sorry, we got all of Fieldstone, if not there would have been a handful of people that we couldn't reach. But we paused because we heard the backstory of them not being able to get sewer because the city has this landlocked, i.e., potentially with annexation so we paused but we can continue. Currently right now we have about 200.

Clements: Ok, thank you. Thank you very much. Is there anyone else who is in the room or online or on the telephone that would like to speak in opposition to this petition? I see a Mr. Brian Page's hand is raised so Tech Services if you could unmute him. You will have 3 minutes Mr. Page.

Page: Hi, my name is Brian as brought up and I am opposed for the storage units being built in our community. I feel like we are being kind of held hostage for the storage units for homes. There are listed on google 33 storage units in Bloomington. There are 2 that are less than 2 miles away. Are there any other storages units in Bloomington that are within a planned subdivision? Is there a real demand for an additional storge unit to be built and as it was brought up earlier, I am really concerned about the potential slide into the commercial development if the land is annexed. What are they going to do with the remaining land? Is it going to be additional storage units especially across the street from the planned area there is supposedly 8 small homes that are planned are those going to be additional storage units? Is there going to be something else entirely and the extended road is going to end up in my backyard, so I am concerned about that in the future. But right now, I am mainly concerned about the storage units. I am all for single family homes. If it does stay single family, I would be opposed to apartments that was brought up in the original plan or possible townhouses depending on what the drawings or the plans would be for those. Mainly I am against the planned storage units.

Clements: Ok, thank you Mr. Page. Thank you for coming out tonight. Anybody else here in the room, online? Thank you if you would kindly sign in and state your name.

Krejci: Hi, there. I am Emily Krejci. I live in the neighborhood, and I am opposed to the storage units. I think it is inappropriate to plunk storage units in the middle of a residential area. I think it is a safety concern as well. With the growing transient population in our community, I think putting a bunch of storage units basically in the middle of the woods is not a great idea especially so close to all of these family residences and an elementary school within walking distance. I just don't think it is a good idea. I feel like it is not an invention created out of need because there are storage units really close by. It doesn't seem like the intention matches what that area needs. I think it should just be for residences. I don't think storage units should go there.

Clements: Thank you for coming and giving us your thoughts. Is there anyone else either here in the room or online? Then the petitioner has 5 minutes to respond to what the public has said.

### **PETITIONER REBUTTAL – PUO-22-2 – Wiley Farm**

Jenner: Not much to respond to is there? I think all of the cards have been put on the table why we are trying to do this development and why we are trying to move forward in it. I know with traffic and stiff that would be a question that would have to be answered by Bynum Fanyo with traffic



studies and things like that, that was mentioned. I don't think personally that it is terrible because of the transition that is there from going from the commercial that is right next door to that. I think there is a nice buffer between anybody else except for the people we would be putting in the homes there that would be next to it. I think that is all that I have to say.

Clements: Ok, thank you so much. Yes, Ms. Behrman?

Behrman: I saw there was a hand raised by someone named Daniel and that might be Daniel Butler. I am not sure.

Clements: Ok, let's hear from Mr. Butler.

Butler: Good evening, everyone. This is Daniel. Can you hear me?

Clements: Yes.

Butler: The first thing I wanted to address was Ms. Julie Thomas' comment in regard to it being a package. I believe that Mr. Jenner misspoke a bit, and he can correct me if I am wrong, but we are interested in an approval for the road routing and bufferyard reduction even if this is turned down from a standpoint of the commercial being added with the single-family homes. Now, there was discussion on David Jenner and our firm's part in regard to having the package deal be for the single family and the commercial 3.5 acres, if that makes sense. I wanted to address that portion. In regard to the traffic, this is a low impact traffic commercial application that would not have very many users generate very much traffic as compared to any other commercial application and the reduction to single family from multi-family would also be a reduction in traffic as well. I believe that is it, but I will take questions if you have any.

Clements: Thank you Mr. Butler. I do see 3 bubbles in the chat. Could you just check that out staff and see what that might pertain to?

Behrman: It was more comments from Brian Page.

#### **ADDITIONAL QUESTIONS FOR STAFF – PUO-22-2 – Wiley Farm**

Clements: Ok, so let's return to members of the Plan Commission for further discussion and any other that you might have of staff. I have one myself for Mr. Schilling about the common enemy doctrine that was referred to by Mr. Brian Page. I have read about it but I am not completely clear on it and how it would impact this particular parcel on these properties around it.

Schilling: I think it was described accurately that water that is flowing in a sheet can be stopped by adjoining property owners. I don't know the impact as far as stormwater flow on this project from that, certainly, a landowner has the right to do that.

Clements: Thank you and thank you for clarifying that. Any other questions for staff for further discussion among members of the Plan commission? Yes, Mr. Guerrettaz.

Guerrettaz: I have got a couple of questions for the engineer and maybe one for the petitioner and they can either one answer it. It doesn't matter to me. The traffic was the first part of it, Daniel. So, that was my first question. You had anticipated reduction in the traffic movements off of this property onto the surrounding properties and roads with the reduction in the housing density to the convenience storage, the impact of the convenience storage versus the residential density reduction. Is that what you said?

Butler: That is absolutely correct. This would be not a minor reduction; it would be a major reduction especially with the reduction housing would be the primary reduction. But as far as commercial applications this is one of the lower and traffic generating uses among commercial applications.

Guerrettaz: And then to go with Margaret's question to Mr. Schilling. On a common enemy, let me put this in my terminology. Where does Mr. Gentry live? Does he live on the opposite side of Fieldstone from the convenience storage? Maybe Mr. Gentry can answer that yes or no or maybe staff knows where Mr. Gentry lives.

Brown: He has provided the address in chat of 780 South Fieldstone.

Behrman: I will pull this screen up in just a moment.

Guerrettaz: Daniel, while Tammy is doing her thing, are you draining water? Fieldstone Drive is curb and gutter with storms sewers. Are you draining water from the petitioner's development over to the basin and through existing storm structures or is there an outlet that goes directly out toward that property in your design?

Butler: Our design has 2 stormwater ponds that would be capturing everything from the new road along with our commercial property. Those would be added new. Infrastructure or piping so that we don't allow for any runoff to go onto an adjacent owner's property. Now it would be piped to the existing outlet that is north of Fieldstone to the property that is north of us that is an existing outlet that is there now, so we wouldn't be adding a new outlet. But we would be reducing the amount of runoff because of the ponds that we would be adding.

Guerrettaz: Again, with your drainage calculations you are not increasing the rates of runoff compared to what they would be under the original plan.

Butler: That is correct. We would be doing a full drainage report. This has gone before Drainage Board already with an approval. But we would be giving a more detailed calculation, but we would be reducing the runoff of course from the public infrastructure along with the commercial property.

Guerrettaz: So, as far as, I am trying to hit some of the public's questions too at the same time, so with regard to the demand for storage, convenient storage with the investment and the long-term liability of running this business, this is to Mr. Jenner so you may need to come up to the podium. I am sorry.

Enright-Randolph: Would you mind starting from the beginning of that question?

Guerrettaz: Yes, I can. So, with the risk and the investment that you are going to be making and the time, money and liability have you researched to see that the demand for convenient storage is something that this area can use? Because there has been throughout the whole petition there has been discussion that there are a couple of different storage units within a certain distance away.

Jenner: We have not ran the study which I believe is what you are asking, on this area for this.

Guerrettaz: Ok. The facility will be fully fenced. Because convenient storage is really the one that we are talking about overall. But the facility will be fenced so as far as this being a destination for homeless people, transient population, that is probably a deterrent for that. It is going to be a secure area. Is that correct?

Jenner: Correct. It will have security cameras. You will have a completely fenced in area. It has to be protected. Yes.

Guerrettaz: Ok. Thanks.

Clements: Thank you Mr. Jenner. Any of questions from panelists?

Enright-Randolph: Maybe before we get to far past the drainage our MS4 Coordinator had raised her hand kind of when you were asking about drainage.

Clements: Ok, great. I don't see Kelsey Thetonia, if she could address us.

Thetonia: Good evening, Plan Commission. This is Kelsey Thetonia, MS4 Coordinator. Regarding the drainage from the site, I want to go back to some of the Drainage Board conditions regarding the flow path through the auxiliary spillway for the Fieldstone dam. I am currently investigating that working basically we are assessing the adequacy of the proposed outlet for the discharge from these ponds. If we cannot do what is proposed, then the Drainage Board will require an alternative outlet. So, we will not be discharging or allow the water to be discharged if it is not an adequate receiving stream and we will absolutely take the downstream property owners concerns into consideration during plan review on whether or not it will be appropriate. Thank you.

Clements: Mr. Gentry if you are still online, I think that what the MS4 Coordinator said is that it would be her professional obligation to make sure that your property is not going to be the recipient of a lot of waterflow and so they would work with the builder to design the proper channeling of the water. Just to let you know that should this get approved the MS4 Coordinator would be involved in the design. With that being said I come back to members of the Plan Commission for any other further questions and/or discussion. Yes, Mr. Enright-Randolph.

Enright-Randolph: Just one final thing and it goes back to a couple of our questions about what the petitioner would desire and how he perceives moving forward and it sounds like he kind of has it as a packaged deal. I know that we have this here and we are just are recommendation type technical advisory type of group here for the County Commissioners. So, if they didn't want to make this all the way to the County Commissioners, this is for Planning, what process would they

have to do? Would they just have to withdraw it or like could you expand on that now knowing that the petitioner kind of wants both of these and not just one or the other?

Clements: Mr. Butler actually said something different.

Enright-Randolph: If I was misspeaking, would you please come to the podium and explain? I don't want to speak for you. That was just my observation.

Jenner: Daniel described it better than I did. There are some things with the road moving and a couple of other items that are on this petition as well that are not what we were talking about. The trade off was on the zoning versus the storage units. Does that make sense on that section, on that part of it? Because there are like 3 different things that we are looking at doing here. So, does that make sense. So, it is not a total package that we are asking for, all or nothing, I guess, it is each individual thing. So, you have got like 3 different things here that we are looking at. Does that make sense?

Clements: Yes, Mr. Jenner. Thank you very much. I would just like to re-assert what I had originally said that with the change in the administration there are hopes for more cooperate with the city and possibly that sewer services could be extended as was intentionally provided for in the PUD agreement as put forth by the city. With that being said I would like to encourage my colleagues on the Plan Commission to entertain this under I guess 2 different motions. One is the housing, and the density reduction and number two is the storage unit change in use. If we could have a motion yes, Tammy.

Behrman: I think we also have a separate motion for a road network.

Clements: Yes, and so there are 3. Ok, great.

Guerrettaz: So, may I ask this question? It is clear the petitioner if the convenient storage doesn't move through then I understand that they would looking at the off-set density making the convenient storage more useful, so, to me that means that if the convenient storage doesn't go through then the reduction in the density for the single-family housing is not desirable. Am I correct with that?

Enright-Randolph: Would you please come to the podium? Sorry.

Guerrettaz: Sorry about that. Thanks, Trohn.

Jenner: Correct that was the part that was the trade-off that we was asking for.

Clements: Now, I don't quite understand the relationship between you and Mr. Butler. But as Mr. Butler had asserted earlier, he is still interested in the items.

Guerrettaz: Yes, the way I understand is the motion with rerouting the roadways and the buffer is desirable by the petitioner as communicated by Mr. Butler and then the remaining 2 would be the

decrease in density would go along with the convenient storage and if you didn't get the convenient storage the reduction in the density would not be useful to you.

Jenner: Correct.

Guerrettaz: Ok, does that make sense?

Clements: Sure. Mr. Enright-Randolph?

Enright-Randolph: I am sorry but to that point I think we need to clearly indicate how this would proceed. Right? Regardless, this proceeds with all of the motions here so if he is only wanting one of the 3 even if we say no to it and it is adopted at the next level 2 of the 3, but you really only want the one with the road configuration, how would they go about just requesting that one? Does this become a new petition?

Guerrettaz: Can I offer a suggestion?

Enright-Randolph: Sure, I just clearly want to make sure that we don't move this forward and then they adopt a rezone for the single-family and he is wanting to keep the density because his goal was to get that conditional use.

Guerrettaz: I had the same question. What I was going to suggest kind of in lei of what you said Margaret is have one motion in regard to the buffering and the road realignment because it is a positive recommendation by staff as desired by the petitioner and if we could we bundle motions together when there are multiple parts, we could do the convenient storage and the density in another motion. That way if it goes down then it goes to the Commissioners and the Commissioners decide and the petitioner is still working with what they want and if it goes up then everybody is happy.

Clements: I would like to ask Commissioner Thomas and the Planning Department how fair is that to the public to make it essentially what came in as a package deal is now being dissected into one third of the package deal?

Enright-Randolph: We have to give fairness to the petitioner as well.

Clements: How fair is it? I don't understand.

Thomas: That is a Mr. Schilling question, I think.

Clements: Yes, Mr. Schilling, could you?

Schilling: I think with the consent of the petitioner you can reduce a request. The public hearing on the entire package was advertised, people are here, they have heard what has been said so I don't think there is any due process issue there.

Clements: Ok, on that note, I would like to advise the public, the public that has appeared and who has signed the petition that if you go home and you have your meeting and you talk to the 200 people in your Homeowners Association and if you look at the fact that the request has been changed from, is being changed, however it comes out that you have an opportunity to appear before the Commissioners when they actually make the decision on this package. You will have an opportunity to be heard at that time. With that being said, Mr. Guerrettaz, would you like to make a motion?

Guerrettaz: I will make a motion. One question for staff. If we have the conditions of approval that are listed in the staff report presented this evening and we include reference to the Drainage Board, will the Drainage Board's comments automatically go into what Daniel put forth earlier this evening?

Behrman: I think you could accept it with the findings with the Drainage and Highway Department Engineering reports.

#### **FURTHER QUESTIONS FOR STAFF – PUO-22-2 – Wiley Farm**

Guerrettaz: Ok, so I am going to break this up into 2 motions. One is for the Road Configuration and Bufferyard and then I will do the other one, I will lump the Storage Units and the Reduction in Density together, just so everybody understands where I am trying to go here.

Clements: Thank you.

**Guerrettaz: In the matter of case number PUO-22-2, this is a Planned Unit Outline Plan Amendment 1 to Wiley Farms at Fieldstone, this is the Final Hearing and as I understand it this is on South Kirby Road, I move that we forward to the Monroe County Executive Board of Commissioners a positive recommendation for the Reconfiguration of the Roadways and the Bufferyard request as outlined in the staff report, based on the findings of fact and recommendations/requirements by the Drainage Board, Planning Staff and Highway Department.**

Enright-Randolph: **Second.**

Behrman: There has been a motion and a second and that was to forward a positive recommendation to the County Commissioners for the Reconfiguration of the Roadways based on the findings of fact, subject to Highway Engineering and Drainage Board comments. Were the conditions that were recommended by staff also included? I do believe there were 5.

Guerrettaz: Yes, thank you. Also, **friendly amendment, the conditions 1 through 5 as listed in the staff report and including those requirements that Daniel presented from the MS4 Operator this evening.**

Behrman: I can read those into the record if that is helpful.

Guerrettaz: That is totally up to you.

Behrman: 1) Petitioner to propose an alternative connection to Bedrock Road that better avoids the Sinkhole Conservancy Areas. 2) Petitioner to revise proposed impervious cover percentage to discount the road for the residential areas. 3) Subject to Drainage Board comments and compliance with the Stormwater Drainage Ordinance. 4) Petitioner to propose language regarding the timing and extent of the road network buildout in coordination with the timing of the proposed future residential development. 5) Petitioner to amend the roadway design to require cul-de-sacs instead of stubs at the end of streets.

Enright-Randolph: **My second still stands.**

Behrman: Thank you. We have a motion and a second. I will call the roll and a vote in favor is a vote to send a favorable recommendation to the County Commissioners. Margaret Clements?

Clements: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Geoffrey Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Julie Thomas?

Thomas: I am going to vote no because I still have questions for the airport.

Behrman: Ok, so that motion passes 6 to 1.

**The motion in case PUO-22-2, Wiley Farm at Fieldstone Tract F Amendment 1 Planned Unit Development Outline, Final Hearing, in favor of sending positive recommendation to the County Commissioners for the Reconfiguration of the Roadways, with conditions as stated in the staff report, carried (6-1).**

Clements: Ok, thank you.

Thomas: We still have the other one.

Clements: Oh, yeah, that's right. I was hopeful.

Guerrettaz: **In the matter of the 2 requests; one being the Change in Housing Density as illustrated in the staff report for Tract F, Tract G and Tract I and also in regard to Adding One Use of Convenient Storage to Tract F, I move that we forward that to the Executive Board of County Commissioners with a positive recommendation, based on the findings of fact, requirements by the Highway Department, Drainage Board, MS4 Operator and Planning Staff and I would include in those the 4 conditions that are listed in those 2 parts as found in staff report.** If you want to read those, you can.

Behrman: I believe there was one additional condition. If the use was being proposed, you are proposing that the use be added?

Guerrettaz: Yes.

Behrman: There was one additional condition in the staff report I think we recommended if you were going in that direction.

Brown: Yes, should the Plan Commission wish to move forward with a positive recommendation for changing one use of Tract F from High Density Residential to Convenient Storage, staff suggests the following condition;

- 1) Subject to Drainage Board comments and compliance with Stormwater Drainage Ordinance.

Guerrettaz: **That is fine because I listed 4; 3 for the first one and the one for the second one.** So, that is good that you clarified that, thank you.

Behrman: Thank you. So, we have a motion.

Munson: **Second.**

Behrman: Alright, and a second. I will go ahead and call the role. A vote in favor is a vote to send a positive recommendation to the County Commissioners with regards to reducing the density as proposed in the Outline Plan Amendment from the petitioners and also to add the use Convenient Storage to the 3.14 acres, sorry. I don't have that specific number. It is the very specific number that is outlined. How much land was the use associated with?

Brown: 3.34 acres.

Behrman: 3.34 acres. Thank you. There has been a motion and a second and I will go ahead and call the roll. Bernie Guerrettaz?

Guerrettaz: Yes.



Behrman: Geoffrey Morris?

Morris: No.

Behrman: Cheryl Munson?

Munson: No.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Julie Thomas?

Thomas: No.

Behrman: Margaret Clements?

Clements: No.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: No.

Behrman: So, that was (2) yes and (5) no's, that **motion failed**.

**Motion to send a *positive* recommendation to the County Commissioners for Reducing the Density and to Add the use of Convenient Storage, failed for lack of majority vote, (2-5).**

Enright-Randolph: I would like to make a motion. **I motion that we move with a *negative* recommendation, the staff recommendation of Changing the Housing Density for Tract F, G and I with the following conditions as outlined in the packet and also a *negative* recommendation for the Additional Use to Tract F, which is 3.34 acres as outlined in the packet as a *negative* grouped motion.** Just as a point of clarity, that means that it has to be voted on together. That can't be bifurcated moving this forward. Correct? That is kind of what my indication is. Is that correct?

Schilling: The Commissioners can amend anything that you send to them.

Enright-Randolph: Does that have to come back there first?

Schilling: Beg your pardon?

Enright-Randolph: Does that have to come back here first?

Schilling: For an amendment it does.

Enright-Randolph: Ok, so that gives the chance for the petitioner to potentially withdraw their entire motion if they are not able to get the one request that they are seeking for today. Ok, so I hope that is clear. That is my motion.

Clements: Is the motion to both reduce the density and deny the storage units?

Enright-Randolph: No, it is to deny the reduction of the density and deny the additional use because that was my understanding of what the petitioner was trying to do, and I think the realignment is already just a benefit in general. So, that is my motion.

Guerrettaz: Your motion is to forward a negative recommendation for the reduction in density and the addition of the storage units.

Enright-Randolph: Correct. The reverse of yours. One final point on that. I think this is the appropriate way to do as indicated what the petitioner's intent is and if not, they have a chance to withdraw it. But if this moves to the Commissioners and your rezone is still live, they could rezone it just for the single-family dwelling and you lose the density and I understand that is not exactly what your goal is. So, this is my effort of trying to move it forward where you have a chance to withdraw if needed if they are going to separate it at the next level during the Commissioners portion of this.

Guerrettaz: I will **second** it.

Behrman: There has been a motion and a second. A vote in favor is a vote to send a negative recommendation to the County Commissioners with regards to lowering the density of the residential use and also to not allow the convenient storage use on the property. No conditions. I will go ahead and call the roll. Geoff Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: I really don't know. No.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: Margaret Clements?

Clements: I am just so confused here.

Thomas: It is a denial of both.

Clements: I say no.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: No.

Behrman: That is 4 yes and 3 no. **Motion fails.**

**Motion to send a *negative* recommendation to the County Commissioners for Lowing the Density and a *negative* recommendation for Convenient Storage Use, failed for lack of majority vote, (4-3).**

Clements: Ok, any other motions?

Enright-Randolph: Everything has been very complicated, and I agree so I recommend reaching out to the planner and you have got a great representative with Daniel Butler as well just to make sure that you know what your options are moving forward because this will be moving forward.

Clements: Thank you. Thank you for showing up, Mr. Jenner. Thank you and for the people who live in Fieldstone. We are moving onto Item 2 on our, yes, Mr. Schilling?

Schilling: Is there going to be a recommendation to the Commissioners on the other part of this or is going to go with no recommendation?

Clements: It is no recommendation.

Thomas: I think we have to vote on that if it is no recommendation. **So, I will go ahead and make a motion that we forward this with no recommendation to the Monroe County Board of Commissioners.**

Enright-Randolph: **Second.**

Clements: Thank you.

Behrman: There has been a motion and a second to send no recommendation to the County Commissioners with regards to the Density with Residential and the Convenient Storage Use. I will go ahead and call the roll again. Edward Oehlman?

Oehlman: Yes.

Behrman: I am sorry was that yes?

Oehlman: That was a yes.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: Margaret Clements?

Clements: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: Is this just for the storage unit and the density? It is, isn't it?

Behrman: Correct.

Guerrettaz: I vote no.

Behrman: Geoffrey Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: Yes.

Behrman: That motion passes 6 to 1.

**Motion to send *no recommendation* to the County Commissioners regarding Lowing the Density and adding the Convenient Storage Use, carried (6-1).**

## UNFINISHED BUSINESS

### 2. REZ-22-8                    **Starts Rezone from AG/RR to LB Final Hearing.**

One (1) 17.29 +/- acre parcel in Clear Creek Township, Section 11 at 7955 S Fairfax RD, parcel no. 53-11-11-300-014.000-006.

Owner: Starts Living Trust c/o Lorraine Fowler

**Zoned AG/RR, ECO 1/2/3.** Contact: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)

**BOARD ACTION:** Clements introduced the petition.

### **STAFF ACTION:**

Crececius: Absolutely, thank you. This petition was last heard as a preliminary hearing in November. Currently, this is the final hearing before the Plan Commission. This is a request to rezone from Agricultural/Rural Reserve to Limited Business. The property is located in Clear Creek Township. It is 17.29 acres. In addition to be zoned AG/RR currently there is an Environmental Constraints Overlay. The property spans ECO Areas 1, 2 and 3. 1 being the most restricted and closest to Lake Monroe. The petition site used to contain a residential accessory structure, a log cabin style residence. But has been since demolished. The property is currently for sale and advertised by the petitioner who is a real estate agent and also related to the property owner. The petitioner has stated the desire to rezone the property to commercial to increase the sale value in a recognized need for specifically Boat Storage in this area. If the request is approved by the County Commissioners the petitioner intends to sell the petition site for commercial use. It will be required to have an approved site plan by Monroe County departments Planning, Highway and Stormwater. On the screen is the zoning map illustrating the ECO Areas. There are some existing Pre-existing Business zones to the south. The Agricultural/Rural Reserve district is primarily intended for agricultural uses, single-family residential uses associated with agricultural uses and limited very low density rural nonfarm related single-family uses. The Limited Business district is generally for essential business needs and convenience of neighboring residences. Limited Business uses are often placed in cohesive groups that on individual properties. The purposes are to encourage the development of groups for nonresidential uses that share common highway access. This district is to discourage single-family residential uses and protect environmentally sensitive areas such as steep slopes. On the screen is a pictometry view of the property. Currently there is an existing accessory structure, a small shed/barn that is in a dilapidated state. Here is another view of the pictometry. This view is looking north at the property. A few site photos because the site is long and narrow and is mainly wooded towards the farther east you go. This is mainly from South Fairfax looking east. This is the existing residential structure. The front part of the property that is closest to Fairfax is currently just a mowed grassy area. The petitioner did apply for a Right of Way Activity Permit. Currently the location that was requested is kind of an existing drive access, which is hard to see on photos. That drive entrance was denied but the Right of Way Activity Engineer has stated that there is an alternative location that would be approved for sight distance and other requirements under the Highway Department. If this rezone is approved and a commercial site plan was pursued that Right of Way Activity Permit would have to be adjusted and finalized. On the screen is the site conditions map. We can see that approximately half of the property would be considered buildable with steep slopes over 25% the farther east you go towards Lake Monroe. The Comprehensive Plan designates this area as Rural Residential. Again, that maintains areas that are agricultural and residential uses. On the

screen is the same petitioner letter that we have had since November. On the right side of the screen is a new letter that has been provided. This is your Exhibit 5 in the report that was published. The petitioner has had interested buyers, multiple interested buyers for the same use of Boat Storage, which is permitted in the Limited Business zone. Originally the petition started with a different interested party. This letter on the right is now for the most recent party that is interested in purchasing the property for a Boat Storage use. Staff is recommending forwarding a negative recommendation to the County Commissioners for the rezone request from Agricultural/Rural Reserve to Limited Business based on the findings of fact, subject to the Monroe County Highway and Drainage Engineer reports.

### **RECOMMENDATION**

Staff recommends forwarding a **negative recommendation** for the rezone request from Agricultural Rural Reserve (AG/RR) to Limited Business (LB) based on the findings of fact, subject to the Monroe County Highway and Drainage engineer reports.

### **FINDINGS OF FACT - REZONE**

In preparing and considering proposals to amend the text or maps of this Zoning Ordinance, the Plan Commission and the Board of County Commissioners shall pay reasonable regard to:

#### **(A) The Comprehensive Plan;**

##### **Findings:**

- The Comprehensive Plan designates the petition site as Rural Residential;
- “includes rural property, environmentally sensitive areas,”;
- The intention of the petitioner if the rezone is approved is to allow for a commercial use, specifically for commercial “boat storage”;

#### **(B) Current conditions and the character of current structures and uses in each district;**

##### **Findings:**

- See Findings under Section A;
- The rezone request is to change 17 +/- acres from AG/RR & ECO1/2/3 to Limited Business (LB) and ECO1/2/3;
- The current use of the petition parcel is a residential and is largely undeveloped – it has one residential accessory structure on-site;
- Adjacent uses are residential or commercial and adjacent zoning is AG/RR and PB;

#### **(C) The most desirable use for which the land in each district is adapted;**

##### **Findings:**

- See Findings under Section A and Section B;
- The site contains some buildable area (slopes 15% and under) and some steep slopes that drains into Monroe Reservoir;
- The site is located within all the Areas (1, 2, and 3) of the Environmental Constraints Overlay zoning districts;
- The area that borders the lake is considered FEMA Floodplain;

- There are no known karst features;

**(D) The conservation of property values throughout the jurisdiction; and**

**Findings:**

- Property value tends to be subjective;
- The effect of the approval of the rezone on property values is difficult to determine;
- The petitioner states that their intent to rezone is to increase the sale value of the property;

**(E) Responsible development and growth.**

**Findings:**

- See Findings under Section A, Section B, and Section C;
- Access is off of S Fairfax Road;
- According to the Monroe County Thoroughfare Plan, S Fairfax Rd is classified as a Major Collector road;

**QUESTIONS FOR STAFF – REZ-22-8 - Starts**

Clements: does anyone have any questions for staff? Ok, if the petitioner or the petitioner's representative is here, please come to the podium and you will have 15 minutes to make your case to us. Thank you. Thank you, Ms. Fowler. Welcome back and if you would kindly sign in.

**PETITIONER/PETITIONER'S REPRESENTATIVE – REZ-22-8 - Starts**

Fowler: Thank you. My name is Lorraine Fowler with Remax Acclaimed Properties, and I am also one quarter owner of this parcel. As Anne shared, I put this on the market, and we had multiple people interested. That one particular buyer that we had pulled out but then we have another buyer. I can't speak to all of the rules and regulations of County Planning and what needs to be done and thought of but I can speak a little bit to the market. When you put something out on the market and every single buyer is interested in the same thing, I think that kind of speaks to the point that there is a need. But I will let you hear from David Utley, who is the buyer that we have on contract at this time.

Clements: Thank you, Mr. Utley. Please sign is as well.

Utley: Hi, my name is Dave, like she said. I have a boat business here in town. I have been looking for a spot to provide the services that my customers are asking for, for several years now. On the west side of the lake there is not much land to build a building to store boats in. Fairfax Marina recent sold. I had my hat in there. My gut told me no. It was dated and I didn't like the layout or the price. My gut told me no and then I got a call from somebody that is related to Lorraine and tole me there was a chance that this property was becoming available. I took a ride over there, talked to my wife and had to have it. With that being said I am ok with whatever decision happens here. I just want to do my due diligence for my customers that are asking for updated boat storage and by updated boat storage I mean a nice 14 by 40 building to put their nice boats in with led

lights and security and electricity and water if they need it. I can put myself on the other side and be a neighbor and imagine what it would be like watching this beautiful property. It is a park-like setting and then having a potential of buildings come in there. I can understand with people who don't want it and I want to be a good neighbor. I don't want to create a problem. I think with the requirements from Monroe County Planning Department and all of the steps that you have to go through to get landscaping involved I think that I would end up being a good neighbor for these people.

Clements: thank you Mr. Utley. That is very considerate how you described that. Thank you. Do you have anything further Ms. Fowler for your 15 minutes? Ok. Then I am going to open it up to the public and those people who are in favor of the petition, would you either come to the podium or raise your virtual hand or press \*9 on the telephone if you would like to speak? Is there anyone online? Ok. If there is anybody who is opposed to this petition if you would please raise your virtual hand or press \*9 on your telephone? I see that a Ms. Siffen has raised her hand. If you are calling in by telephone press \*6 or if you are on zoom you will be unmuted. I think you are unmuted. You have 3 minutes.

**SUPPORTERS - REZ-22-8 – Starts: None**

**REMONSTRATORS – REZ-22-8 – Starts**

Siffen: Ok, thanks. Yes, I am opposed to this. We need to preserve these ECO Areas and it is an AG/RR district. That is the way that it is zoned, and it also agrees with the Comprehensive Plan that way. So, that is basically my points that have to do with what currently exists. Also have a lot of traffic on South Fairfax already and this would just completely add to it. So, for those reasons I am opposed to it. Thank you very much.

Clements: Thank you, Ms. Siffen. Is there anyone else that would like to speak against this petition? I see that someone by the name of Brooke has raised his/her hand. I think you are unmuted.

Reiman: Hi, my name is Brooke Reiman, and I am a neighbor, 2 neighbors away. I own property to the south. My concern is that I understand the reasoning, I am sorry, it is loud in here, I wish I could be here in person but the fact that it seems like the reason for switching is just monetary. It is just to make someone more money, not for the need of the county or in keeping with the Comprehensive Plan. I would prefer that we are not just looking specifically at funding here to put into someone's pocket. But looking at the whole view of things. That is all that I wanted to say.

Thank you, Ms. Reiman. Thank you. Is there anyone else that wishes to speak? I think the 2 hands raised by the attendees are the ones who have spoken. Is there anyone else? Pardon me? Oh, yes, please come to the podium. Sorry, if you would kindly sign in and state your name.

Burns: My name is Faron Burns and I live directly across the street from where this is supposed to go in.

Clements: Thank you, Mr. Burns.



Burns: The pen is not working. I have lived there since 1985 and you are going to be right across the street. You are going to light the thing up. It is not going to be desirable for around us. I mean, inside boat storage would be ok. I wouldn't oppose that as much as I would the possibility of outside storage being added because then we have got another lakeview or we have got the campground where there is just a whole line of boats parked out front. It is just not appealing. I am the same way. I see this as more of a way to market the property for more money upfront because once it goes Limited Business there are a lot of other things that could go in later on if this doesn't go through. That is my point.

Clements: Ok, thank you Ms. Burns. Yes, sir if you would kindly come to the podium and sign in and tell us your name. You will have 3 minutes.

Blume: My name is Brad Blume. I own 22 acres just north of this. I think you have received some of my letters previously. You know what I have done to the property, the money that is have invested to try to make it a park-like setting. Really going toward the master plan of allowing someone who needed trees, trees are going back. Some of the dogwoods have grown. There are a variety to different maple and oak trees. I am amazed at what is there. When I sit here and listen to the first parcel you were all looking at, I am amazed at the information that you know. I am amazed that the information that you asked for. I am amazed at what you require to go forward. We know nothing about this property, how it is to be developed. It is an idea. Boat storage. That is all that it is. It is an idea. I also proposed, brought this to Monroe County Historical Society that, I also mentioned that Old Salem Road possibly went through there. It has been confirmed. I have got information that is one of that last features of Old Salem Road in Monroe that has been confirmed by gps and by DNR, Jill Vance. I have got letters and her emails to show that is a very historical site that is there. That has been known to the Fowlers for some time. I mentioned that to them when the property was bought and when the realtor sold it. We know nothing. We don't even know if it is feasible financially to put boat storage in there. What is it going to cost for the property? What is going to cost for insurance? What is it going to cost for the buildings? What is it going to cost for the security fence? What is it going to cost for the driveway? There is no idea without any type of study that this can actually be a feasible plan and I can't see someone putting that much money up front on a piece of property not event having a business plan to present to the council to say hey, I can make this work. They are just saying I have got an idea, let's get it rezoned and shoot from the hip. I don't agree with that. You had a master plan. If you will look at it, we are going to get a lot of light damage out there. It is a beautiful setting. I don't have any outside lights. It is a part setting now. It is a very nice setting if you will look back there. I am concerned with the water flow. There is going to be water even though the original water plans said there are no karst features. There are karst features out there. One of the problems with the way the water is going to drain is it is going to drain into a sinkhole, which is going to open up more than it already is, or it is going to drain correctly into a creek that goes directly to Monroe and at the top of this creek already is a dump site. Will this additional water increase that? There is a buried dump site there now. A lot of this isn't know. I have known this property. I know Scotty when he owned the property. I am a mushroom hunter. I have deer hunter and I have squirrel hunted it. There is a lot of stuff on this that could do very bad damage to Monroe and what is underneath that property and how it lays. It is a beautiful piece of property. You have got to look at it. But to just shioot from the hit and say, yeah, we are going to put boat storage there without any information at all, I can't see how you all can make the recommendation for that.

Clements: Thank you so much Mr. Blume. Thank you for your research and sharing it with us. Is there any? Mr. Guerrettaz would like to ask you a question, Mr. Blume.

Guerrettaz: Is Old Salem Road are you saying that is the driveway that is?

Blume: Salem Road actually, well, it interesting how we did it.

Guerrettaz: Can you just give me a general idea where it's at relative to the property?

Blume: This actually shows it.

Clements: I would like to see that.

Blume: (Inaudible)

Thomas: Anything you are saying is not being recorded because you are not at the microphone so can you repeat what you are saying?

Clements: Thank you for bringing this. This is nice.

Blume: Some of the old timers down there told me for a long time that was the old Salem Road, and it is obvious.

Guerrettaz: So, Fairfax Road is Old Salem Road.

Blume: Pardon me?

Guerrettaz: You are saying Fairfax Road is Old Salem Road.

Blume: If you look at it, Fairfax Road was Salem Road. A lot of it was Salem Road which is the original road that went from 2 miles south of the courthouse to the White River. This jaunted over. It is really bizarre if you look how, it jaunted over, and those guys said this is part of the Old Salem Road. Also, down there which a lot of people didn't realize part of what was down there that was lost was the old Jeffers Tomb, which has a revolutionary soldier buried in it. There is a lot of history down through there which Salem Road came through. It came across our property which has already been covered up by farmland. But it comes across there and it is one of the last remaining sites. There is only one other place that you can find in Monroe County and that is going down in the lake and Fairfax beach. Other than that, there is no more. It does not exist.

Clements: That is very nice of you to bring this. Thank you. That is very nice of you to bring this.

Blume: That came from Jill Vance with he DNR. I called the Highway Department, and no one had any idea. They said it could be, but we don't know. Jill Vance said, well, give me the coordinates and we have a new thing now that we can overlay that with the plat map from 1920, I think or 1921. It is amazing what they can find now. You give them the coordinates of where you on the maps and it show exactly where you are at. It is pretty neat features that they have.

Clements: I believe Cheryl Munson has a question for you Mr. Blume.

Munson: Yes, please. Could you tell us does Old Salem Road connect Smithville with...

Blume: I am having a real hard time hearing.

Munson: Does Old Salem Road connect Smithville with Bedford or what?

Blume: No, it's just part of the road you can tell if you go down Fairfax why its laid out that way because it laid with the land. It was the least bit of resistance going up the hill and they followed the side of the hill for the drainage. But then when modernization came in, they straighten that out on Fairfax, and they turned it back around.

Munson: Thank you.

Clements: Mr. Enright-Randolph?

Enright-Randolph: What quad map did you find that referenced on? I just wanted to plug that, I just tried to find it on the county website but look back for this web app in the near future where we publish all of the Monroe County historical topographical quadrant maps on a viewer. So, those will be more readily available for everyone. If you can't find it send the email to the Monroe County Surveyors Office. But I just had all of the quad maps open, so I was just curious. Do you know which particular one identified that stretch of road?

Blume: Well, Jill Vance what she did was she had, I think it is on that letter there, the 1921 plat map.

Guerrettaz: I think she used the plat map.

Enright-Randolph: Plat map, not quad map, ok.

Blume: Yes, and she overlaid everything on top of that.

Guerrettaz: So, it was an overlay from the plat map aerial.

Enright-Randolph: Thank you. That might have been my misunderstanding.

Clements: Thank you very much. Ok. Are there any other members of the public who would like to speak, either in favor or in opposition to this petition? I don't see anybody. I return to members of the Commission for further discussion and/or a motion. Yes, Mr. Enright-Randolph.

#### **ADDITIONAL QUESTIONS FOR STAFF – REZ-22-8 - Starts**

Enright-Randolph: It is unfortunate that we went out of order at our Admin. Meeting and opened it up so it is not necessarily part of an official record but we were able to hear from petitioner/representative and then the potential buyer that spoke today and I really liked that vision

he had articulated at the meeting which I think the complexity of it is more of a withdraw of this type of petition and then kind of start over again, which again I am not sure exactly how you would find yourself at the very end of the day but I would be more favorable to that. With that said I won't be supporting this today and I do like the idea that was shared prior. It would be interesting to see that.

Clements: You just reminded me that I failed to give the petitioner and the petitioner's representative a 5-minute rebuttal. I am so sorry; I didn't mean to go out of order. If you would like to go to the podium you have 5 minutes if you would like to reiterate what you would like to do and respond to any of the negative statements that were said. You have 5 minutes to do so. Thank you. I am so sorry.

### **PETITIONER REBUTTAL – REZ-22-8 – Starts**

Fowler: I guess to some of the negative comments, I just generally ask people if you get offers and your offers are all coming from different people for the same purpose, I mean, what would you do. What would you do? Please consider that. Also, when my parents bought the property there was a dilapidated cabin that was there that my husband and his crew took down and made that land very beautiful for many, many years, going on 20. I can appreciate that people don't want their beautiful land developed. I really can. But a part of me says thank you to us for letting you have that land look so beautiful for the last 20 years. I know Dave and Dave does things very, very well. To the question of a lot of a lot of traffic coming and going, I mean, I don't know. If you watch residential homes with people coming and going to sporting events, piano lessons and so on and so forth how many times they come in and out of their driveway, actually think about if you had a storage area or boat storage how many times did you go in that driveway, just to put a little bit of perspective on that. The one thing that I can't speak to and honestly do feel some understanding about is the lighting. Because I do think the lighting is a consideration for neighbors. Just some things to think about. Again, I am with Dave, we are ok either way. It just seems like the public has spoken and said what the need is. Change is hard. Change is hard for anyone. We have a shotgun lot right beside our primary residence that was sold. I knew nothing about that, and it is a \$700,000 or higher property that we own. I was kind of surprised when it sold. I didn't think it would sell. We had no clue what was going in on there. But people have their right to buy their land and they have a right to do something with it, especially if there is a proven need.

Clements: Thank you. Yes, Mr. Utley.

Utley: I agree with Lorraine about the lighting, and I haven't even thought about the lighting. It was a good agreement and I hope something can be worked out if we can get through this where it doesn't disturb the neighbors from the lighting. The thing about money. Yes, I am in business to make money. It is not what gives me joy. The pleasing customers and getting people on the water to promote that activity is why I do what I do. They are calling for boat storage that they can feel safe with their boat. We are talking concrete floors with drains. Very good security. I am not worried about the drainage because I am sure you guys are going to make me put drains and locks and all kinds of things that I am not even aware of but as far as a business plan, I can give you a whole lot of scenarios where I can make it make sense. But I am trying not to get too involved in this property and then get crushed if it doesn't go through.

Clements: Thank you Mr. Utley and I would like to thank everyone for being so respectful. I really appreciate that. Ok, back to the members of the Commission. Yes, Mr. Guerrettaz.

Guerrettaz: The same points I made the last time. With this property I think with the CDO, the development ordinance coming down, this property is 3 miles from the lake, I drove this w3hen we saw this the first time and what Mr. Utley said is correct. There is literally no properties that I saw that would support this use and the way that I see it, it is putting a need next to the source of the need. I think that is something that we need to think about as a Plan Commission as we move, we continue to move through the CDO. There is Pre-existing Business adjacent to it. To the southeast is the campground. Fairfax Road is a very good road. That is probably why Salem Road was relocated at some point in time. There are all kinds of little dirt paths out there that were roads at one time, but we remodel our houses, and we remodel our roads. It is just kind of that simple to me. It is just the way that we advance. The demand is there, and the demand is near the lake. Putting something like this near the lake keeps that traffic out off the county roads more than what it does in concentrating it in area on a road that was built for light traffic. Those are my points. Some of for this evening but moving forward with the CDO I think that we need to understand that and consider it.

Clements: Thank you Mr. Guerrettaz. Any other members from the Commission? Yes, Mr. Morris.

Morris: I have 2 concerns. One is impact to the neighbors if this were to be approved and the second is the fact that the other businesses that I looked at in the area are all zoned Pre-exiting Business. The intensity couldn't increase without this group having conversations so if we rezone this to Limited Business this would be the most unrestricted piece of property that I could find in the area.

Clements: Thank you Mr. Morris. Yes, Mr. Enright-Randolph.

Enright-Randolph: Commissioner Thomas had her hand raised first. I can wait for her.

Thomas: Go ahead.

Enright-Randolph: Ok. My is kind of to Planning. I know that we have limited resources but how much time is really put into seeing what the market demand is? Are you able to speak to that at all about maybe just folks calling into the Planning Department and asking about this type of use or something?

Creceilius: Standards of approval, we would mainly be looking at our Comprehensive Plan to guide what an areas use would be.

Enright-Randolph: I guess that goes back to trying to get some type of tangible data where we can start seeing where a trend is where people call in looking for certain type of uses that generate this rezone petition that we are looking at today. Not wanting to throw you under the bus but I am looking at you and we do have a representative from the city that is in that space and I was wondering if he wanted to add any comments to this discussion.

Cockerham: Thank you Trohn. So, the market, we have seen several different petitions for storage and boat storage. It is very desirable. The demand is very high right now. For one the cost to build is pretty low. Through covid a lot of people bought boats and rv's and they don't have the ability to store them. That demand is very high. I only do commercial real estate and I get calls for that type of product often.

Clements: Ok, and I just want to mention that was out of order. You should have asked me to recognize. That was out of order. Just to let you know. Commissioner Thomas.

Thomas: I have real concerns about asking our Planning Department to become marking experts and business consultants. That is not their job. But I think it comes from the public, which is appropriate, which it did in this case. That is absolutely appropriate. I do have the same concerns that Mr. Morris highlighted. I also agree with what Mr. Guerrettaz said. But my biggest concern is that there are 2 things that worry me the most and the first is that this is a petition to rezone he property to LB which could be so many things. It could be then resold, and it could be any other number of things. The second concern is that when this second buyer, who is here today and thank you again for coming, the second buyer has some interesting ideas but that is not what is in this petition. The task of the Planning staff and especially this Board is, more so this Board then the Planning staff is to kind of work through petitions with petit5ioenrs to that degree that could become a split residential/commercial. Which is intriguing. I am not going to say it is not intriguing but that is not something that we should be doing here. It is something that needs to happen before it comes to us. I am not blaming anybody. I just became uncomfortable because to me it says we are not really sure what we want to do here, and we are asking for it to be moved to Limited Business which has a wide range of possible applications. I do appreciate everyone. I appreciate the folks who called in and I certainly appreciate the interest in doing something with this property, but this is a Rural Residential area. Thank you.

Clements: Thank you. With that being said, yes, Mr. Oehlman.

Oehlman: This is a tough one when it first came up for me because I frequent that area often for Fairfax SRA and that peninsula that sticks out into the lake creates a very unique habitat from the natural side of things, which was mentioned by some of the opposition. But also, frequenting Fairfax Road it is not a straight road. It is not 446 accessing Paynetown and having boat storage that much closer to a launch site takes in my opinion, adds to the safety aspect of transportation in the area because you ae no longer transporting these boats that just seem to get larger and larger on our infrastructure for such a long distance and that kind of complex there with the restaurant and the campground and then the actual recreation area, it seems to me a good fit. I am kind of supporting what BG said and you know, and I do agree that it could have an impact on the natural setting of the area and the lighting and things could have an impact, but I think as anything we build close to the lake is going to have an impact.

Clements: Thank you Mr. Oehlman. Councilor Munson.

Munson: I have both a question and a follow-up comment. If this petition is denied, could the petitioner come back with a different proposal with more specificity to address a number of the

concerns that have been raised in our various discussions and reviews? What sort of constraints on there for returning for a revised petition?

Creceilius: They could file another petition. It would have to be a different request. In regards to specificity, they could clarify the mention of residential use at our last Plan Commission meeting but ultimately it would still be a rezone request. They can go into great detail on that site plan but technically any site plan is still going to be conceptual at the rezone stage.

Munson: But a rezone to Limited Business with specific conditions is a possibility. Correct?

Creceilius: They could, yes.

Munson: That would give greater comfort, I think, to neighbors who uses Fairfax Road, etcetera so thank you for answering mu question.

Clements: Thank you, Councilor Munson. Mr. Enright-Randolph.

Enright-Randolph: One reason I won't be supporting this is because of a long list but we have had a lot of discussions and I don't want to restrain the petitioner. I want to just echo some of the comments as we look at the CDO we should really consider what allowable uses are in this area if we are going to develop mass commercial spaces. Right now, the list is just a little bit too long for me to afford it because we don't really have any backstop, kind of to Mr. Geoff Morris' point too.

Clements: Is there a motion?

Morris: I can make a motion.

Clements: Thank you, Mr. Morris.

#### **FURTHER QUESTIONS FOR STAFF – REZ-22-8 - Starts**

Morris: For case **REZ-22-8, Starts Living Trust, I move that we forward a negative recommendation for the rezone request from Agricultural/Rural Reserve to Limited Business, based on the findings of fact, subject to the Monroe County Highway and Drainage Engineer reports.**

Clements: Is there a second?

Munson: **Second.**

Behrman: There has been a motion and a second. The motion is to forward a negative recommendation to the County Commissioners. A vote in favor is a vote to provide that negative recommendation. I will call the roll. Julie Thomas?

Thomas: Yes.

Behrman: Margaret Clements?

Clements: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: No.

Behrman: Geoffrey Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: No.

Behrman: Motion passes 5 to 2 for a negative recommendation.

**The motion in case REZ-22-8, Starts Rezone from AG/RR to LB, Final Hearing, in favor forwarding a negative recommendation to the County Commissioners, carried (5-02).**



## UNFINISHED BUSINESS

### 3. REZ-23-1            **Lake Lemon Marina Rezone from LB to LB Final Hearing.**

One (1) 3.14 +/- acre parcel in Benton North Township, Section 35 at 9554 E North Shore DR, parcel #53-01-35-100-017.000-003.

Owner: Werner Group, LLC

**Zoned LB.** Contact: [dmyers@co.monroe.in.us](mailto:dmyers@co.monroe.in.us)

**BOARD ACTION:** Clements introduced the petition.

#### **STAFF ACTION:**

Myers: Thank you. One moment while I get everything pulled up here for myself. Alright. This is the Lake Lemon Marina. It is a rezone request from Limited Business to Limited Business. Yes, that is correct. With the request to remove the prior rezone condition of approval for a shared driveway. We have heard this before, so this is the final hearing. We heard this at the last Plan Commission regular session in April and that was the preliminary hearing. This is a 3.14-acre parcel. Again, here on the screen is the original ordinance from 2007 that provided the rezone and the condition of approval for said rezone. Item number one for that ordinance rezone states that access to proposed lots be provided by an ingress/egress easement at the existing petition site entrance or via easement from another existing driveway cut. No new driveway cuts shall be allowed onto East Northshore Drive. If approved by the County Commissioners, the petitioner intends to apply for a Major Subdivision Preliminary Plat Amendment with a Sidewalk Waiver to remove the requirement of constructing a sidewalk along some of the lots on the subdivision. The petitioner also intends to submit a commercial site plan amendment and possible design standards variances to adjust the commercial site aspects like paving, parking landscaping, etcetera. The site is currently not paved, and the plans call for a paved parking area. The petitioner would like to keep the parking area gravel, which will require a variance. It is under the understanding of staff that both the rezone this evening as well as the preliminary plat that was approved back in 2008 both have the condition of approval that require the driveway the shared driveway design. Both of them will have to have the condition of approval removed through the proper planning channels such as a rezone as you see tonight as well as a preliminary plat amendment if it is approved by the County Commissioners. That is this rezone petition. If it is denied by the County Commissioners, the petitioner may continue to operate the property as the Lake Lemon Marina under the Limited Business zone. The petitioner must remove a driveway entrance and instead use a shared driveway design. Petitioner may still apply for the Major Subdivision Preliminary Plat Amendment and subsequent processes for the commercial site plan amendment and variances. Ok, now, I am going to cover some updates since April 18, 2023, which was the preliminary hearing of the Plan Commission. The petitioner provided an updated response to the discussion points from that Plan Commission meeting. This is included in Exhibit 1 of the staff packet. Planning staff also reviewed PC Meeting minutes September 25, 2007, and March 18, 2008, that is Exhibit 4. In that exhibit planning staff included some highlighting of relevant discussion items during those 2 Plan Commission meetings. The 2007 meeting covering the initial rezone and the 2008 meeting covering the preliminary plat that created the 2 lots in question that must share a driveway with the marina lot. Additionally, an exhibit was included for the Motor Vehicle Traffic Crash Summary date from January 2020 through December of 2022, that is Exhibit 11. PC members and the Highway Department staff were encouraged to visit the petition site during the last Plan

Commission meeting. The petitioner stated that their seasonal opening, which was held on May 13<sup>th</sup>, was a good time to visit. I am not sure if any of the Plan Commission members or the Highway Department members visited on that date, but we do have some information provided by the Highway Department about their recent visit as well. Some interesting items to talk about also is that an Appeals Meeting was held with the Board of Commissioners regarding the denial of the driveway permit for 9554 East Northshore Drive. That hearing was held on May 11<sup>th</sup>. Also, planning staff revised the findings of fact for the rezone petition, and I have a copy of those here that I will hand out here in a moment in case you want to reference them. Ok, regarding the appeal process that the Werner Group, LLC initiated, this was in response to the Highway Department's determination to deny a driveway permit. The appeal came on May 1, 2023. The driveway for those 2 lots was to be connected to the marina driveway as approved during the original petition and subsequent petitions regarding the Northshore Subdivision. This hearing was held on May 11<sup>th</sup>. Werner Group, LLC did not attend the hearing and Commissioner Githens reviewed the materials under the appeal application and also made a site visit. It was determined by Commissioner Githens to affirm the decision by the Highway Department to deny that driveway permit, and I have that item here on the right side of the screen of that decision. On the screen now and this is all included in your packet is the new letter to the Plan Commission from the petitioner basically stating new items and offering newer discussion points based on the conversations that have been had since the last Plan Commission meeting as well as the admin meetings. Again, this is included in your packet, so I won't spend too much time on these. But we can come back to any of them if we have questions. Now we have revised findings of fact. I am going to hand these out to each of you. These are not included in the staff report as they reflect some of the information that was acquired from the result of the appeals process and I will draw your attention to the back page that just has a long list of findings of fact. Basically, they are all details of a timeline and other facts associated with dates and approvals and things like that. So, one moment. A lot of the information in the findings you are already aware of as I have articulated those points in the presentation with the timeline. Here I have the background again. A lot of the same information is included in the findings. In May of 2005 a rezone was approved for 1.37 acres of a 7.53-acre parcel and that was to Estate Residential. The original 7.53 acres remained the Lake Lemon Marina property, which was zoned Limited Business. A minor subdivision was approved after that rezone, and it was approved by the Plat Committee to create 2 lots; 1.37 acres zoned ER and 6.16 acres that remained zoned Limited Business. Something that you will note in the background in the history of this site is that in the past the Planning Department would rezone portions of a property and then afterward subdivide them. So, that is why you see a rezone and then a subdivision. And then again in December of 2007 a rezone, then in 2008 a subdivision. It is the 2008 subdivision that created two, one acre lots and left the remaining 3.41-acre lot for the marina business. The rezone of 2007 was the one that created this condition of approval where all 3 of those lots, the two, one acre lots and the marina lot all share one driveway cut off of Northshore Drive. I will note in 2016, 2 driveway permits were issued erroneously by the Highway Department for the properties listed as Lot 3 and Lot 4 of the Northshore Amendment 1 Final Plat. In January of 2019 a second preliminary plat amendment was approved for the two, one acre lots listed as Lot 3 and Lot 4. Their names are now Lot 3A and Lot 4A. The purpose of that amendment was to adjust previously dedicated right of way. The Northshore Amendment 2 Final Plat was recorded March 20, 2019. On this plat it clearly identifies the shared driveway requirement that was initially required as part of the 2007 rezone stating private drive to be relocated to the marina entrance. Planning staff was able to locate along with the Highway a number of email threads with then

owner of the property, which was known as Shell Group, LLC, that reiterated time and time again that the requirement for the shared driveway is needed to provide access to those 2 additional lots. If any changes to that design were to happen it would have to go back to this rezone process that we are going through this evening. That same information was articulated to the new property owners, Werner Group, LLC, through a pre-design process which laid out all of the details of the rezone that you have tonight and the potential other planning processes like preliminary plat amendment, commercial site plan amendment, those sorts of things. Ok, so I am going to go through a few of these items here rather quickly. We have the site conditions map as well as the Lake Lemon Marina map that shows the floodplain. We have some department comments. We have the department representatives on the line to answer any questions. Here we have the Northshore Final Plat. This was the first subdivision that came about that created 2 lots to the east and left a large tract for the marina property. This is the 2008 first amendment that created lots 3 and 4 to the north/northwest. It is on this plat that is it not clearly identified as it should be but the rezone did require as well as this preliminary plat require a shared driveway cut for both marina and the additional lots 3 and 4. Here we have the Northshore Amendment 2. I zoomed in on this one and you can see clearly here the private drive to be located to the marina entrance per the Monroe County Public Works Department, which is also known as the Highway Department. That has all come about again from the original rezone ordinance and the preliminary plat. Here we have some pictures of the driveway entrance. This is taken from the marinas entrance. Behind this photograph is where the gate is. I am just going to scroll through these pictures here. These are all the pictures that we saw through the preliminary hearing as well as in the admin meeting. Here we have the initial letter from the petitioner as well as an as-built survey of the petition site. Here I included Ordinance 2007-48, and I also included the driveway permits that were issued in error in 2016, as well as the recent Highway Department inspection report that provide the denial for the driveway for lots 3A and 4A. We do have some letters of support, I mentioned these at the preliminary hearing. They came from property owners surrounding the petition site as well as you will note that Wiseman is a property owner of Lot 3A and Gravelie is a property owner of Lot 4A. Those 2 lots are the lots that are affected by this shared driveway design. Hamer, the owner of Lot 1A is actually in ownership of an area of land in front of the marina and these 2 parcels that has an easement that allows for everyone to access it through. These letters are included in your packet. That brings me to staff's recommendation. Staff recommends forwarding a negative recommendation to the Monroe County Board of Commissioners, based on the prior rezone petitions conditions of approval, the recommendation made by the Monroe County Highway Department, and the Board of Commissioners' recent decision to uphold the denial of the driveway permit after an appeal was made. I will now take any questions.

### **RECOMMENDATION**

Recommendation to the Plan Commission:

- Staff recommends forwarding a “negative recommendation” to the Monroe County Board of Commissioners based on the prior rezone petition’s conditions of approval and the recommendation by the Monroe County Highway Department.

### **FINDINGS OF FACT - REZONE**

In preparing and considering proposals to amend the text or maps of this Zoning Ordinance, the Plan Commission and the Board of County Commissioners shall pay reasonable regard to:

**(F) The Comprehensive Plan;**

**Findings:**

- The Comprehensive Plan designates the petition site as Rural Residential.
- The rezone request is to remove a prior rezone condition of approval that requires ...;
- The current use of the petition site is boat storage;
- If approved the petitioner intends to submit a preliminary plat amendment and request a sidewalk waiver to remove the sidewalk requirement on the petition site, and submit a commercial site plan amendment to come up-to-date with site development standards;

**(G) Current conditions and the character of current structures and uses in each district;**

**Findings:**

- See Findings under Section A;
- The rezone request is not to change the zoning, but rather remove a prior condition of approval from Ordinance 2007-48;
- The petition site is currently zoned Limited Business (LB);
- A marina has operated at this location for more than 20 years;
- Ben Ayers of the Highway Dept. provided the following comment:
  - “Northshore Drive is classified as a Minor Collector with an ADT of 534. Due to the hill and curve to the west the required sight distance of 335.0' and the driveway spacing requirement of 150.0' of Monroe County Code Chapter 755; 755-11 cannot be obtained. I recommend that the condition of approval of the Northshore Subdivision to share the existing driveway entrance remain.”
- The petition site does exhibit areas of considerable slope greater than 15% (see Site Conditions Map);
- Portions of the petition site are designated “A” per the DNR Best Available Floodplain Map;
- The petition site is not located in the Environmental Constraints Overlay (i.e., the Lake Monroe Watershed);
- There is no evidence of karst/sinkhole features present on or near the petition site according to available contour data;

**(H) The most desirable use for which the land in each district is adapted;**

**Findings:**

- See Findings under Section A and Section B;
- The adjacent parcels to the north and east are zoned ER;
- The adjacent parcel to the west is zoned SR;
- Land uses in the surrounding area are predominantly residential;
- There are no known commercial uses directly adjacent to the subject property;

**(I) The conservation of property values throughout the jurisdiction; and**

**Findings:**

- Property value tends to be subjective;
- The effect of the approval of the rezone on property values is difficult to determine;

**(J) Responsible development and growth.**

**Findings:**

- See Findings under Section A, Section B, and Section C;
- The petition site is one parcel with 3.41 +/- acres;
- The purpose of the rezone is to remove a prior rezone condition of approval related to requiring a shared driveway;
- According to the Monroe County Thoroughfare Plan, E Northshore DR is designated as a Minor Collector roadway;
- Driveway permits were issued by the Highway Dept. in 2016 for 9548 and 9550 E Northshore DR;

**QUESTIONS FOR STAFF – REZ-23-1 – Lake Lemon Marina**

Clements: Do members of the Plan Commission have questions for staff? Mr. Guerrettaz?

Guerrettaz: The revised findings they were based largely because of the Commissioners finding on the request or what are major differences between the original findings of fact and these?

Myers: The revised findings of fact the last section in there they provided a better synopsis of the background of the timeline as well as the information that was received by the appeals process. That is the main difference.

Clements: Yes, Commissioner Thomas?

Thomas: I would like to hear from the Highway Department, Mr. Ayers on this.

Ayers: Sure. One thing I want to make clear is the 2016 permits were not issued in error. Drew, if you could bring those back up. There is one error on one of them. They were both issued the same day to the same property owner. But the one, I will read the permit number, it is 2016272. That second sentence says that lot has access through a private road system, which means a shared driveway in our world. It was not put on the other permit so that is the error, that everybody keeps bringing up. We went through this with legal. In reviewing all of this stuff. I am open to any questions that you might have.

Clements: do you have any other insights you would like to share with us, Mr. Ayers?

Ayers: Sure. Originally this went through so many rezones and petitions, so every time a new petition comes it requires a new driveway review. We caught that they put this drive in after the permit was issued. We met with the Shells, and they told us they would take care of that in 2018/2019. They did a final plat amendment for the 2 residential lots and that is when we caught it again and made sure it was on the plat. I had spoke with the Johnsons then during that and that

is how it got put on the plat this time. They had told us that the property was pending sale and I had advised them to pass that along to the new buyers.

Clements: Thank you so much, Mr. Ayers. With that being said, I would like to hear from the petitioner, the petitioner's representative. You will have 15 minutes if you would kindly come up and sign in. Mr. Werner, welcome back.

#### **PETITIONER/PETITIONER'S REPRESENTATIVE – REZ-23-1 – Lake Lemon Marina**

Werner: Thank you. Good evening, Commissioners. Again, I am Stephen M. Werner. My father and I own the marina. I am attorney and I apologize that we couldn't make the, that was the swiftest justice that I have ever seen in this county or any other county that I put in an appeal on May 1<sup>st</sup> and I actually asked that it be delayed pending this hearing. That request was not even responded to. They held a hearing at an inconvenient time within 10 days of me making the request. They didn't address any of the very serious errors in the original rezone that I actually pointed out and put in the record here in my May 1<sup>st</sup> letter. First of all, the Monroe County, I am sorry, I am from Marion County, the Monroe County code has been misinterpreted. It was misinterpreted in 2007. It has been misinterpreted at every stage here and I think with all due respect to Mr. Ayers it doesn't make much sense what he said that we made no error and then we had to correct it in 2019. It doesn't make sense. I think what is happening here is institutional inertia. First of all, this huge conflict I want to address. The parcel we are talking about belongs to the Hamers, who have written in support of this. Not to us. For some reason we are the party that has to come here and fight this. This affects them and the only reason why they have this portion of land, which we maintain, which is primarily used by us, not them. Brings up my first conflict with the Monroe County code. First of all, it all hangs on this residential lot. If you look at the part of the code that I highlight on page 4 of my exhibit no where in the code is this actually defined residential lot and my contention is that it is not a residential lot and it should not be considered that. That it is at best mixed-use and if you look at the City of Bloomington code similarly to this, they make a distinction between residential lot and mixed-use. This is not relevant to the zoning, and it is not pointed out in the Monroe County code at that point. It is not defined what residential lot is. My contention is that is not a purely residential lot, number one. So, we are applying residential standards to a mixed-use plot, at best. My contention is it is primarily still a commercial lot. I submitted a video, an 11-minute video from May 12<sup>th</sup> all the way to basically today, to try to drive home the couple of entries the Gravelies and the Wisemans may have made to their driveway compared to the dozens and dozens of commercial entries onto this plot. So, number one, that is a misconstruction of the Monroe County code that this is the lot we are actually talking about is residential and number two, this lot the only reason why the Hamers had to own this portion of ground is because of the zoning, which is Estate Residential, which the Plan Commission is about to change. It has gone through a public hearing. They are about to change it to Suburban Residential. The only reason why that portion of lot was deeded to them was because of the one-acre requirement of Estate Residential zoning. As soon as that changes, we are going to work with the Hamers to buy that plot back because we are the actual users, maintainers, everything. So, it is a farce to consider the plot that is actually being affected here residential. It is primarily commercial. It always has been and has been for the past 70 years. The use hasn't changed, number one. Number two, you can't pick and choose which part of the Monroe County code you enforce. First of all, there is a provision way before all of these provisions that the Highway Department are trying to enforce saying that

you cannot have any driveway serving more than 2 single-family residences anywhere in the county. If the Highway Department can show any examples that this has ever been allowed this is well before any of the other requirements that they are trying to enforce here. We already have 2 plots of land, 2 parcels sharing a driveway. This requirement would put 3 residential parcels on one driveway and a commercial use on the same driveway. I challenge the attorney here, the Highway Department to find one example in this entire county where there are 3 single-family homes on one driveway cut and plus a commercial driveway. This is earlier in the code, Chapter 755-7A (D). No where in the county is this allowed. First of all, it should never have been a requirement. I submitted this to the appeals process and asked them to delay it pending this hearing. They did not. They went ahead with a hearing within 10 days without really even responding to my request. What I am trying to begin forth here is that mistakes were made. Errors were most certainly made. Errors of construction of law. There is also another error here. This 150-foot driveway. This is a subdivision, so, first of all when you think of a subdivision tell me for those of you who visited the site, do this look like a typical residential subdivision to you? I think in the process long ago somebody made a mistake, ok, that this is being considered a residential subdivision. It is not a subdivision. Now that the county has classified it that, it enforces a non-subdivision driveway separation. So, that is my point two in my letter. The 150-foot separation that they put in the denial of the permit is for non-subdivision residences. If that were actually applied to every residential site, so, I point out in my packet and I show the very next subdivision that is actually a residential subdivision, Grey Avenue, it is right next to our plots, there isn't a single set of driveways that are 150 feet. Because it is a subdivision. Either we are a subdivision, or we are not. The 150-foot separation doesn't even apply. It says it right in the code, non-residential, non-subdivision. Why are we applying 2 different standards here? Either we are a commercial or we are a residential property. I think everybody is confused in this. But if you look directly in the code, it says non-subdivision. This is a subdivision. Sightline requirements. We talked about safety and that is what the commission asked me to speak about and that is what I am going to focus here on the end. The sightline requirement is 335-foot sightline requirement. Mr. Gravelie here and he will speak today, he has already cleared across the road some tree line and we gained easily 15-20 feet. So, we are within 10-15 feet of this sightline requirement already and we went out there and there are some more trees. The Highway Department, I am sorry, I think one of our commissioners came out and saw that this simple removal of a few more overhangs of trees and we are working on that. It might be in the county right of way, would actually get us to the sightline requirement very easily. Safety. Mr. Myers put in the record a very summary version of the crash history. I found the detailed crash history for the past 7 years and it is included in my packet. What it shows is there have been zero accidents in this curve that we are all so concerned about. Zero accidents in 7 years as far back as the data goes. The same data set that he showed. Northshore drive does have plenty of wrecks. Guess where they happen? At the supposedly conforming Grey Avenue subdivision and the spillway road, which is farther down, which is basically a blind merger of 2 streets like this. Not a single crash but there is plenty of traffic and that is why asked Mr. Myers if he could because the AADT that the Highway Department is quoting are completely not reality. Number one, we have a 200 plus trailer park unit trailer park across from us, ok. Those people use golfcarts to cross the road. Those people come by foot. None of that is recorded. The AADT devices are a half mile away from our little stretch of road. If you actually look at the traffic it is possible for 350, just based on golfcarts crossing the street over into our property. Just based on foot traffic coming across this property. You are talking about putting another point of entry, I can show you that already in that video I have already the Hamers property

there are people constantly accidentally going into their driveway now and then backing up out into the street and then backing and going. So, you are going to put another one of those going the other way? I mean it makes, it is bad for safety, and I want to address something that the county attorney said. I didn't get to rebut his reading of the law and I totally disagree about this estoppel. It is not settled that you can't get an estoppel against the government especially when public harm will be done by not recognizing such an estoppel. In this case public harm would be done, that it is less safe this configuration roadway. We can address the site line requirements, the 150-foot driveway separation does not apply to subdivisions. It isn't a residential plot. It hasn't been 70 years. If the county attorney can show me where it is defined residential plot means the zoning code and not the actual use of the property, we have an easement that means that we have a legal right to have a commercial use across that lot. It makes it at best mixed-use. Everything in that denial is completely erroneous. Number one that you cannot have 2 single family residents sharing one driveway cut. It is not allowed. It hasn't been allowed in this county for God knows how long and it is much earlier than Monroe County code than these other requirements that they are trying to enforce. For those simple reasons I am not even sure why we are here, and I don't even think I will need to argue estoppel. It is just the misconstruction of the code. You can't both call us, can't on one hand call it subdivision and then put non-subdivision, you can't get easements for commercial use that has been there for 70 years and then say it is just a residential plot. It is not and it effects the Gravelies the most, actually. So, the estoppel would be for them. What we are forgetting is that they relied on that, the Johnsons who sold them the land, they relied on the representation of the Johnsons and any normal purchaser for value would have looked at those driveway permits and bought them thinking that driveway was permitted. You can't say both, these driveways are permitted, how could they say in 2016 this driveway cut is permitted but it is not permitted. Because of this. It makes absolutely no sense. The estoppel is with the Gravelies, and I will take that case and an estoppel is allowed against the government in these cases where the elements of an estoppel are that these people detrimentally relied on a statement of the government and now for 8 years almost and now we are going to come back and we are going to harm them. So, if Drew can show the video. I don't have to say anything about the video. There is some text in it. They come out frontways out of that driveway too. They are not backing out. It is a circle driveway that puts them out front. We are already within 10 feet and if we remove a couple more branches from the other side and we are to the 335, which, I agree that we should address. With that, I know that I am over my time.

Clements: Thank you very much Mr. Werner and I want to give Mr. Schilling and opportunity to respond to some various legal issues that Mr. Werner brought up.

Schilling: As far as the estoppel that is exactly what I said the last time. But I don't know, I wasn't involved in the appeal, so I don't know the, I don't have in mind the driveway standards, the road cutting standards. Other than that, this is a rezone petition, right, it goes to the Commissioners. It is a legislative matter.

Clements: Ok, thank you, Mr. Schilling. With that being said, I would like to open it up to people who are in favor of the rezone. If you are here in the room, please come to the podium, sign in and you will have 3 minutes to speak. If you are online, raise your virtual hand. If you are on the phone, press \*9 to be recognized. But we will start out here in the room if anybody is here and would like to speak in favor of this rezone, please come forward. Welcome back. It is good to see you.



## **SUPPORTERS - REZ-23-1 – Lake Lemon Marina**

Gravelie: After the last meeting, I went out and measured. Ben Ayers, with the Highway Department he came out and he measured. He put paint marks on the road that I went by. He said he came up with 310 feet. That was exactly what I came up with. I spent over some saplings and gained 15 feet. So, we are at 325. It is supposed to be 345. So, even if it stayed right there my driveway goes out to the road. Here is the road. Here is this side and this side. To get that 20 feet I would move it that much, not even the width of the driveway, half of the width of the driveway. I think it would be pretty easy to get the other 20 feet taking some more saplings down. I don't think very many big trees would have to come down, if any. When I was talking to, you were out last Friday.

Guerrettaz: Bernie Guerrettaz. I was out and I visited the site Friday the 12<sup>th</sup>.

Gravelie. Bernie, correct me if I wrong but you were saying the Highway Department just likes to keep to a minimum the amount of driveway cuts that they do just because it is a place where an accident can happen. Is that what you meant?

Guerrettaz: Let's go ahead and answer questions and then I can address what I want to later.

Gravelie: I am just thinking living out in the country like this you are not going to have subdivisions where there are 50 or 100 homes using one entrance. You don't have the sewer and water infrastructure for it. There is always going to be farmers wanting to sell some property to build a house on with road frontage and they keep farming the property behind it. It is all over. I just don't see why they would deny a driveway as long as the sight requirements. I understand you have to have that to be safe. That is about all that I have got.

Clements: Thank you and I will give you, Mr. Guerrettaz, an opportunity to respond. Thank you.

Guerrettaz: I was just going to wait until everybody was done at the podium.

Thomas: That would be better.

Clements: If you would kindly come up and sign in and state your name. You will have 3 minutes.

Hamer: My name is Colin Hamer. You heard me on the phone in April and now I am here in front of you. There are 2 concerns that I have. One is mainly safety. First thing Sunday there was like, I am sorry, I own the property, my wife and I own the property that we are talking about, on Sunday there were 70 or 75 vehicles going into the marina. That is a very quiet day. On Saturday there was probably twice that. It was the opening if you remember the weather report, it was forecasted to rain all day so the marina didn't get the amount of people going there that they normally would, but it was still let's say approximately 150. We can count them. I think we have a video somewhere. If that extra driveway is put into the shared one that is there today all it is going to do is make safety more of a concern, much more than I believe we have today where the road for the 2 shared properties ends at Northshore Drive. So, I am concerned. I don't even know if I am liable

for that. I don't know. It concerns me and I need to look into that. But that is definitely an issue with me. Not forgetting that if people get hurt that is a big mistake we are making here. Second, I think when we bought the property, we were never shown the plot lines of 2008. We were given a 2006 one and you said it was adjusted in 2008. We never saw that. I was also when I bought the property not aware that a driveway could come through what I owned. When we looked into, we realized, yes, we had agreed to that and where it cuts across the corner today. We didn't like it but so be it. That is, it. I don't understand why the status quo can't be kept. I am not dangerous today. I am happy with it. The people that own the property around there are happy with it and all that is see is a nightmare from a safety perspective if this is allowed to go ahead. So, please appreciate that. Thank you for your time.

Clements: Thank you so much. Thank you for coming tonight. Is there anyone else that would like to speak in favor? Yes, please come to the podium and sign in, state your name and then you will have 3 minutes.

T. Gravelie: Hi, my name is Tammy Gravelie. I didn't mean to talk that loud. I am married to Tom Gravelie. We live at 9548 East Northshore, so we are Lot 4. I pretty much agree with everything everyone has already told you. I would like to stress a point that is of a personal concern top me and that is that it seems to me that a lot of other people benefited from the sale of breaking apart the marina's original property. They benefited financially, not just the Shell couple but then the Johnsons who bought the 2 lots, mine and the one next to us. We were shown a driveway permit. Because when you are looking at buying property and there is a shared driveway, and we are sort of like how does that work out. Whose driveway, is it? Who maintains it? We were shown that there was a driveway permit for shared use and we felt that we could live with that. They then showed us the easements that showed that we both had access to the drive as well as the dock. It goes all the way. Because we also share a dock down there So, I just feel that a lot of other people maybe in the planning and zoning along with the sellers of the property made some errors and mistakes that it feels like we have to pay the price for that. Had I known this was going to be and I mentioned this when I called in the last meeting, we wouldn't have spent \$12,500 to have the driveway paved and go to all of that expense and trouble. Now you are talking about taking our driveway out into the commercial drive where, I mean, I would in Indianapolis, so, I am not retired yet so if I have to leave the lake to go to work and there are vehicles blocking my only exit out of my property, people stop there to maybe park where he is not open yet. So, they walk through the little man gate. How am I supposed to, am I supposed to just drive through the grass? You are making me pull out of a driveway into a commercial driveway and then pull out onto a road as you can see. One thing I wanted to point out really quick is behind my house, our property, you see how the property juts up to the north, our property actually owns the driveway entrance to the other property. So, it seems like it has been just sort of a mess from the beginning and I don't see the need. It is kind of the if it's not broke don't fix it kind of thing. So, that is pretty much all that I wanted to say. Thank you.

Clements: Thank you very much. Is there anyone else that would like to speak in favor of this petition here in this room, online or on the telephone? Or is there anyone here that would like to speak in opposition to this petition? If so, please come to the podium, raise your virtual hand or press \*9 on your telephone to be recognized. Ok, then Mr. Werner, you have a 5-minute rebuttal.

**REMONSTRATORS – REZ-23-1 – Lake Lemon Marina: None**

**PETITIONER REBUTTAL – REZ-23-1 – Lake Lemon Marina**

Werner: I wonder is it possible to show the video? I would like to really show this video. I think it is very relevant. Some of you may have visited but Colin mentioned some traffic numbers and those were taken from Sunday. I counted them myself, which was a slow day and Saturday was half as busy as last year's opening because of the iffy weather. There was at least twice as many. So, this video shows...

Thomas: I am sorry, point of order, two things, first of all the clock is not running. Second, I have concerns about videos being added to what is already existing for time. So, if your video is 5 minutes and you want to use that 5 minute with video, it is up to the Board that's fine. But if it's an 11-minute video I don't think that is fair, So, I wanted to put that out there but thank you for getting the clock started.

Werner: Ok, we will play it and you can pull me off. I think Tammy made the best, real quick, I think Tammy made the best and I made this point the last time, we are not the party to enforce it. We benefited not from these plat divisions. People already sold out that weren't made to do what they were supposed to. You can see a school bus here for the 200 or residents here across from our driveway cut. Ok, you can see the beginning of our 5/12 or not very well attended compared to last year. So, what I am doing here is illustrating the commercial use of this plot. This is the plot that we are talking about. It isn't a residential plot. I am sorry. That was this truck pulling into the Hamers lot and having to back up and come into ours, which is what is going to happen when we put another driveway here. It is making a 6-way stop. See the UPS truck. Now we are going to start to see. Once the event starts to kick off here you are going to see dozens of golfcarts. Even more foot traffic. People walking across. The AADT numbers that the Highway, it pales. There is no way 350 vehicles, people passing that are coming through here. This is a slow weekend. We are not even into July yet. You are going to see dozens and dozens. You are going to see Gravelies peacefully later in this video, peacefully leaving their driveway later on. You are going to see backups. You are going to see in a moment somebody just gets on their phone. This guy here, I don't even know why this guy stops here. Immediately a backup. That is going to block their driveway what we are talking about here. Immediately there is a bad backup. There is one the next day where the gate accidently gets closed. It goes all the way out into the street and sits there 5 minutes until finally someone figures out to call the number that is right on the gate and tell us, oh your gate is closed. So, you can see this is just the start. This isn't even busy yet. We are not even on a half busy day. Look at all of these carts that the Highway Department doesn't count. Look at all of the families coming across here. That we are going to throw another driveway into this commercial drive. It makes no sense for any of us. Maybe you want to see that they can watch the video while we talk.

Petitioner: I came up with him because I am actually the petitioner, part of the public and I am at the marina every day. Everything everybody said this past weekend with the weather predictions our counts were down.

Werner: This is before 3pm on Saturday.

Petitioner: And that is not busy. So, we would have expected twice that many cars. Had the weather predictions not thrown off, you can see how cloudy the sky is. Thank God the rain held off for us that day but. Sunday was the same way. We had Mother's Day, threat of rain, the counts were down. We have a tremendous amount of traffic. We have foot traffic.

Werner: Imagine you and this will kick over to Sunday if you do let it run. Imagine you are trying to go to church and what you see happen at 10 o'clock here happens. Imagine the Gravelies try to go to church, and they come back from lunch with what happens on Sunday, not even on the busy day.

Petitioner: I will also say we an incident just yesterday where a commercial company brought a big semi-trailer in with a piece of equipment on it because we are the only convenient place on Northshore Drive really the only place to bring any equipment for it to stand including the county Highway Department on many occasions have brought their dump trucks in when they are digging their ditches or working on the road. We welcome them into our lot because they come in and buy a snack or use our restrooms or whatever. But this tremendous amount of traffic and commercial use.

Clements: Thank you very much for your rebuttal and for this video. Thank you. I am going to start on my left. Mr. Guerrettaz, you had some comments that you wanted to make.

#### **ADDITIONAL QUESTIONS FOR STAFF – REZ-23-1 – Lake Lemon Marina**

Guerrettaz: Just a couple of quick things in regard to Mr. Gravelie. I was out there on Friday the 12<sup>th</sup>, which was just last Friday, and I saw Mr. Gravelie and I saw Mr. Werner over to the left, our left, anyway. Fine, polite gentleman. I had as nice discussion with him. After the last Plan Commission meeting, I wanted to make it a point to go out and look at those, that intersection and the work that was done on the inside of that curve, like I told the gentleman it still doesn't meet the county's spec. It isn't far enough. I wheeled it from the drive. I didn't just step it off. I wheeled it. I didn't scale it. I think that sight distance could probably be achieved that's my opinion, but it still has to go through the Highway Department. But I think it can be achieved. I think there are a couple positives. It is not my job to argue the positives for the petitioner or for anybody but what I saw is I think the inside of that curve could be taken out just a little bit more and I think sight distance could be achieved. It has happened in the past. One of the benefits with that would be I think there is a couple of dead trees that could land out on the county road, and I think it could probably take those out and I think that the mobile home park, err, the manufactured home park, excuse me, opposite of the marina drive it might advance their sight distance just a little bit. Those are just my, what I saw out there. What Mr. Gravelie had noted about me saying that it is common that we want to limit the number of driveway cuts on existing county roads, I went through that statement last week, last meeting and it is true. The county regularly limits the number of driveway cuts on public right of ways in order to reduce the number of conflicts between the users of the roadway and the people coming in and out of the driveway. I explained to Mr. Werner and Mr. Gravelie at the time it is their burden and the petitioner's burden to show that what they want to do is better for the public than what is there now than what they are trying to get away from. I can see some positives, frankly. There are some other issues here with the last, the County

Commissioners. I don't know if that causes an issue here in the way that Drew explained it to me. I am not sure that it does now, and I certainly defer to Ben Ayers. I respect his ability and consistency greatly. He does a great job. I would want to know what he did. I understand that he was out there I think the weekend before on Friday, Saturday and Sunday making observations. So, credit to him. I don't know that I missed anything with what I said. I think there is some room to make some movement there. I think there can be some clearing. I think the residential drive and the commercial drive can potentially be a little bit of a conflict. None of it is earth stopping or none if it is going to reverse the rotation of the earth if that driveway is moved frankly, I don't think it will, but I can certainly see the benefit to the owners of those houses not to have that conflict and I think if those trees were moved out the driveway would probably function fairly well. The issue with the 2 drives on one parcel and I looked at the GIS and I think I figured out what that is. Ben maybe you can correct me on this but is that relative to the Hamers on the east because their lot crosses over the marina? They have got a partial lot on the westside of the marina drive and therefore that driveway of the Gravelies goes through that and then they have also got their driveway that comes out on the commercial drive for the marina. Is that the way that you interpreted that? I wasn't sure.

Ayers: No, it is actually the residential drive that the Gravelies own and the commercial drive entrance those are both on one parcel.

Guerrettaz: Oh, ok, I see what you are saying.

Ayers: We only cover what is in the roadway whatever touches the road.

Guerrettaz: And it is because of that little western leg that is on the westside of the marina drive that causes the issue there, correct.

Ayers: Yes. There where the handprint is and then the marina entrance itself.

Guerrettaz: Ok, and still 2 homes use that but because that is part of the platted lot that is the issue. So, again, if you just all of the other stuff I think Mr. Werner's presentation and his letter had a lot of, I didn't see all of what he said correct, as being correct but I think if you just get down to the sight distance issue which I think is where a lot of the Plan Commission members were after Ms. Owens brought it up again. I think that there is opportunity to get sight distance there but I would defer to the Highway Department if we give them a direction to go that route. So, that is all that I have got.

Clements: Thank you Mr. Guerrettaz. Does anyone else to my left have...

Pardon me just a second.

Clements: Yes.

Guerrettaz: Mr. Gravelie, could you come up for just a second? Did I answer your questions with what you asked up at the podium because I didn't want to not address what you asked or what you stated about me being out on the site?

Gravelie: I'm sorry I forgot my hearing aids.

Guerrettaz: I can get loud. I don't want to.

Thomas: Look up there you can see what he is saying.

Guerrettaz: I just wanted to make sure that I asked the questions or made the proper remarks to you with the questions that you had for me while you were at the podium.

Gravelie: Where to trim the trees?

Guerrettaz: Yes, that you trim the trees. Right, ok.

Gravelie: Yeah, my driveway the guy at the Highway Department he made a mark here and he made a mark up here. I pretty much bent over some saplings because I gained 15 feet. There is a lot more green right now so it is hard to tell but it wouldn't take much more. I think just getting rid of the rest of the saplings would give me the 345 or more.

Guerrettaz: Ok, thank you. I just wanted to make sure I addressed your questions. Thank you.

Clements: Does anyone to my left, yes Mr. Oehlman.

Oehlman: I kind of just want to echo some of the same similar comments that Mr. Guerrettaz is saying. I made a visit out there on Saturday from 10:15 to 10:25 and the first thing I noticed is it is a lot more trafficated than I expected. There was, one of the things I am always noticing is the vehicle size isn't just small cars coming and going from a grocery store, there is trailers involved and there were even boat trailers coming in. I watched one guy jump out and go in the store, buys 2 bags of ice, jumps back in the trailer and then later on is aw the same boat and trailer launching over at Riddle Point. So, they are not just using the boat launch they are also using the convenience store there and just the general atmosphere there it seems like it could create plenty of headaches for the homeowners. I also sat at the exit there and kind of studied the roads. I am not going to pretend to be a highway engineer or know anything about driveway cuts but i felt very safe with my egress from that driveway and I can't think that bouncing a 100 or so feet down the road and pulling out of the private lane I would have felt any less safe. That was my comments.

Clements: Thank you, Mr. Oehlman. Then I turn to my right, Mr. Enright-Randolph.

Enright-Randolph: Yeah, I guess I am not going to say anything too original over here that hasn't already been said. I visited the site. I went in and visited the convenience store and bought a sandwich, bought a water and I think a bag of chips. It was actually quite affordable. I thought that was nice. I drove around a little bit. First, I do think the line of sight could be met but again, I think that is really determined by the Highway Department. So, I do agree with some of what I heard from Mr. Guerrettaz, which still hold his license, right, as a professional surveyor?

Guerrettaz: Yeah, but I am not giving a professional opinion.

Enright-Randolph: I know you are not giving a professional opinion, but I think that gives you a keen eye. So, thanks for clarifying that. I agree with when Mr. Ayers spoke about safety, I really respect his opinion and that is why this decision of mine is going to be very difficult but also just to wrap up my comments up, I pulled into the drive that we are talking about extending and I am looking at an older aerial, I think if I bring up a new one it actually has a nice little roundabout that connects the 2. So, I could have drove up and easily drove pulled out of that front drive in but, you know, I was a little apprehensive. I just didn't want to drive that close to their house. I just threw my truck into reverse and backed out. Now, if I am apprehensive and probably have a little more leeway with operations going up there conducting site investigations and feeling very comfortable that I am allowed to be doing what I am doing, imagine members of the public just kind of accidently finding their way up there if we extend that drive. I think one of their first instincts is going to be to throw it in reverse too. Because they are going to be I am not leading to Northshore Convenience Store or dock ramps, so they are probably not going to want to go that close to the house. I am not going to speak to everyone I am only going to speak for myself but that is the way I felt. I am finding this as an opportunity. If they can meet that line of sight issue that we could almost righten the shift of a compound situation that where there was a lot of buyer beware issues and even some permits that may or may not have been issued. So, I am actually going to support what the petitioner's goals are and I guess we are asking to move a negative recommendation, but I am going to support a positive recommendation tonight. Thank you.

Clements: Thank you Mr. Enright-Randolph. Councilwoman Munson.

Munson: Thank you. I also visited the project area on Saturday May 13<sup>th</sup> along with Plan Commission Member, Dee Owens. It was nice having another Plan Commission Member to discuss this with. We weren't focused on code requirements or crash reports or legal remedies. We really looked at the driveways and the safety issues and in addition we talked about gravel parking lots versus paving and the sidewalk that is requested. We approached the area and got our bearings looking at the various driveway cuts and paid attention to sight distance. Both Commissioner Owens and I are experienced country road drivers and familiar with those issues because we drive the narrow, winding roads and we thought this was one of the least problematic areas that we have seen on country roads. Yes, the sight distance could be improved. It has already been mentioned that some trees can be cut, some branches can be trimmed, etcetera. We saw really no reason at all to change from a gravel parking lot where there is not water runoff into the lake but to pave it and make it an area that contributes much more water to the lake. The sidewalk didn't seem to make much sense because most traffic vehicular and we were surprised by the number of golfcarts. Because it seems that there wasn't any golfing nearby. I favor the petitioners request because I think that is meeting the needs of the residents in the area and also the business. That is where I stand on this. Thank you.

Clements: Thank you. Commissioner Thomas?

Thomas: First, I want to say that I am not aware of any requests to move the date of the hearing but we typically have one hearing officer who attends and so I am going to defer that question. I will look into it but I don't understand why somebody would apply for something and then asked to me delayed and why we wouldn't have had that information in front of us. No, there is no need to answer that. I said I am going to look into it. So, I will look into it. Second, obviously we are

hearing about the driveway that has been repaved. Well, it is not like the entire driveway is wasted. It is a portion of that driveway that would have to be changed. So, you are not losing your investment in your driveway. I do take very seriously what our Highway Department does. I take very seriously what our Planning Department does, and I would actually like to ask if we could hear from another staff member who is Lisa Ridge, if she is still on. Because it has been a while since I asked her if she could speak. There she is. Look at that, she is still at work. Thank you.

Ridge: Yes, I am here. I am not sure where to even begin. I am going to try and keep it brief because it is 20 till 9. I know that Ben has spent a lot of time on this. I believe that he has about 400 pages of documents in everything that he has dealt with in this and this petition. One question that I, and I applaud them for trying to uphold a commitment that was made in 2007 by a previous Plan Commission. It is not our responsibility to know that transfers to new property owners. We have no way to track that. But, again, it was something that was approved. It was recommended at the time by the Highway Engineer and the Plan Commission. I read up on some of the minutes from that meeting. Richard Martin was on that board. Very intelligent. Very thorough with the Plan Commission, the highway requirements and the surroundings of that time. I do understand the concern of coming off of the commercial driveway. I would agree that it is not an idea situation, probably not. It is our department's responsibility to follow our code to the best that we can and we have had a new code since then. The safety of the traveling motorist, about the delay I guess, again, I am glad that Julie brought that up and said she was going to look into that because everything that is documented is in our Open Gov software program. I have seen the comments from Mr. Werner. I have seen comments from Plan Commission. We even confirmed with the Commissioners secretary that the petition appeal went through Open Gov so that the petitioner was notified. She verified yes. But I guess my other question is why would somebody that doesn't own that property is petitioning for a driveway that he does not own. I believe at the time that day that was one of the questions that our attorneys had. Why would we be dealing with Mr. Werner for a driveway appeal when he is not the owner? About traffic counts there is a reason why the word average starts that statement. It is the average. Not on a day of an event. That is one reason why Ben spent his weekend sitting out there to monitor traffic. Again, I have been in the department for 35 years. We never do traffic counts on the day of an event because it is not factual. I think that is just some of the points that I wanted to bring up. As the Department Head for the Highway Department, we will respect whatever decision this Board goes with. I know that Ben will be happy to get this off of his plate. I guess the only other thing that everybody keeps bringing up is the error of the driveway permit. It was corrected that day. Does everybody make mistakes? Absolutely but sometimes those mistakes go on for years. Ben realized that mistake that day with the same property owner. It did not transfer to a new property owner. It was corrected the same day. So, to argue that there were errors in driveway permits, it didn't transfer to other owners. It was corrected with the same owner. Now, how that transferred forward is up to that property owner. That is all that I have to say at this point unless anyone has any other questions.

Thomas: If I could ask?

Clements: Yes.

Thomas: Thank you Ms. Ridge for that information. I appreciate you sticking around. Because it is late in the evening. I would like to add that the question was raised about gravel versus paved and that is a BZA question is my understanding, so that is not before us today. I just want to make



that clear to the public that has been raised again and that is not an issue in front of us today. I think everybody is talking about how many times we visited, whatever we did, I have actually been to this property I think 4 times now. So, that is partly what I am basing my opinion on, so, thank you.

Clements: Thank you. Ok, I return to members of the Plan Commission for a motion.

### **FURTHER QUESTIONS FOR STAFF – REZ-23-1 – Lake Lemon Marina**

Enright-Randolph: I will make a motion. Let me grab my packet. Could you bring up what Planning has? Sorry, I closed some of my pdf's. Apologize for that.

Myers: Do you want the very first slide?

Enright-Randolph: I guess one other question since staff has suggested a negative recommendation and I plan to make an opposite; do you have a recommendation prepared for that?

Thomas: They will have conditions, that is what they will have for you.

Myers: I will put this up just because it has good information on it. But we do not have a slide prepared for a positive recommendation.

Enright-Randolph: **Ok, I recommend forwarding this with a positive recommendation to the Board Monroe County of Commissioners based off of the history of the use of this drive and the discussion that we heard tonight.** I will ask Planning staff is there any other thing that you think would be appropriate to add due to the fact that I am going to make a motion for a positive recommendation?

Behrman: Usually we go based upon the Highway Departments Engineering report.

Enright-Randolph: I know this is not easy. Thank you. With one caveat, I really appreciate Ms. Ridge's and Mr. Ayers' time and effort, and this does not make it an easy decision due to their comments today. This is very tough, and I am a little torn but that is my motion.

Guerrettaz: Can I offer a friendly amendment? I hate to do this but.

Clements: Yes.

Guerrettaz: **If that driveway is going to be allowed it has to meet sight distance requirements and be inspected by the County Highway Department and only the 2 homes that are using that driveway now will be able to use it in the future, so we don't have the potentially for another home site or a home site having 2 drives on its property.**

Enright-Randolph: **I will absolutely accept that as a friendly amendment.**

Clements: Yes, Mr. Schilling.

Behrman: Could you repeat that for me?

Guerrettaz: Oh, I am sorry. My mic was on. That the Highway Department inspect for sight distance and that the geometry where that driveway is that the clearance is made so that they will get sight distance. I noted on the GIS that the county it looks like that owner on the other property it is not a platted right of way, so I don't know what that means with the owner having to clear trees on someone else's ground. They are going to have to work through that. Secondly that driveway that the Gravelies and the Wisemans use, cannot be used by any other homes so we are still having those 2 homes coming off of one driveway. Does that make sense?

Behrman: I am not sure if can summarize that exactly.

Clements: Basically, subject to Highway Department's approval and with us having negotiated a way their standards. So, I don't know how you say, can you reduce your standards in this one case to the best of your ability?

Guerrettaz: I am not asking that.

Clements: Then what are you asking.

Guerrettaz: I am saying that the driveway inspector has to inspect for their standards for the sight distance. That was my friendly amendment.

Clements: Ok, so that has been moved and amended.

Enright-Randolph: **I am going to withdraw my motion** because I want to support this but again, I want to move it forward if they can't meet their line of sight that there is some discretion with the Board of Commissioners.

Guerrettaz: If we can't meet sight distance, I wont support it.

Enright-Randolph: Right, same here but I guess we are asking Highway to go back out there. I don't want to discuss this right now but.

Clements: Ok, so it is withdrawn. Thank you. I would like to make a motion.

Enright-Randolph: Go ahead.

Clements: **I am going to recommend a negative recommendation to the Monroe County Board of Commissioners based on the prior rezone petitions conditions of approval and the recommendation by the Monroe County Highway Department.** That is my motion. Is there a second?

Morris: I will **second** it.

Clements: Thank you. Please call the roll.

Thomas: So, a vote yes is a negative recommendation.

Behrman: Correct. There has been a motion and a second to forward a negative recommendation to the County Commission. A vote in favor is a vote to provide that negative recommendation. Margaret Clements?

Clements: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: No.

Behrman: Bernie Guerrettaz?

Guerrettaz: No.

Behrman: Geoffrey Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: No.

Behrman: Edward Oehlman?

Oehlman: No.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: **Motion fails.**

**Motion fails due to lack of majority vote.**

Enright-Randolph: **I am going to try another motion. I am going to move to send this with a positive recommendation, even though I can count, to the Board of Commissioners where the petitioner has the ability to prove that they can make the line of sight by a licensed professional that is allowed to do that, is a licensed surveyor able to do that? By a professional that is able to do that type of design work and if they can meet the line of sight distance, then I would like to move this forward with a positive recommendation.** If that makes sense. I don't question our Highway Department but again they already gave us their opinion so if we can get an

independent opinion that they can meet that line of sight, then I am in support. I do agree with you. **I will let this one just die. I am not withdrawing it though.**

Guerrettaz: Ok.

Thomas: There you go. You got your second.

**Motion dies for lack of second.**

Guerrettaz: I will try this. **I move that we forward this to the Monroe County Board of Commissioners with a positive recommendation, subject to review by the Highway Department that any clearing necessary to allow for the 350 foot sight distance can be obtained.**

Enright-Randolph: **Second.**

Behrman: There has been a motion and a second to forward a positive recommendation to the County Commissioners subject to review by the Highway Department to determine any clearly necessary to increase the sight distance. Does that sound good?

Guerrettaz: Yes.

Behrman: I will go ahead and call the roll on that one.

Oehlman: Can you clarify what each vote means?

Behrman: Sure: A vote in favor is a vote to send a positive recommendation to the County Commissioners to basically not require the driveways all be combined. They would remain as they are. However, there would need to be any clearly necessary would need to happen and the Highway Department to oversee that.

Clements: There was something about 350 feet.

Guerrettaz: That is the sight distance requirement.

Clements: So, if that could be inserted.

Behrman: Ok, to meet 350 feet. Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Geoffrey Morris?

Morris: No.

Behrman: I am sorry, that was no?

Morris: No.

Behrman: Ok, thanks. Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Julie Thomas?

Thomas: That is a no because we are still asking the Highway Department to ok something that they can't.

Guerrettaz: No, no I am not. Just for clarification, Madam Commissioner, what I am trying do is make it...

Thomas: In my mind's eye you are, and I hear what you said. It is ok.

Guerrettaz: What I am requesting is that the sight distance be opened up like we have done on multiple petitions before this Plan Commission over the years. Thank you.

Behrman: Margaret Clements?

Clements: No.

Behrman: **It is 4 to 3, motion fails.**

**Motion fails due to lack of majority vote.**

Clements: **I move that we send this to the Board of Commissioners with no recommendation.**

Thomas: **Second.**

Behrman: There was a motion and second to forward no recommendation to the Commissioners.

Clements: Yes.

Behrman: You made the recommendation and who seconded that?

Clements: Julie Thomas.

Behrman: Thank you, Julie. Alright, there has been a motion and a second. A vote in favor is a vote to send no recommendation to the County Commissioners on this topic. Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Geoffrey Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: No.

Behrman: Edward Oehlman?

Oehlman: No.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: Margaret Clements?

Clements: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: No.

Behrman: **It is 3 to 4 motion fails.**

**Motion fails due to lack of majority vote.**

Clements: There has been a request for a 5 minute break. We need to take a few minutes. Someone needs to utilize things. Is 5 minutes enough?

Thomas: I think so.

Clements: Ok, thanks. Ok, everyone. It is after 9 o'clock so we are going to finish this case and it is possible that we won't hear the last case tonight. With that being said, I am reconvening the meeting and I would like to entertain a motion.

Morris: I can make a motion. **I am going to make a motion for case REZ-23-1, that we continue it to the next regular meeting of the Plan Commission and ask the Highway Department to take another look to see if sight distance can be met with tree removal.**

Enright-Randolph: A resounding **second**.

Behrman: There has been a motion and a second. I am getting real creative with my voting sheet now. I am going to call the roll. A vote in favor is a vote to continue this to the next regular meeting, which would be June 20, 2023, Tuesday, June 20<sup>th</sup>. A vote in favor is a vote to continue this petition.

Morris: There is a condition, Tammy, that we ask the Highway Department too.

Behrman: Thank you and the condition is that the Highway Department take another look at this to see if any vegetation removal could improve sight distance.

Morris: Could meet sight distance requirements.

Behrman: And meet the 350 feet. Ok. Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: Margaret Clements?

Clements: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Geoffrey Morris?

Morris: Yes.

Behrman: Motion passes 7 to 0.

**Motion in case REZ-23-1, Lake Lemon Marina Rezone from LB to LB, Preliminary Hearing,**

**Waiver of Final Hearing Requested, in favor of continuing the petition to the June 20, 2023, Plan Commission Meeting, with condition as stated in motion, carried unanimously (7-0).**

Clements: Now, because it is after 9 o'clock, we need to have a motion to either continue with the last case on our agenda or to move that to our next meeting.

Thomas: **I move that we continue with the agenda because poor Mr. Deckard as been here the whole time and it should not be a terribly long agenda item either.**

Enright-Randolph: I will **second**.



Behrman: There has been a motion and a second to continue on with this meeting and hear the final petition of the evening. Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Geoff Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: Margaret Clements?

Clements: Yes.

Behrman: Motion passes 7 to 0.

**Motion to continue the meeting and hear the last item on the agenda for the evening, carried unanimously (7-0).**

**NEW BUSINESS:**

**1. SPP-23-2**

**Pedigo Bay Major Subdivision Preliminary Plat Amd 3 Preliminary Hearing.**

**Waiver of Final Hearing Requested.**

Eight (8) parcels on 15.3 +/- acres in Section 35 of Clear Creek Township, at 2591, 2597, 2599, 2600, 2603, 2621 E Pedigo Bay, parcel # 53-11-35-200-002.000-006, 53-11-35-200-004.000-006, 53-11-35-200-012.000-006,

53-11-35-200-020.000-006, 53-11-35-200-022.000-006, 53-11-35-200-026.000-006, 53-11-35-200-028.000-006.

Petitioner: Pedigo Bay Homeowners Association

**Zoned: FR, AG/RR, SR, and ECO 1.**

Contact: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)

**BOARD ACTION:** Clements introduced the petition.

**STAFF ACTION:**

Crececius: Yes, thank you. The petitioner is requesting to amend the existing Pedigo Bay Subdivide, which is a Major Subdivision Preliminary Plat. This would be Amendment 3. This is 6 parcels totaling 15.3 acres. This amendment would be for a few reasons. The first would be to reduce the area of open space and to add the 5 existing lots into the Pedigo Bay Major Subdivision. 4 of the 5 adjacent lots are developed and of a residential use. All of the lots utilize the services of Pedigo Bay Subdivision such as the private package plant and gated community. The Plan Commission recently saw this because it went through a rezone first. The intent of the rezone and ultimately now this preliminary plat amendment is that the open space of these lots, the 5 existing lots is directly in front of these people's properties, and they want to absorb that area of open space as their front yards. Now, there are multiple constraints to this property and the open space. There is existing multiple karst that are platted as Sinkhole Conservancy Areas and there are multiple ingress and egress and utility easements that cross this area. The rezone was required because it was zoned for Forest Reserve and these properties that were not in Pedigo Bay were zoned Suburban Residential. Here is what the existing zoning looks like right now after the rezone. That triangular shape that is zoned Suburban residential is being absorbed. The open space currently in Pedigo Bay is split up into 3 parcels but is one lot. On your screen now is what that original open space looks like and you can kind of see some of those sinkhole areas and easements that space the 3 connected parcels. On the screen is the Preliminary Plat Amendment 3 proposed by Deckard Land Surveying. We can see that those residential properties their lot lines are being adjusted to absorb that front yard. Some questions that have come up throughout this process including the rezone was if these properties are expanding is future development possible. Could they possibly be developed more or intensified? The answer ultimately is no. Under Chapter 825 the Environmental Constraints Overlay Area part of these properties are within an overlay area. On the bottom of the screen 825-4, the maximum residential density that shall be allowed shall be one unit per 5 acres. On the screen is a table showing each of the 5 existing lots and the areas that they are being absorbed. The total acreage for each of the lots after absorbing the common space is never going to exceed 5 so only 1 dwelling unit per 5 acres is possible. I have got just a few site photos. Because it is such a large area it is kind of hard to get a grasp of it. These are the same photos from the rezone. As you move through the neighborhood you really have no indication that this area was open space and maintained by the Homeowners Association. It really just appears as a larger front yard. We can see a manhole here indicating utility in the area and it is a little hard to see some of the contours of the sinkholes. If you look past the tree toward the house, you can see some change in the shades of the photo indicating a sinkhole area. Overall, the comments that we received in this preliminary plat amendment request is essentially no comment. The MS4 Coordinator because there are no changes to any of these properties, all driveways are existing, the road is privately maintained and all the drainage is, all of the properties are already built out. There have been no comments from the Highway Department. That being said, staff recommends

approval of the Pedigo Bay Major Subdivision Preliminary Plat Amendment 3 based on the findings of fact, subject to the Monroe County Highway and drainage Engineer reports.

**RECOMMENDATION**

Staff recommends **approving** the Pedigo Bay Subdivision Preliminary Plat Amendment 3 based on the findings of fact, subject to the Monroe County Highway Department reports.

**FINDINGS OF FACT – SUBDIVISIONS**

**850-3 PURPOSE OF REGULATIONS**

(A) To protect and provide for the public health, safety, and general welfare of the County.

**Findings**

- The petition parcels are zoned either Suburban Residential (SR) or Forest Reserve (FR) and Environmental Constraints Overlay Area 1 (ECO 1);
- is currently zoned Estate Residential (ER) and is developed with a SFR use;
- Approval of the preliminary plat amendment would allow the 5 existing residential lots to become platted within the Pedigo Bay Subdivision;
- The 5 residential lots would absorb land that is directly adjacent to the south that is platted as Common Area within the Pedigo Bay Subdivision;
- No new buildable lots are created by this change;
- Because of restrictions for the ECO Area 1 of Chapter 825 the proposed transfer of land doesn't create an opportunities for further subdivision;
- Per Chapter 854-11 (B)(C)(1) this change is considered a “material deviation” because it “increases the number of subdivision lots” which requires an amendment to the preliminary plat;
- All developed properties are serviced by the Pedigo Bay Subdivision private package plant;

(B) To guide the future development and renewal of the County in accordance with the Comprehensive Plan and related policies, objectives and implementation programs.

**Findings**

- The Comprehensive Plan designates the property as Rural Residential (Phase I) and Rural Reserve (Phase II) district in the Monroe County Comprehensive Plan;
- See findings under Section A;

(C) To provide for the safety, comfort, and soundness of the built environment and related open spaces.

**Findings**

- The property is currently developed with SFR;
- Adjoining parcels are zoned Forest Reserve (FR), Agricultural Rural Reserve (AG/RR), or Suburban Residential (SR);
- Adjoining parcels are zoned Environmental Constraints Overlay Area 1 (ECO 1);
- E Pedigo Bay DR is a Local roads per the 2016 Thoroughfare Plan;

- (D) To protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards.

**Findings**

- See findings under Sections A & C;

- (E) To guide public and private policy and action to ensure that adequate public and private facilities will be provided, in an efficient manner, in conjunction with new development, to promote an aesthetically pleasing and beneficial interrelationship between land uses, and to promote the conservation of natural resources (e.g., natural beauty, woodlands, open spaces, energy and areas subject to environmental constraints, both during and after development).

**Findings**

- No new building lots are created through this amendment;
- The site is within the Environmental Constraints Overlay Area 1 of Chapter 825;
- There are some steep slopes over 12% and 15% on the northern side of the five (5) residential lots;
- There are known karst features on the property that were previously platted within Sinkhole Conservancy Areas;
- See findings under Sections A & C;

- (F) To provide proper land boundary records, i.e.:

- (1) to provide for the survey, documentation, and permanent monumentation of land boundaries and property;

**Findings:**

- The petitioner has submitted a preliminary plat amendment drawn by a registered surveyor.

- (2) to provide for the identification of property; and,

**Findings:**

- The petitioner submitted a survey with correct references, to township, section, and range to locate parcel. Further, the petitioner has provided staff with a copy the recorded deed of the petition site. County Surveyor has also reviewed the plat for survey accuracy.

- (3) to provide public access to land boundary records.

**Findings**

- The land boundary records are found at the Monroe County Recorder’s Office and, if approved, this petition will be recorded there as a plat. The plat must comply with Chapter 860 - Document Specifications to be recorded.

**QUESTIONS FOR STAFF – SPP-23-2 – Pedigo Bay**

With that being said, do members of the Plan Commission have questions for staff? If there are none, if the petitioner or the petitioner’s representative are here you have 15 minutes to address us. Thank you. We love you, anyway, just make our night.

**PETITIONER/PETITIONER’S REPRESENTATIVE – SPP-23-2 – Pedigo Bay**

Deckard: Thank you for extending your time here tonight and this afternoon in hearing this petition. I also want to commend you guys for taking the time out of your busy days on the weekend to go out and visit a petitioner’s site. That is very commendable.

Clements: Thank you for your patience with us tonight. Thank you.

Deckard: As far as I am concerned and as far as the petitioner is concerned, we agree with staff’s recommendation. If there are any questions, please feel free to ask.

Clements: Great, ok. Thank you, Mr. Deckard. Is there any member of the public who would like to speak either in favor or in opposition to this petition? If so, please come to the podium if you are here. Raise your virtual hand on zoom or press \*9 on your telephone to be recognized. Do you see anyone? Ok, we move it back to the Commission for a motion or discussion or both.

**SUPPORTERS - SPP-23-2 – Pedigo Bay: None**

**REMONSTRATORS – SPP-23-2 – Pedigo Bay: None**

**ADDITIONAL QUESTIONS FOR STAFF – SPP-23-2 – Pedigo Bay: None**

**FURTHER QUESTIONS FOR STAFF – SPP-23-2 – Pedigo Bay**

Morris: **I would like to make a motion for case SPP-23-2, I move that we approve the Pedigo Bay Major Subdivision Preliminary Plat Amendment 3 based on the findings of fact, subject to the Monroe County Highway Department reports.**

Guerrettaz: **Second.**

Behrman: There has been a motion and a second. A vote in favor is a vote to approve the Pedigo Bay Major Subdivision SPP-23-2. I will call the roll. Cheryl Munson?

Munson: Yes.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: Margaret Clements?

Clements: Yes.

Behrman: Geoff Morris?

Morris: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: That passes 7 to 0.

**Motion in case SPP-23-2, Pedigo Bay Major Subdivision Preliminary Plat Amd 3, Preliminary Hearing, Waiver of Final Hearing Requested, to approve all requests, carried unanimously (7-0).**

**REPORTS:**

**Planning/Behrman:** No reports.

**Legal/Schilling:** No reports.

Clements: Any objections to adjournment? Thank you everyone for your good work tonight. Have a good evening.

**The meeting adjourned at 9:05 pm.**

Sign:

Attest:

\_\_\_\_\_  
Margaret Clements, President

\_\_\_\_\_  
Jacqueline N. Jelen, Secretary

DRAFT