

MONROE COUNTY PLAN COMMISSION
Hybrid Meeting - Minutes
June 20, 2023 – 5:30 P.M.

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES - None

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

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

ABSENT: *Jerry Pittsford*

STAFF PRESENT: Tammy Behrman, Assistant Director, Drew Myers, Senior Planner, Shawn Smith, 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

No minutes to approve at this time.

ADMINISTRATIVE BUSINESS: None.

UNFINISHED BUSINESS:

- 1. 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

NEW BUSINESS:

- 1. RD-23-1 N Curry Pike RD Name Change to W Hunter Valley RD
Preliminary Hearing.**
Bloomington Township, Sections 19 & 30, and Richland Township,
Section 25.
Contact: acrecelius@co.monroe.in.us
- 2. SMN-22-8 Zikes Road Minor Subdivision Preliminary Plat
Preliminary Hearing. Waiver of Final Hearing Requested
Sidewalk Waiver Requested.**
Four (4) parcels on 98.57 +/- acres in Section 9 of Clear Creek Township
at S Zikes RD, Parcel #53-11-09-100-003.000-006.
Owner: Fourth Generation Property Management, LLC
Zoned AG/RR. Contact: shawnsmith@co.monroe.in.us

UNFINISHED BUSINESS

1. 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

BOARD ACTION: Clements introduced the petition.

STAFF ACTION:

Myers: Thank you. We have heard this one a number of times now. Just as a refresher, this is a zoning map amendment from Limited Business to Limited Business with the intention to remove a prior condition of approval from Ordinance 2007-48. The petitioner's intention behind the rezone request is to remove the condition of approval related to requiring a shared driveway with the adjacent properties. To remove a condition of approval for a prior rezone petition a new rezone petition must be submitted, hence this petition request. Ordinance 2007-48, Condition of Approval Number One is what we are discussing this evening. It states access to proposed lots be provided by an ingress/egress easement at the existing petition site entrance or via an easement from another existing driveway cut. No new driveway cuts shall be allowed onto East Northshore Drive. Since the last time we heard this, I am going to click through these slides to a point here. A lot of these updates you see on the screen in black text you are already aware of. This petition was continued at the May 16, 2023, Plan Commission hearing to today's date, with the intention of providing the Highway Department time to evaluate sight distance requirements, whether or not they can be achieved through additional vegetation removal. Planning Staff met with Highway Department Staff during the department coordination meeting on June 12, 2023. At that meeting Highway Department Staff indicated that a sight line analysis should be performed by a licensed engineer in order to further evaluate whether the removal of more vegetation can improve sight distance in this area. If we want to discuss any more details of this petition to get you all refamiliarized with it, I can do so. But otherwise, I will open it up to discussion and 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:

(A) 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;

(B) 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;

(C) 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;

(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;

(E) 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

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

Guerrettaz: Drew, with respect to the meeting on June 12th with the Highway Department, has any effort been done that you know of with the petitioner to contract somebody to look at that sight distance?

Clements: Could you speak into the microphone, Mr. Guerrettaz?

Guerrettaz: I can. Did you hear that question?

Myers: I did. No, I do not believe so. Most of the discussion was whether or not Highway would go out and do that analysis. But it was determined for further evaluation the licensed engineer would be necessary.

Guerrettaz: Thanks.

Clements: Are there further questions of staff by members of the Plan Commission? Seeing none. We will move the petitioner or the petitioner's representative. You will have 15 minutes. I think you are getting accustomed to our little protocol here. If you would be so kind as to sign in and then state your name and you will have 15 minutes, Mr. Werner.

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

Werner: Good evening, Commissioners. It is good to see everyone again. I hope everyone is well. I wanted to add to the vegetation thing. We have looked at it ourselves. I uploaded today for Mr. Myers if he wants to pull up. Lake Lemon Acres also agreed to allow us to cut back vegetation on their property in order to improve the sight line. So, if it's a question of going past right of way or anything like that, they have made a commitment. We don't know anybody in the community surrounding us that doesn't support. You haven't had in the 3 meetings we have had here had any remonstrance about not tying these driveways together. Because as we showed as Lake Lemon Acres, the reason why they would support this obviously many of their tenants

come to our property every single day. They rely on us for basic needs now like milk and eggs and bread, so they don't have to drive 25 minutes away to get basic things like that. They don't want to be crossing residential traffic. They don't want a sidewalk to nowhere that nobody is ever going to use. So, this is what we are talking about, a requirement. Also, we wanted to address something we heard in the Administrative Meeting. We are not the parties that benefited from anything that happened as far as changing the use from what was a campground, which would have been much higher traffic where there were 2 driveway cuts, historically for 70 years. 2 driveway cuts and a campground with like, I don't know, something like 20 to 40 camp sites, was reduced to 2 single-family homes. There is nothing that we can do or have done that will increase traffic to what it used to be. As a matter of fact, we are responding to what the community told us they wanted, bless you, they wanted to do, and I have pulled up the survey results that my father and I sent to the entire community when we first bought the property. 410 respondents, which is more than 10% of the people that live around the lake. There is about three to four thousand responded. The number one that they wanted was more community events and walk-up food services almost tied. We just started the walk-up food service at the lighthouse. The store that was part of it, having beer and wine, we did that. We are responding to the needs of the community, the traffic issue couldn't possibility get to where it used to be. There aren't additional driveway cuts. The Johnsons are the ones that got the driveway permit. They developed the land into the 2 single family homes and then sold it to the Gravelie's, representing to them, incredibly representing based on the permit that they showed the Gravelie's that that driveway was permitted, according to the county. Again, having no real other way of having notice on that plot at the time that later on, 7 years later, they were going to be told that they were and I don't agree with the proposition that the \$12,000 that they spent last year to pave isn't going to be in vein. There are other problems at this site including a third driveway that we haven't really talked about that is on the Gravelie's land. A matter of fact, it has somehow been allowed all of this time. It is clear from us that sightline can be achieved through some cutting back and it is in the record now that Lake Lemon Acres supports that and will allow us to cut back whatever we need to cut back. If the Highway Department won't do it, we will do it for sure. Because we do want it to be safe for the Gravelies. We nearly lost them. They put their house up for sale temporarily, potentially. I think they are on. They can speak for themselves. But I think they saw another house and fortunately, they lost the bid. We would like to keep them. We like the Gravelies. They are good neighbors. I hope it is not this process that is pushing them out. Again, safety wise in 7 years, I put it in the record we looked at Northshore the detailed maps if you look at them there has not been a single wreck in 7 years. There have been many wrecks, many wrecks on Northshore. They all happened at Grey Road, which is a traditional subdivision, and it seems to follow the rules but somehow there have been multiple wrecks there and at Spillway Road, which is just a dangerous blind confluence of two streets. I don't know how something hasn't been done there. Also, the county put high visibility signs right at, already put a high visibility pedestrian sign right next to the Gravelies driveway, as if that driveway was ok. There are many indicators that they saw the driveway, it was alright. We placed the high visibility sign that increases the visibility of car coming from up the hill down. The Gravelies have also put their own reflectors there at the driveway, so we don't feel that safety will be increased by tying them into our driveway as we discussed before. In the interest of not taxing the people that didn't benefit from this, the people that agreed to do all of this are not here, the Johnsons, the Shells and we love the Shells. We are not some investors from afar. We are guys that have been coming to this lake and living around this lake for decades. We are not some

wealthy investors that can just adsorb what is going to cost much more than the bond that we still maintain, which is \$42,000. Right now, it is a drag on us being able to do some of the things that the people in the community have asked us to do. We have spent funds dredging out. One thing we had to do from the Shells taking over is try to get more slips in. There was 22 more for years than what we have given and the reason why they couldn't have more was because of the terrible drainage problem. Adding this driveway will just add back to that drainage problem. We spent nearly \$25,000 - \$30,000 ourselves dredging out so that boats that we already had in there could get out, let alone add back slips. So, the idea that we are either increasing traffic over historical levels. We had an Airbnb here. Before that was like 4 apartments for something like 40 years. That was 4 apartments. We had one Airbnb. What I am trying to illustrate for you there is nothing we are doing or can do that will return this site to the historically high traffic levels that it used to be, nor do we plan to. We just want to serve the people that are there. The county itself is changing the zoning, radically changing the zoning in my opinion. If you go to this lake, there is a lake in Indianapolis called Geist Reservoir. I am sure some of you have problem been there. It is the exact same size as Lake Lemon. The exact same size. You have also been to Monroe; I am sure some of you. The difference the reason why Lake Lemon is such a quiet, nice community safe to drive down the road, safe to boat is because the zoning didn't allow people to build on less than an acre lot. That is why the lots in this case were exactly one acre. Because it wasn't even allowed historically. There are far fewer houses per square acre around this lake than there are in many. So, the county is now changing the zoning from the Estate Residential. That is in the plan, the CDO. They are changing it to now you will be able to build and there is a plan to run a sewer line, a city sewer line all down Northshore, all the way up Northshore from Brown County all the way up Northshore. We are going to benefit from that because we have 2 septic fields to do what we do. What is going to happen is there are going to be more residential. In there right now if you go to Geist there are lots of restaurants. There is a marina that makes our marina look like I don't know, like an outhouse. Ok, right, like a little, tiny speck. There is one restaurant. We just are starting food service. Where are these residents going to go now that the county is radically changing the plan for this area? We are being told that we are increasing traffic, that we are trying to, I don't know, profit. I wish this was a hugely profitable enterprise. It is really not. It is something that we love to do and we are never going to be a marina like the Four Winds or any of those marinas on Geist. We are never going to be able to make that kind of money. We are never going to be able to draw that kind of traffic. But I just wonder when people are now able to build on less than acre lots around this lake and not and it is largely due to the sewer limitations, the septic limitations that are going to be gone once that city sewer runs up and down this street. We just want to be able to continue operating the way that we have been operating, the way that the community has asked us to operate and that no one has shown up here to remonstrate. In fact, all of the nearby neighbors support it, including Lake Lemon Acres across the street. Do you want to take over? We have 3 minutes left, if you would like to say something. I am going to turn it over to my partner, my father.

S. Werner: I am also Stephen Werner. I think you know that but. I would like to correct one thing he said. He said we have spent around \$30,000 dredging. We actually spent more like 60. He is thinking of the last bill that we got. We have done a first phase and a second phase, and I had a hauling company move some. We have invested a lot of money and we could spend that much more really cleaning the marina out, bring it back to the historical depths just like the conservancy district is doing, a major dredging on the lake to bring it back to life. I heard a

comment in your Admin Meeting that we are trying to expand our operation and we are not. Historically the marina had groceries and food, ice and live bait and all of that and they quit doing it. They were only open like 9 to 5 on Saturday and Sunday. We are open 7 days a week to serve the community and provide what they want. Another thing, I reason the community wants events at our place, the conservancy shut the beach down. Historically residents could drive their boats over and park at the beach with their grandkids and family and enjoy the beach. When covid hit conservancy shut the beach down to boats only to walking traffic and I think they learned that their goal is to spread out the walk in traffic to make it safe for them, but they ended up just getting twice as many people in there. During covid there wasn't any place to go but outdoors so their intentions are to keep the beach closed to residents with their boats because they are making more money with their walk-in business. We are the only other property on the lake to serve the residents. We are the only marina. We are the only limited business property. We are just trying to bring it back to its historical use and like my son said there was lot more activity with the campground and all of that. We are not trying to overdue anything. I am there every day. I have been a marina attendant for 14 years. I have bought 9 and half acres on Northshore and built a house and I sold out of my business in Indy because I wanted to be down here on the lake. I was only working 3 or 4 days a week up there and would come and spend 3 or 4 days at the lake. I am working 7 days now and I enjoy it. I guess it is a perfect retirement job trying to build something that the community wants. That drive the only thing that it is going to do is make it ugly and, in my opinion, make it less safe because vehicles with boats are going to want to go up that driveway and then they will be backing out into traffic. We are going to have a big asphalt drive across the front of the marina property that doesn't add to safety at all. The Hamers, if they get a chance to speak, all of that runoff coming down Gravelies driveway is going to go straight into their driveway.

Clements: Ok, thank you Mr. Werner. I have a few administrative items that I need to attend to. Number One; if you would be so kind as to sign in. Number Two; let the record reflect that r. Enright-Randolph arrived shortly after the petitioner's presentation began and then Three; I need to just correct the record about the CDO. The County Development Ordinance has not past and so what you said about the way things are changing, that is still undetermined Mr. Werner. I just wanted the record to reflect that. With that being said, do members of the Plan Commission have any questions for the petitioner? We can move on then to members of the public who are here in favor of this petition, and I would like ask staff, there are 5 bubbles on the chat, and I don't know what that is about.

Behrman: Most of it was me trying to get the screen a little larger so we could read things on there.

Clements: Ok, great.

Behrman: I will check for others, though.

Clements: Thank you. If there are members of the public who would like to speak in favor of this petition, please come to the podium and sign in and then you will have 3 minutes each.

SUPPORTERS - REZ-23-1 - Lake Lemon

Hamer: I just really wanted to emphasize one point that Steve mentioned.

Clements: I'm sorry, could you please state your name?

Hamer: I'm sorry. My name is Colin Hamer and we the property where this driveway is on, today and the one you talked about moving. We had pretty much a big storm last Sunday and what we don't often see with the photographs is the slope of that property. Its downhill. Right now, it kind of comes at an angle and if you change it or if we are forced to change it to come into the marina road, it is on quite a steep hill. It is amazing how much water is going to come down. I don't think we have sort of understood that in all of the talking's that we have had. But I just wanted to put that in for the record. Sorry. Again, just re-emphasizing that fact that when we get storm rain coming, which is quite often, it is pretty bad today, but it is going to be a lot worse coming down. In addition, to the fact that we all believe it is going to be less safe having the traffic coming onto that road. That is really all I have. Thank you.

Clements: Thank you, Mr. Hamer. Is there any other member of the public that would like to speak today? We of course, have your testimony from before. But you are free to come up and speak for three minutes or if there is anybody on zoom that would like to speak, please raise your virtual hand or if you are calling in by phone press *9 in order to be recognized. Is there anyone who is in opposition to this petition? If so, please come to the podium and sign in or raise your virtual hand on zoom or press *9 on the telephone in order to be recognized. Ok, I am going to bring it back to members of the Plan Commission for further discussion and a possible motion. We have in the record a recommendation from Highway that we request that a consultant but hired, an engineer be hired in order to verify/validate the safety of the sight lines. That has been suggested and I would just like all of us to talk about that and maybe see what we need to do administratively on this case and whether or not we continue it or approve it or deny it. Those are the 3 options. Yes, Mr. Enright-Randolph.

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

ADDITIONAL QUESTIONS FOR STAFF – REZ-23-1 - Lake Lemon

Enright-Randolph: I just wanted to make a brief comment before I address that. We have received this case so even though I was tardy today I am very familiar with the ongoings of this petition. I had tried to create some type of motion that allowed the petitioner to seek an independent opinion if they could meet that sight distance so I would really, I guess, I was trying to get my hand up, I didn't have an initial question. But understand if the petitioner would like to move in that direction and if they are willing and able to seek an expert's opinion about this, that is going to come with a cost or would the petitioner rather us move it forward to the Board of Commissioners. That is a question to the petitioner if they would like to address that.

Werner: My question would be would there be a possibility to move it to the Commissioners with the understanding that we prove the sight distance, we would pay, the answer is about the engineer, we would be willing to pay an engineer to verify the distances. I would hope that we

could move it to the next level as long as the contingency, as long as that independent engineer can verify that and like I said, we have the permission of the Lake Lemon Acres to cut on their property too.

Enright-Randolph: Let me jump in and just address that. What we are doing is try to formulate a recommendation. So, I don't want to turn this into kind of a discussion and negotiation so, let me kind of, it will be very difficult to gain support from me without kind of understanding kind of what an experts opinion is about making the line of sight so, kind of what you were eluding to, if you want support, well, if you want my support, I would kind of need to know this and know that you can meet that light of sight. There are a number of different motions that we could make but ultimately my position is I would like to know this information so I could actually make an informed decision. I am not going to say I am definitive on yes or no depending on what the expert says but I think that gives me a lot of information to go on. The question is would you bear the cost of doing that? I understand you would like to move this forward simultaneously and there could be contingences to the motion, but I guess I really just want to pair that down to the one question I am trying to get at.

Werner: We would be willing to come back here if we had to with that engineer's report and pay for it, yes or we would be happy to do it ahead of then next step. Either way, we will do it. We are here for the long run. We want to get it done the right way. We don't want it to be unsafe so if you feel like we need to come back with that report then that is what we will do.

Enright-Randolph: That is kind of where I am at. If I was to move forward, I wouldn't really have any recommendation to make without that feedback, so thank you.

Clements: Thank you, Mr. Enright-Randolph. Ms. Owens, you have your hand raised?

Owens: Yes, ma'am. Thank you. I missed the last meeting, I am sorry, the meeting where this was discussed with the petitioner. So, this may have been said before, but this strikes me as the solution is worse than the problem and as far as line of sight goes, it would be nice to have a professional engineer do that, yes. But when I was there looking from top to bottom and bottom to top, I think my line of sight is pretty good and it looked to me to be safe the way that it is. That is the commentary I have with respect to what has been said so far.

Clements: Thank you, Ms. Owens. Any of member of the Plan Commission who would like to speak, Mr. Morris?

Morris: I agree with both of the comments that have been made and I have really struggled with this because I looked back it was clear from the beginning that this was a requirement to tie the driveway into the same drive was the marina. I have been out there. I respect the work of the Highway Department but like Ms. Owens just said it doesn't feel like to me there is a major sight distance problem. I appreciate the petitioner coming forward and saying they reached out to Lake Lemon Acres about the brush because that was one of my concerns, we are talking about clearing somebody else's property and I was worried we were going to be starting another problem elsewhere. The other thing is all of the neighbors are in agreement of what the right

approach would be so that is something to take into consideration as well. I am honestly still undecided, but these are some of my thoughts right now.

Clements: Thank you, Mr. Morris. Is there anyone else that would like to speak? I think we should hear from Mr. Ayers in Highway because the issue is safety and you have put a lot of time into evaluating this site and we would like to hear from you.

Myers: It looks like Lisa Ridge; Highway Director has her hand raised. I think Ben has just recently been allowed to speak. He is currently listed as an attendee.

Clements: Ok, Ms. Ridge?

Ridge: There is only one thing that I wanted to add, it was stated by the petitioner that we installed signs for the Gravelie driveway and that is not the case. The signs were installed probably through our Traffic Commission Board for the crossing from the campground across the street. I wanted to make that correction that it was not installed for that driveway. The issue that I wanted to raise was I believe if you measure from the existing driveway from where they are talking about the brush clearing it goes into a different property owner, not just the Lake Lemon Acres. That would have to be also mentioned that it goes past their property line too, so, I just want to make sure we don't overlook something. I believe the petitioner also had stated about the driveway that the Johnsons were given also I want to reiterate that was revoked on the same day that it was issued. I just want to make sure that how the Johnsons move forward we are unaware but again, that mistake was made the exact same day that it was issued once we realized that this was in the deed. I will let Ben talk a little bit more on that.

Ayers: The only thing that I will add to that is after that permit was issued, corrected there was another final plat that was recorded, and you are looking at it on your screen. That is what we are going by right now. Other than that, I have no other comments for this.

Clements: Thank you Mr. Ayers and thank you so much for all of your work on this. Ms. Owens?

Owens: I wonder if there aren't alternative solutions like having a flasher light at that intersection that goes across into the marina and so forth, something like that just to give a little bit of extra warning. I don't know if that is possible or even desirable. But it is a thought.

Clements: Thank you, Ms. Owens? Anyone else? Mr. Guerrettaz.

Guerrettaz: I think that the discussion that the Highway Department and staff had was very helpful and the petitioner sounds like they are willing, and I call it willing but it just good sense to me to go ahead and verify that the sight distance is adequate. My feeling is that I think we could move this on with a positive recommendation subject to that study being made to the satisfaction of the Highway Department and I think that would cause us, not because I want to shirk the responsibility but I think that would cause us not to have to have before the Plan Commission again because I think we have gotten this to the point with Mr. Schilling's letter and with the June 12th meeting with the Highway department and staff that it is a sight distance issue.

I think there may be an opportunity to improve the sight distance in the area if that area is cleaned out. My eye was a little bit different with respect to Dee's because actually it was her breath of life, I think in our first meeting that help me reconsider some of the facts that were brought up so again I appreciate that, Dee. I think that there is an opportunity to have an engineer look at it, to have the Highway Department review that and see that it maybe an improved condition than what is there now.

Clements: Is that a motion, Mr. Guerrettaz?

Guerrettaz: I can make a motion if everybody is ready. I don't know if Lisa had anything to say with respect to that, not putting you on the spot, Lisa, as much as I might like to from time to time.

Ridge: I know this has been going on, it has taken up a lot of our time. We are just trying to follow, it is not that we are against the marina, we are not, we are just trying to follow something that originated back in 2007. There was a rezone for it. There was a reason why it was put into this recorded plat. I guess I am not sure how you move forward. There was an appeal process done by Mr. Werner and at that appeal hearing the Commissioners denied the driveway permit. So, I am not sure legally at point you even go because that kind of goes above me that the driveway has already officially denied through the appeal process. I am not sure how that gets overrode or overridden.

Guerrettaz: If I may?

Clements: Yes, Mr. Guerrettaz.

Guerrettaz: I asked that question at the Administrative Meeting at the beginning of the month, was it the beginning of the month, at the last Administrative Meeting and it was my understanding, maybe Drew could reiterate what the status is of that County Commissioners Appeal. My question is if the appeal is in place or if the decision, excuse me, of the appeal is in place then is it even a relevant discussion to have? My understanding of the Administrative Meeting was it was a relevant question to have but if Drew would maybe speak to that I think that would be very helpful because that may just stop it in its tracks now. Ok, thank you.

Clements: Mr. Myers?

Myers: To reiterate, there was an appeal made to the Highway Department's denial of the driveway permit by the petitioner. And that appeal, through the Highway Department process, that appeal goes to the County Commissioners. Commissioner Githens heard the appeal and reviewed the information. However, the petitioner did not attend that hearing and therefore the appeal was denied during the meeting. Whether or not that reaffirmation of the Highway Department's decision goes over the Plan Commission's ability to revoke a prior rezone condition of approval, I do not know. I think that is more of a question for legal. I am not confident in the interplay of the 2 parties in this situation.

Clements: Mr. Schilling I think that was a question for you.

Myers: The concern is there was the appeal that was made for the driveway permit by the petitioner and that appeal was hence denied by one of the Board of Commissioners during the appeal process. Does that basically create this petition - does it make it moot?

Schilling: I don't believe so. If the zoning condition is removed then the circumstances have changed out there if it is proven that the sight distance is acceptable, the circumstances have changed, and the original application would be something that could be reconsidered. It seems to me.

Clements: Ok, Mr. Guerrettaz?

Guerrettaz: Ok, I think I can make a motion and I will do a much better job. Mr. Enright?

Clements: Mr. Enright-Randolph?

Enright-Randolph: I just wanted to make one final comment and I really am in support of what Mr. Guerrettaz has laid out for a potential motion. One thing I think is very important about getting this opinion from a licensed engineer or whomever could really kind of identify the line of sight is to move it along to the Commissioners with more information so they could make a more informed decision in hopes that it does meet the line of sight that it is easier to accept or its just a hair short or what have you, it just allows them to understand a bit more of what is going on and I think that is going to be very helpful to get this done. Because right now we are just an advisory body making a recommendation and I just wanted to indicate that I think this is a great compromise that you kind of laid out, Mr. Guerrettaz.

FURTHER QUESTIONS FOR STAFF – REZ-23-1 - Lake Lemon

Guerrettaz: I move that we forward to the Monroe County Executive Board of Commissioners a positive recommendation based on the finding of fact as found in the staff report and because there may be an opportunity to improve the sight distance that is on Northshore Drive with the condition;

- 1) That the petitioner, at his expense, contract an Indiana licensed engineer to provide the necessary documentation to the satisfaction of the Monroe County Highway Department to prove that adequate sight distance can be met. This condition must be met in advance of the Executive Board of Commissioners meeting on this petition.**

Clements: Is there a second?

Owens: **Second.**

Clements: Please call the roll Ms. Behrman.

Behrman: There has been a motion and a second to forward a positive recommendation to the County Commissioners, based on the findings of fact in the staff report. There is one condition of approval, which I might want to confirm and that is that the petitioner contract an Indiana

licensed engineer to prove that sight distance can be met and approved by Monroe County Highway Department. This information should be provided before being heard by the County Commissioners.

Guerrettaz: Shall be provided.

Behrman: I do want to have just one thought, concern about the timeline. As soon as the Plan Commission makes a recommendation to the Commissioners there is 90 days. It has to be heard within 90 days so that would have to be done before that. Alright, I will call the roll. Margaret Clements?

Clements: I normally don't speak before I vote but on this particular case there are some things that really impressed me by the petitioners. Number one, how involved in your community you are and how deeply you care about you neighbors and avidly you have worked with them in order to solve a shared problem. That is a very nice thing to see which also I think leads to how important you are to the community in terms of the business and the services that you provide and how whole-heartily you do that. Even though Highway was recommended against this you are willing to work with Highway because I am convinced you are just as concerned about the safety of everyone who visits your property as we are. So, for that reason I would like to thank you. This is not an easy process, but I would like to thank you for being here and for making your case to us and for serving the community and going through things the right way. I am voting yes, and I want to thank you.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: I guess I need just a bit of clarification. If they can't prove that they can meet the line of sight and the Highway Department doesn't support, it is this motion still moving forward to the County Commissioners?

Behrman: It would move forward to the County Commissioners, and they would be deciding based upon all of the additional information what to do with it.

Enright-Randolph: Would it be moving forward with like no recommendation? Because it seems like it is contingent to have a positive recommendation if they can meet those things, so if they don't meet those things what is the recommendation? It is just moving forward. Which is fine too, I am just at a loss as to how that is going to play out.

Thomas: We don't know what the engineer is going to say, so it is neither. It is just a recommendation for further information before it goes to the Commissioners.

Enright-Randolph: Which is the end goal but with that stipulation I was a little uncertain how that would play out.

Myers: The motion, if I may, the motion is to offer a positive recommendation with that condition of approval. If by the time that this is heard by the County Commissioners that condition of approval cannot be met, that will be articulated by staff during the Commissioners

Meeting and will be part of, I assume, the rationale of the decision by the County Commissioners.

Enright-Randolph: Right and that makes sense. I was just kind of curious as to how that would play out, so, thank you Drew. I appreciate that. I vote yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Geoffrey Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Dee Owens?

Owens: Yes.

Behrman: Julie Thomas?

Thomas: Yes, and I ask that this be calendared so that they have notice of what their deadline is to bring this forward. Thank you.

Clements: Thank you. You will have 90 days to work with that engineer and work out and problems and hopefully make Highway happy. Thank you.

The motion in case REZ-23-1, Lake Lemon Marina Rezone from LB to LB, Final Hearing, in favor of sending positive recommendation to the County Commissioners, with condition as stated in the motion, carried unanimously (8-0).

NEW BUSINESS

1. RD-23-1

N Curry Pike RD Name Change to W Hunter Valley RD Preliminary Hearing.

Bloomington Township, Sections 19 & 30, and Richland Township,
Section 25.

Contact: acrecelius@co.monroe.in.us

BOARD ACTION: Clements introduced the petition.

STAFF ACTION:

Crececius: Absolutely. The petitioner for this is the Monroe County Redevelopment Commission and Crider and Crider INC. Under Indiana State Statute 36-7-4-405, this gives the authority to the Plan Commission to assign street names and numbers. This request is a condition of the approval required by the North Park PUD Ordinance Amendment that we saw earlier this year that was approved by the County Commissioners on April 26, 2023. The amendment to the North Park Ordinance and the subsequent PUD Development Plan the intention is to construct what is called Hunter Valley Road extension from North Curry Pike from the intersection of State Road 46 to Hunter Valley Road to the intersection of West Arlington Road. On your screen as you can see there is area near North Stone Branch Drive and North Curry Pike that crosses a floodway that does not connect to West Hunter Valley Road. This development plan and North Park Ordinance Amendment was to adjust the ordinance regulations of the North Park area in order to construct this roadway connection that crosses the floodways. On your screen is just an overview of the construction. It is approximately 2,500 feet of new roadway. Because there is an area where no roadway exists a road name change request is required in order to address this area that has no name. Through the conversations of amending the North Park Ordinance we have discussed 2 options and I will go over those here. The first option is to extend North Hunter Valley Road to the intersection of North Curry Pike and State Road 46. The second option, which is what the petitioner is requesting, so what the petitioner is requesting, one moment, the petitioner's representative is Bynum Fanyo and Associates, specifically AJ Willis, who is the project engineer. They have requested specifically that West Hunter Valley Road is extended across the new roadway, south past the intersection of 46 to the new roundabouts located at North Curry Pike and West Woodyard Road. I am going to be referring to this as Option 2 and that would be the yellow arrow on the left side of the image on the screen. Ok, so to go over this again. Option 1 would only be extending West Hunter Valley Road to the intersection of 46 and Option 2 would be extending Hunter Valley Road to North Curry Pike and West Woodyard Road at the roundabout, Option 2. Here is the project engineer petitioner letter, which is requesting that specifically, Option 2. During the North Park PUD Ordinance Amendment, we did get some history on the Hunter Valley area from the Monroe County Historic Preservation Board of Review. This is a letter originally submitted under the ordinance amendment and the development plan petitions. This is a Georeferenced map of the historic map that they had included as an exhibit to get an idea of that West Hunter Valley area. We have multiple comments from different county departments. The first is the Highway Department. We received comment from Lisa Ridge, the Highway Director and also Paul Satterly, the Highway Engineer. They both have included statements about not necessarily being able to support a full extension, Option 2, to the roundabout but they do offer support of Option 1, which is extending West Hunter Valley Road to the intersection at State Road 46. Their arguments have included that

there are newly installed signage and that there is existing confusion from motorist in this area. The Historic Preservation Board of Review has offered a new comment specifically for the road name change request. They are supportive of Option 2, extension of the road name all the way to the roundabout. They state that Hunter Valley holds historical significance, and that the direction of the road is more suitable as they say in these comments. When the North Park PUD Ordinance Amendment was heard by the County Commissioners, the County Commissioners discussed this road name change and, in that discussion, they included that they desired that the road name change extend all the way to the roundabout at Curry Pike and West Woodyard, so they are supportive of Option 2. Finally, we did a little bit of analysis to figure out how many addresses might be affected so the Planning department looked into this and there are minimal addresses along this area. The first Option 1, which is Hunter Valley to the intersection of State Road 46, that would only require one address change, which is 3027 North Curry Pike. This is an undeveloped property. If the change goes all the way to the roundabout, Option 2, it would only require 2 addresses to be changed, 3027, undeveloped and 2799 North Curry Pike, which is currently a residential property. I have just a few images here. The 2 roundabout construction in this area is new enough that we have no aerial imagery to depict this, but I have tried to show it here and you can see on the right side, google maps. Just a few photos. There is quite a bit of signage at the roundabouts in order to direct you where to go. This is looking east at the intersection of State Road 46 and North Curry Pike. This is where it changes to North Curry Pike. At the Administrative Meeting, the Plan Commission requested that Planning Staff reach out to a representative of the Curry family. I was able to get a hold of Mr. Joseph Curry, who spoke with Cary Curry as well. I sent them the information, the packet. They did not express any preference to the 2 options that we are looking at, but they just stated in general that it seems like a minimal section of road and that the bulk of Curry Pike wouldn't be affected so they really had no opinion. Finally, Planning Staff has 2 parts of the recommendation. The first part is that staff recommends denying the petitioner's road name change request from West Hunter Valley Road to North Curry Pike and West Woodyard Road, the roundabout, due to the Monroe County Highway Department reports. Staff recommends approving a road name change from West Hunter Valley Road to North Curry and State Road 46, per the Monroe County Highway Department recommendation. Does anybody have any questions?

RECOMMENDATION

Staff recommends **denying** the Road Name Change from W Hunter Valley RD west/southwest to N Curry PIKE & W Woodyard RD request due to the Monroe County Highway Dept. reports.

Staff recommends **approving** a Road Name Change from W Hunter Valley RD west/southwest to N Curry PIKE & State Road 46 per Monroe County Highway Dept. recommendation.

QUESTIONS FOR STAFF – RD-23-1 – RD Name Change

Clements: Yes, Commissioner Thomas?

Thomas: I don't have a question. I just have a couple of comments I would like to make. I appreciate the Plan Commission hearing on this. This is something that the Planning Department raised with us, but it is also something the Board of Commissioners wished that this Board would take up, so thank you. First, I would like to note that it is very rare, in fact this would be a

very unique circumstance for me to go against the Highway Department and the Planning Department recommendations but I understand what the Highway Department is saying about a road that changes names throughout its course and we have the great example of Rhorer, Gordon, Fullerton. We have many examples of this throughout the community. There are examples of this in the City of Bloomington as well. I think for me there are 3 things. First that the Currys, the family name are ok with this change. Second that this is a historical recognition and for that reason it is important to do this and third that very few people are impacted. There is going to be one residence impacted by this change. Fourth, I would say that the fact that the road changes direction at the roundabout to me logistically it makes the most sense to make this change at this point. With that, I would ask this Plan Commission to consider approving Option 2. Thank you.

Clements: Thank you, Commissioner Thomas. Are there any other questions of staff? I can't see if Dee's hand is raised. Ok, so, is the petitioner or the petitioner's representative here and would you like to speak or are they online? Are there any members of the public who are wishing to speak in favor of this petition? If so, please come to the podium, raise your virtual hand. Oh, wonderful. It is good to see you today. Please come and sign in and tell us what your thoughts are.

**PETITIONER/PETITIONER'S REPRESENTATIVE –
RD-23-1 – RD Name Change: None**

SUPPORTERS - RD-23-1 – RD Name Change

Cassady: Randy Cassady and while I have to echo some of Julie's things that she indicated in regard to the aspect of history, what we are looking at in this particular valley and the limestone heritage of which we have and the aspect, while, again, I trust Highway immensely in regard to what they do from a professional standpoint. But on the road name taking into consideration where we are looking to extend this up to Arlington Road, bring it through the valley and bring it across. The road that changes at the roundabout should not create major disharmony in regard to individuals, their homes. A few businesses are going to have to change off of that but what it does is signifies if we take it through the valley what our community has from a heritage standpoint. It is a road name that also indicates from where we come so it is important that we honor those. I do agree based upon Fullerton, Rhorer, the changes that occur, Tapp and Winslow that there are some things but that also helps to keep the creative character of our community what it is. I appreciate it. Thank you.

Clements: Thank you, Mr. Cassady. Are there any other members of the public who would like to speak in favor or in opposition to this petition? Ok, this is coming back to us and there has been no request for the waiver of the final hearing, I don't know if we can automatically waive the final hearing. Pardon me?

Thomas: I don't know why we would. We are not waiting on more information.

Clements: But they didn't request it.

Thomas: There is no need to have a final hearing.

Behrman: It is in the staff report that there is a waiver of final hearing. It just didn't make it onto the agenda. Apologies.

Clements: That would be lovely, I just didn't know what the requirements were or if there would be anything that we are violating. So, if there is further discussion and/or a motion we could theoretically dispense with this tonight.

REMONSTRATORS – RD-23-1 – RD Name Change: None

ADDITIONAL QUESTIONS FOR STAFF – RD-23-1 – RD Name Change: None

FURTHER QUESTIONS FOR STAFF – RD-23-1 – RD Name Change

Thomas: **I am going to go ahead and make a motion for RD-23-1, approving the Road Name Change from West Hunter Valley Road west/southwest to the intersection roundabout at North Curry Pike and West Woodyard Road, despite the recommendations of the Highway Department, sadly but with the recommendation of the Historic Preservation Commission.**

Clements: Are you requesting a **Waiver of Final Hearing?**

Thomas: **Yes, I am waiving final hearing.** Thank you.

Owens: **Second.**

Behrman: There has been a motion and a second to approve a road name change from west Hunter Valley Road west/southwest to North Curry Pike and West Woodyard Road, despite the Monroe County Highway Department's reports. This would take it all the way to the roundabout. I will go ahead and call the roll. Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Geoffrey Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Dee Owens?

Owens: Yes.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: Margaret Clements?

Clements: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Motion passes 8 to 0.

The motion in case RD-23-1, N Curry Pike RD Name Change to W Hunter Valley RD, Preliminary Hearing, in favor of approving the Road Name Change from West Hunter Valley Road west/southwest to the intersection roundabout at North Curry Pike and West Woodyard Road, with waiver of final hearing, carried unanimously (8-0).

NEW BUSINESS

2. SMN-22-8

Zikes Road Minor Subdivision Preliminary Plat Preliminary Hearing. Waiver of Final Hearing Requested Sidewalk Waiver Requested.

Four (4) parcels on 98.57 +/- acres in Section 9 of Clear Creek Township at S Zikes RD, Parcel #53-11-09-100-003.000-006.

Owner: Fourth Generation Property Management, LLC

Zoned AG/RR. Contact: shawnsmith@co.monroe.in.us

BOARD ACTION: Clements introduced the petition.

STAFF ACTION:

Smith: The request specifically is the Preliminary Plat to subdivide one approximate 98.57 acre parcel into 4 lots with a specific Sidewalk Waiver request and then also a Waiver of the Final Hearing. Because this is nearly 100 acres dividing it into 4 lots means that they are going to be quite large, so every lot is at least going to be 20 acres and nearly every lot is going to be at least 10 acres of buildable area. Regarding the Sidewalk Waiver, Designated Community classification triggers sidewalks according to Chapter 856-40 (A) Sidewalks. While in a Designated Community, it is not in a Designated Growth Area, which is the Smithville-Sanders Area. The topography and dense vegetation make installation of sidewalks difficult for this area. There are no adjacent sidewalks to the petition site roughly within a 1 mile radius. If sidewalks were to be placed, it would be approximately 1,400 feet of construction needed unless the waiver is granted. In order to do so, it requires the removal of trees that currently add character to the area and staff believes that practical difficulties have been demonstrated. Another concern with this site are the Sinkhole Conservancy Areas. There are many sinkholes on this parcel. Designated Sinkhole Conservancy Areas are included on the plat. Total buildable area has been factored in and it factors in sinkholes as well. If this were to pass it would exceed the amount of required buildable area and each lot again, exceeds the minimum 1 acre of buildable area requirement. The 2018 Monroe County Transportation Alternatives Plan does not identify South Zikes Road as a priority road so this is another piece of evidence that would demonstrate the Sidewalk Waiver being a positive recommendation. These are the site conditions and location maps. There is an approximate floodway that runs through this parcel. But again, due to the extensive acreage this would not be a problem for buildable area. The Plat Committee voted on March 16, 2023 to send a positive recommendation to the Plan Commission 3 to 0 and then on your screen you will see the plat as it is currently. There are as I said a lot of sinkholes on this area. They have delineated on the plat. These are some site photos that were taken by members of staff. I will leave it on the screen for just a brief moment. This is what pretty much the entire property looks like. The roadway in the top left part of the screen is Zikes Road, so that gives you kind of an idea of what the road looks like and the conditions. Staff does recommend approval of the Minor Subdivision based on the findings that the proposed preliminary plat meets the Subdivision Control Ordinance and subject to the MS4 Coordinator and Highway Engineer reports, including the following;

1. Surveyor locate the proposed septic locations on the preliminary plat.
2. Surveyor address MS4 Coordinator comments.
3. Surveyor to illustrate location of preserved or planted street trees per Chapter 856-43.

Staff does also recommend approval of the Sidewalk Waiver based on the findings and then as a reminder to the Plan Commission members that there is a request to waive the final hearing.

RECOMMENDED MOTION	<i>Approval</i>	Planner: Shawn Smith
<p><i>Recommended Motion Conditions or Reasoning:</i> <u>Approve</u> the subdivision based on the finding that the proposed preliminary plat meets the Subdivision Control Ordinance with the following edits:</p> <ol style="list-style-type: none"> 1) Surveyor locate the proposed septic locations on the preliminary plat. 2) Surveyor address MS4 Coordinator comments. 3) Surveyor to illustrate location of preserved or planted street trees per Chapter 856-43. <p>Recommend <u>approval</u> of the sidewalk waiver based on the findings.</p>		

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 site is one parcel totaling 98.57 +/- acres;
- The petition site is not in a platted subdivision;
- The site is zoned Agriculture/Rural Reserve (AG/RR) along with the surrounding area;
- The preliminary plat amendment request is to subdivide the property into four new lots with the following details:
 - LOT 1: 28.44 acres; LOT 2: 27.39 acres; LOT 3: 21.28 acres; LOT 4: 20.26 acres
- The preliminary plat requests one subdivision waiver;
- Street tree requirements are applicable due to the designation of the Designated Community in the Comprehensive Plan;
- Sidewalk requirements are applicable due to the designation of the Designated Community in the Comprehensive Plan;
- All proposed lots have right-of-way-activity permits to provide access off of S Zikes RD;

(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 Designated Communities;
- See findings under Section A;

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

Findings

- Surveyor to address the MS4 Coordinator notes per the condition of approval;
- See findings under Section A;

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

Findings

- Neighboring properties are zoned AG/RR;
- The use of neighboring properties is either residential or agricultural;
- 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

- Designated floodplain is to be delineated on the preliminary plat;
- 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 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, a final plat will be required to be recorded as the result of the proposed preliminary plat amendment process;

FINDINGS OF FACT – WAIVER OF SIDEWALK REQUIREMENT

The petitioner is requesting a waiver from the *Improvement, Reservation and Design Standards* outlined in 856-40 (A) (Sidewalks), which reads:

- (A) Sidewalks shall be included within the dedicated, unpaved portions of the rights-of-way when any of the following are applicable:
- (4) the proposed subdivision is within a designated growth area in one of the Rural Communities as identified by the Comprehensive Plan, or;

Section 850-12 of the Monroe County Subdivision Control Ordinance states: “The Commission may authorize and approve modifications from the requirements and standards of these regulations (including the waiver of standards or regulations) upon finding that:

1. Practical difficulties have been demonstrated:

Findings:

- The petitioner is requesting a waiver from the S Zikes Road required 4’ sidewalks. The northern portion of S Zikes Road would require 195’ of sidewalk and the southern portion would require 1,200’ approximately.
- The sidewalk improvements are required due to the petition site meeting the criteria described in 856-40 (A) (4) above;
- The parcel of the petition site is **not** within a designated growth area in the Smithville-Sanders Rural Community, however, the property is classified as Designated Community under the 2012 Comprehensive Plan;
- The topography has dense vegetation and small road width that would make sidewalk installation difficult;
- The site gains access from E Smithville RD, designated a Major Collector in the Monroe County Thoroughfare Plan;
- Sidewalks do not currently exist adjacent to the petition site in either direction;
- The requirement is that sidewalks be constructed within the right-of-way along the petition site’s frontage of S Zikes Road (north side 195’ and south side 1,200’), unless the waiver is granted;
- There are obvious existing physical constraints, including steep slopes, existing fence posts, and high powered utilities lines, where the sidewalk would be required along S Zikes Road;
- The total length of required sidewalk for which the waiver is requested is approximately 1,395’;
- In the right of way of proposed Lots 2 and 4, the preliminary plat shows there would be conflict with proposed sidewalks in relation to karst areas and greater than 15% slope;
- Much of the right of way has mature trees that add to the character of the area. Sidewalk installation would likely require the removal of many of those trees;
- There are no nearby sidewalks within a 1 mile radius of the parcel;
- Practical difficulties have been demonstrated;

2. The requested modifications would not, in any way, contravene the provisions of the Zoning Ordinance, the Comprehensive Plan or the Official Map of the County

Findings:

- See findings under Section (1);
- The petition site is located in the Monroe County Designated Community as designated by the Comprehensive Plan;
- The Comprehensive Plan calls for transportation alternatives throughout Monroe County;
- The 2018 Monroe County Transportation Alternatives Plan does not have identify S Zikes Road as a priority road;



- 3. Granting the modifications waiver would not be detrimental to the public safety, health, or welfare and would not adversely affect the delivery of governmental services (e.g. water, sewer, fire protection, etc.):**

Findings:

- See finding under Sections (1) and (2);
- The absence of a sidewalk would not have a detrimental relationship to the delivery of governmental services (e.g. water, fire protection, etc.) to the proposed subdivision lots;

- 4. Granting the modifications would neither substantially alter the essential character of the neighborhood nor result in substantial injury to other nearby properties;**

Findings:

- See findings under Sections (1), (2), and (3);
- Requiring sidewalks would alter the essential character of the neighborhood;

- 5. The conditions of the parcel that give rise to the practical difficulties are unique to the parcel and are not applicable generally to other nearby properties;**

Findings:

- See findings under Section (1);

- 6. Granting the requested modifications would not contravene the policies and purposes of these regulations;**

Findings:

- See findings under Sections (1), (2), and (3);

- Granting the requested modification would contravene the policies and purposes of these regulations;

7. The requested modifications are necessary to ensure that substantial justice is done and represent the minimum modifications necessary to ensure that substantial justice is done;

Findings:

- See findings under Sections (1), (2), and (3);
- The requested modification is necessary to ensure that substantial justice is done and represent the minimum modification necessary;

8. The practical difficulties were not created by the Developer, Owner, Subdivider or Applicant; and,

Findings:

- See findings under Sections (1) and (7);
- The practical difficulties were not created by the Developer, Owner, Subdivider or Applicant;

9. The practical difficulties cannot be overcome through reasonable design alternatives;

Findings:

- See findings under Section (1);

In approving modifications, the Commission may impose such conditions as will in its judgment substantially secure the objectives of these regulations.

QUESTIONS FOR STAFF – SMN-22-8 - Zikes Road

Clements: Thank you for excellent synthesis of all of the issues on this property and for this petition. Do members of the Plan Commission have questions for Mr. Smith? Yes, Commissioner Thomas.

Thomas: Thank you again for the great presentation. Will the Planning Department assist with identifying buildable area for the petition?

Behrman: It is already on the preliminary plat.

Thomas: Ok, I guess I can't read it. Sorry.

Behrman: I don't know if you want to pull that back up and maybe try to mouse over it. I would say it is kind of whiter.

Thomas: I zoomed in, and it is harder to read.

Smith: I think the survey has the total acreage for the lot and then it is really hard to see but there is really tiny text here that says total buildable area and it has the acreage.

Thomas: Can you show me where the buildable area is on Lot 2? That is the one that is the most problematic, I think. I assume it is in that flag.

Smith: If you can see Julie, this is the 15% slope line that has been delineated and then of course these are the karst features. So, everything that is outside of these lines is buildable area.

Thomas: Ok, so they have enough acreage because these are such large lots to do this.

Smith: That is correct.

Thomas: Ok. Then the last question I have is that the issue with the driveway from Lot 2 was resolved, correct?

Myers: Correct.

Thomas: Thank you.

Clements: Any other questions for staff? We will move on now to the petitioner. Oh, Mr. Oehlman, do you have a question? Ok. We will move on to the petitioner or the petitioner's representative if you would like to address the Plan Commission and talk about what you are doing or. You are free to, and you don't have to.

Behrman: I see Todd Borgman.

Clements: Yes, Mr. Borgman. He has his hand raised. Mr. Borgman, I think you are unmuted and we look forward to hearing from you.

PETITIONER/PETITIONER'S REPRESENTATIVE – SMN-22-8 - Zikes Road

Borgman: Yes, I would like to thank the Planning Staff for their recommended approval of this. It has been about 18 months trying to get everything ready to go on this one, but I appreciate their patience and their support. Moving forward, yes, the driveways Ben and I agree on the driveways and that has been taken care of and I know that they 3 edits that they want made and we have no problem going along with those and finishing those off as well.

Clements: Thank you Mr. Borgman. Is there anyone else that would like to speak in favor of this petition or against this petition? If so, please come to the podium, raise your virtual hand or press *9 on your telephone to be recognized. If we see no one we come back to members of the Plan Commission for further discussion and/or a motion.

SUPPORTERS - SMN-22-8 - Zikes Road: None

REMONSTRATORS – SMN-22-8 - Zikes Road: None

ADDITIONAL QUESTIONS FOR STAFF – SMN-22-8 - Zikes Road: None

FURTHER QUESTIONS FOR STAFF – SMN-22-8 - Zikes Road

Morris: I can make a motion. **I move for case SMN-22-8, that we approve the Subdivision, based on the finding that the proposed Preliminary Plat meets the Subdivision Control Ordinance with the following edits;**

- 1) Surveyor locate the proposed septic locations on the preliminary plat**
- 2) Surveyor addresses MS4 Coordinator comments.**
- 3) Surveyor to illustrate location of preserved or planted trees per Chapter 856-43.**

I also recommend approval of the Sidewalk Waiver based on the findings and recommend approval of the Waiver of Final Hearing.

Clements: Is there a second?

Munson: **Second.**

Behrman: There has been a motion and a second. A vote in favor is a vote to approve the Zikes Road Minor Subdivision Preliminary Plat, also the Sidewalk Waiver request and the Waiver of Final Hearing and this does include 3 conditions of approval as found in the staff report and read off in the motion. I will go ahead and call the roll. Geoff Morris?

Morris: Yes.

Behrman: Cheryl Munson?

Munson: Yes.

Behrman: Edward Oehlman?

Oehlman: Yes.

Behrman: Dee Owens?

Owens: Yes.

Behrman: Julie Thomas?

Thomas: Yes.

Behrman: Margaret Clements?

Clements: Yes.

Behrman: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Behrman: Bernie Guerrettaz?

Guerrettaz: Yes.

Behrman: Motion passes 8 to 0.

Motion in SMN-22-8, Zikes Road Minor Subdivision Preliminary Plat, Preliminary Hearing, Waiver of Final Hearing Requested, Sidewalk Waiver Requested, in favor of approving all requests, with condition as stated in motion, carried unanimously (8-0).

REPORTS:

Clements: Before we adjourn are there any reports from Planning, Ms. Behrman?

Behrman: No, there are not.

Clements: Mr. Schilling? Ok. Is there a motion to adjourn or any objections?

Thomas: So moved.

Clements: Ok, great. Thank you everyone for your good work tonight.

Planning/Behrman: No reports.

Legal/Schilling: No reports.

The meeting adjourned at 6:44 pm.

Sign:

Attest:

Margaret Clements, President

Jacqueline N. Jelen, Secretary

DRAFT