

MONROE COUNTY PLAN COMMISSION
Hybrid Meeting - Minutes
August 15, 2023 – 5:30 P.M.

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES - May 16, 2023

CALL TO ORDER: Geoffrey Morris called the meeting to order at 5:30 PM.

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

ABSENT: *Margaret Clements*

STAFF PRESENT: Jackie Jelen, Director, Daniel Brown, Planner II, Drew Myers, Senior Planner

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

INTRODUCTION OF EVIDENCE:

Jackie Jelen 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, as amended, carried unanimously.

APPROVAL OF MINUTES

Motion to approve meeting minutes from May 16, 2023, carried with Dee Owens and Jerry Pittsford abstaining.

ADMINISTRATIVE BUSINESS:

1. Discussion with the Highway Department regarding Driveways and Subdivisions

**2. SIA-23-1 Brenda Baugh Minor Subdivision
Subdivision Improvement Agreement**

Two (2) parcels on 2.16 +/- acres in Section 04 of Bloomington Township at 6419 N Charlie Taylor LN and 6427 N Charlie Taylor LN, Parcel #: 53-05-04-200-034.000-004 and 53-05-04-200-034.002-004.

Owner: Baugh, Brenda and Thompson, Mark & Elizabeth

Zoned LB. Contact: drbrown@co.monroe.in.us

3. Fee Schedule for Reconstruction due to Damage

4. CDO Work Session (Page 5 of PC Admin packet:

https://www.co.monroe.in.us/egov/documents/1690403851_36032.pdf)

UNFINISHED BUSINESS: None.

NEW BUSINESS:

**1. SMN-23-3 Stinesville School & Fire Department Minor Subdivision
Right-of-Way Width Waiver Requested. Buried Utility Waiver.
Sidewalk Waiver Requested. Street Tree Waiver Requested.
Preliminary Hearing. Waiver of Final Hearing Requested.**

Two (2) parcels on 4.14 +/- acres in Section 16 of Bean Blossom Township at 7951 W Main ST, Parcel #: 53-03-16-300-001.000-001; 53-03-16-300-003.000-001; 53-03-16-300-006.000-001; 53-03-16-300-017.000-001; 53-03-16-300-021.000-001. Owner: Town of Stinesville, c/o Darla Brown

Zoned IP. Contact: dmyers@co.monroe.in.us

ADMINISTRATIVE BUSINESS

1. Discussion with the Highway Department regarding Driveways and Subdivisions

STAFF ACTION:

Ridge: Good evening. I won't take up too much of your time. I will just read what I have prepared just to kind of put it in your mind. I wanted to speak for a few minutes and ask that possibly members of the Board, Highway, Planning and Legal Staff could meet sometime at your convenience to discuss processes, responsibilities regarding subdivisions, Subdivision Ordinance and bonds. Some of my concerns are holding these developers accountable and finishing their projects. We have agreements that are signed, bonds that are posted but whose responsibility is it to get these to completion. Who reduces their bond? Who oversees every step of the way? Our Project Manager in Highway monitors bonds months before they expire and then in many instances, he must stop at the bank on the day of expiration to pick them up. I believe they ought to start the process of renewing or reducing their bond 4 months in advance. I have never understood why Highway tracks the bonds for subdivisions when we only require the 2 year maintenance bond after completion. But it has been this way for 35 plus years. I want to make sure that Highway is doing everything that they are required to do and try to get these projects to completion, get roads accepted if need be and take care of them for those residents in those subdivisions. But not duties that we have no legal authority to oversee just because it has been that way. There is not a department or a person at fault here. Highway, Health, Planning, Building we all work in Open Gov, and we work very well together on these projects. But we can only do so much. We need the help and the responsibility to fall onto the petitioners and the developers not the staff. We aren't building the subdivision. We provide guidance, ordinances and specifications that are to be followed and it is up to the developer or the petitioner to provide the requested information, keep bonds up to date and follow the timeline and processes as outlined. We hope that time could be dedicated to crafting a new ordinance under the CDO that better reflects what is happening on the ground with these subdivisions and so the public and the county are not held responsible at the end of the day for finishing what these developers have started. Thank you.

Morris: Thank you, Lisa. So, the question was are we willing to meet with Highway and the Building Department?

Ridge: Yes, I think it would be a good step to bring whoever is interested together. We have had turnover in the departments, things change, ordinances have changed. I don't follow the subdivision ordinance. I follow Highway code, what is my responsibilities, we just want to make sure a road is built correctly. That is all that we have but sometimes it seems like it falls back onto our MS4 Coordinator, our Project Manager, our engineer to help develop these developments when they are paying an engineer to do this. I feel like a lot falls not the Planning Staff of overseeing these. We can do so much in Open Gov but again it is hounding these developers. It's going after them for bonds. I think we have kind of gotten lost in the process. I could name 4 subdivisions off of the top of my head that have been in the works for many, many years. The roads aren't complete. There are issues with them. The developer will not reach out. They have walked away, so to speak. The people that pay for that is the residents of those subdivisions. Gentry East. Glen Meadows. Hoosier Aloha. Freeman Fields. Emerald Trace. It is just there is not enough bond, and it is my understanding that sometimes the developers will put

trees and sidewalks onto homeowners. We don't have a bond with homeowners. We have the bond with that developer to finish this project. But we have so many sitting out there that we cannot maintain the roads. We get calls. We get yelled at and the people in the subdivision can't get the roads done because there is nobody to take responsibility. I don't know where to begin this process. I don't know how to make it work. I don't know how to fix it. But I think you have a really good Planning Department and Highway Department and Legal Department to make it work. But I think also there is responsibility because I believe you are the authority that approves these subdivisions and what they adhere to in these developments.

Morris: Ok, thank you. Do any members of the Plan Commission have comments? Commissioner Thomas.

QUESTIONS/COMMENTS FROM BOARD

Thomas: My comment is this I absolutely agree with you, and I think it is really a sad state of affairs because the bond is not sufficient for us to complete the projects. I think part of it is bonding. Clearly, we are going to need to get more, we are going to need to figure out a better way to get a recommendation from you all about where things are with roads and whether they are up to county standards, but we don't know that when we are approving it, right. So, we need to work on this. My suggestion will be two-fold. I think it would be great if you, Planning, Legal sat down and figured out what is the best way to do this. Maybe look at what other counties are doing that aren't having this problem to this magnitude that we are having and then come to a work session with whatever proposal you all come up with. I think I would be most interested to see what the outcome of that conversation is, and I think we could do something hopefully statutorily and if we need to go to the Commissioners to change an ordinance or whatever let's do that. Thank you for bringing this up.

Morris: Any other comments or thoughts?

Jelen: I will just say that, go ahead Dee.

Owens: Cheryl has her hand up on the screen.

Munson: Hello there. I just wanted to second what Commissioner Thomas proposed, and the County Council doesn't have much of a role in this, but we do have a commitment to good government, and we need to improve this for the health of our local government and for our citizens. Thank you.

Morris: Thank you, Cheryl. Jackie?

Jelen: I was just going to thank Lisa for bringing to our attention and working with Planning Staff ahead of time. We have been coordinating and this has come to an issue because this is how our ordinance is currently written. So, for us to be making changes you will be seeing that in the County Development Ordinance, and we just want to make sure that we allocate the appropriate amount of time to this kind of discussion because these are long-standing issues, and I don't believe there is a silver bullet for fixing what has happened in the past. But hopefully we can

come to a good agreement about how to deal with these in the future.

Morris: Thank you Jackie. Any further comments from the Plan Commission?

Enright-Randolph: I guess I am still somewhat unaware of what is really being asked for us Plan Commission Members to do except for listen and entertain. Maybe some ideas of how to enhance this process? It is a little outside of what I have typically done on the Plan Commission, and I have been serving on the Plan Commission since 2016 and I think I served another year as an appointment member. So, this is the first time I am hearing about it. We really need a lot more information about exactly what the issue is, like maybe some examples, what we are looking to fix, I mean, I feel just a little outside of my depth here. I am not sure if anyone else does but I will speak for myself and without a lot of information of exactly what you are asking, what the problem we are trying to fix is, I won't be able to render any kind of opinion. Because I still don't fully understand the problem.

Morris: I think if we follow the route that Commissioner Thomas proposed and had a working group between Legal, Planning and Highway we could become privy to the issues at hand and better discuss any recommendations.

Pittsford: I also would like to be included in the conversation, some discussion of the sufficiency of the bond because I don't know if in recent history that has been in problem but in the past it has been a problem and right now we are in a rather volatile market place, I am sure, for materials and then for the developers side of things to commit money to a bond that you cant budge in such a high-end market is a significant factor so we need a 360 degree view of this. So, any kind of input from petitioners who have frequent road requests, road issues or even just the history, we maybe don't need to hear exactly from them, but we do need a voice from the petitioners and not simply the county looking at only the county's perspective of it. Because this is a business decision, and we are part of the business of development for this county.

Thomas: I just was wondering if anybody had an objection on working on this before the CDO, in other words moving this up a little bit on the calendar. Is that ok with everyone if we could do that and not wait for the final? If we could. I know you are busy. Thank you.

Morris: My further comments? If not, Jackie, since this is administrative business do we need a motion, or can you just take it forward and schedule a meeting?

Jelen: You do not have to take a vote if it is administrative and I believe Lisa, if you could send that, would you like me to send the letter out to the Plan Commission or I can send it out?

Ridge: That is perfectly fine. I wasn't really asking anyone to do anything and no reaction today. I just wanted to bring it to your attention. It is nothing new. I have been there 35 years and it has been an ongoing situation 35 years. But I think it is time as an opportunity to fix these instances that occur, and it also helps the residents of Monroe County that move into these new subdivisions. It was just kind of hand in hand with trying to make it all work together with the CDO and the ordinance and working with the different departments to make this work so we can get away from these issues.

Morris: Thank you, Lisa for bringing this forward tonight. Before we move forward, I noticed that there is something in the chat. So, can we check that to make sure that none of the Plan Commission members on zoom are wanting to speak? Ok, thank you.

NEW BUSINESS (moved up to second item on agenda, via vote)

**1. SMN-23-3 Stinesville School & Fire Department Minor Subdivision
Right-of-Way Width Waiver Requested. Buried Utility Waiver.
Sidewalk Waiver Requested. Street Tree Waiver Requested.
Preliminary Hearing. Waiver of Final Hearing Requested.**

Two (2) parcels on 4.14 +/- acres in Section 16 of Bean Blossom Township at 7951 W Main ST, Parcel #s: 53-03-16-300-001.000-001; 53-03-16-300-003.000-001; 53-03-16-300-006.000-001; 53-03-16-300-017.000-001; 53-03-16-300-021.000-001. Owner: Town of Stinesville, c/o Darla Brown
Zoned IP. Contact: dmyers@co.monroe.in.us

BOARD ACTION: Morris introduced the petition.

STAFF ACTION:

Myers: Thank you. This is SMN-23-3, Stinesville School and Fire Department Minor Subdivision with the Right of Way Width Waiver request, Buried Utility Waiver request, Sidewalk Waiver request and Street Tree Waiver request. There is also a request for Waiver of Final Hearing. This is 2 parcels in Section 16 of Bean Blossom Township at 7951 West Main Street. Overall, the petitioner is proposing a 2 Lot Minor Subdivision Preliminary Plat with the 4 waiver requests as stated. The property is zoned Institutional/Public or IP where proposed lots are partially located within the town limits of Stinesville, Indiana. The proposed subdivision will create 2 lots. Lot 1 will total 0.72 acres with 0.297 acres of buildable area while Lot 2 will total 6.37 acres with 4.801 acres of buildable. Both lots receive sewer/utility service via Stinesville Water Treatment Plant. Access to each of these lots will be through West Main Street and existing cuts. Here I have a discussion of the waiver requests. They have 4 for this petition in particular. First is the Right of Way Width Waiver. According to Chapter 856 for a street that is classified as a minor collector, such as West Main Street in this area, the right of way dedication required for a subdivision is 45 feet. The petitioner is requesting only 17 feet in right of way dedication in this area along the frontage of both lots and that is due to a number of reasons. One of those reasons is that in order for the former school building that exists on Lot 2, in order for that building to maintain its meeting of the front setback requirement this is the maximum amount of right of way that can be dedicated here. Additionally, for Lot 1, which currently exhibits the existing Bean Blossom Township Stinesville fire Department structure they are requesting only 17 feet of right of way at that lot as well because the structure is very close to the roadway. This is enough right of way to be dedicated so that they can still not have the structure itself be located within right of way. That structure will not be able to meet the front setback and a note has been added to the plat that notifies of that distinction. Next, we have the Buried Utility Waiver. Chapter 856 requires that all utilities be located underground. There are some exceptions to that rule including utility lines that are above ground on public roads, right of ways or easements that serve other properties. There are some utility lines within this subdivision that meet the exemption; however, there is a line that Planning noticed that does extend into the property that does not serve any other properties, which would require undergrounding. So that is why that waiver is here this evening. The next two waivers are Sidewalk Waiver and Street Tree Waiver. Those are both required from Chapter 856 mainly due to the fact that the subdivision is located within a designed growth area of one of the Rural Communities as identified by the Comprehensive Plan. For the Sidewalk Waiver there is an existing 4 foot sidewalk that is located

on Lot 2, which is the former school property. That 4 foot sidewalk only occurs in that area. It does not connect to any other sidewalks in the Town of Stinesville. There is not enough room in front of the existing fire station on Lot 1 for there to be a sidewalk. Those are the reasons for the sidewalk waiver here. Finally, the Street Tree Waiver. It does require that trees be planted or preserved within 5 feet of the right of way and one tree planted for every 40 feet of frontage. There are 2 existing street trees in front of the former school building. However, it is one of Planning Staff's recommendations that in leu of street tree plantings that the preliminary plat be shown to have a tree preservation area instead. I imagine the petitioner will have more to speak on the waivers and answer some questions from the Plan Commission as well. Here on the screen, I have the location map along West Main Street the red highlighted polygon and the site conditions map as well. You will note that there are some slopes greater than 15 %. However, those areas will not be disturbed because there will be no new development. This subdivision is mainly occurring to put the fire station and the school building on their own respective lots of record. The Highway Department has no comment given that West Main Street is maintained by the Town of Stinesville. Stormwater provided some informational comments basically in support of preserving existing trees and planting of new trees if necessary and also stating the benefits of having trees with regard to stormwater perspective. Table 1 describes more details of each of the lots regarding acreage, buildable area, utilities and other items. This is all included in the packet. On the screen I have 2 aerial images. You can see the former school building in the foreground here, the largest building and then to the north you can see right next to the water tower there is the existing volunteer fire station. Here we have the preliminary plat. This next page is it zoomed in just a little bit more to get a better view of what is being requested. Along where my curser is you can see the existing 4 foot sidewalk in front of the former school building. The 17 foot right of way requested along the entirety of the 2 lots and again up here you can see the existing fire station being very close to that line and being very close to the road as well. These are just a few exhibits that are also included in the staff report. It is the Monroe County Vision Map that talks about how West Main Street is listed as a high priority road improvement. I also included a letter from the Division of Historic Preservation and Archeology from the Indiana Department of Natural Resources that talks about just this year the Stinesville Historic District was approved by that office. That brings me to the staff's recommendation. Overall, staff recommends approval of the subdivision based on the findings of fact and that the proposed preliminary plat meets the subdivision Control Ordinance, subject to Highway Engineer reports, MS4 Coordinator reports and the following condition;

- 1) The petitioner address all remaining comments from the Planning Staff pertaining to the plat edits.

Planning Staff also recommends approval of the each of the 4 subdivision waivers, that includes the Right of Way Width Waiver, the Overhead Utility Waiver, the Sidewalk Waiver and the Street Tree Waiver, the last of which with the additional condition of approval stating, the petitioner designates an area on the plat to serve as tree preservation. I will now take any questions.

CASE NUMBER	PROPOSED NAME	DETAIL
SMN-23-3	Stinesville School & Fire Department Minor Subdivision	2-Lot Minor Subdivision Preliminary Plat

The Subdivision Control Ordinance shall be interpreted, administered, and enforced in a manner that is

consistent with Chapter 850-3.

<p>PLAT COMMITTEE July 20, 2023</p>	<p>Voted 3-0 to forward with POSITIVE recommendation subject to the following condition(s):</p> <ol style="list-style-type: none"> 1.) The petitioner addresses all remaining comments from planning staff pertaining to plat edits, and 2.) The petitioner designates an area on the plat to serve as tree preservation. 	
<p>RECOMMENDED MOTION</p>	<p><i>Approval with Conditions</i></p>	<p>Planner: Drew Myers</p>
<p><i>Recommended Motion Conditions or Reasoning:</i> <u>Approve</u> the subdivision based on the findings of fact and that the proposed preliminary plat meets the Subdivision Control Ordinance subject to Highway Engineer reports, MS4 Coordinator reports, and the following condition(s):</p> <ol style="list-style-type: none"> 1. The petitioner address all remaining comments from planning staff pertaining to plat edits. <p><u>Approve</u> the Right-of-Way Width Waiver based on the findings of fact. <u>Approve</u> the Overhead Utility Waiver based on the findings of fact. <u>Approve</u> the Sidewalk Waiver based on the findings of fact. <u>Approve</u> the Street Tree Waiver based on the findings of fact and subject to the following condition(s):</p> <ol style="list-style-type: none"> 1. The petitioner designates an area on the plat to serve as tree preservation. 		

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 consists of five (5) parcels totaling 6.78 +/- acres;
- The petition site is not in a platted subdivision;
- The site is zoned Institutional/Public (IP);
- The preliminary plat petition is to subdivide the property into two new lots with the following details:
 - Lot 1: 0.72 +/- acres / 0.297 buildable acres;
 - Lot 2 2: 6.37 +/- acres / 4.801 buildable acres;
- Lot 1 contains an existing structure serving as the Bean Blossom Township Stinesville Volunteer Fire Department;
- Lot 2 contains the former Stinesville Elementary School;
- Both Lot 1 and Lot 2 are on sewer, serviced by the Town of Stinesville wastewater treatment plant operated by Bynum Fanyo Utilities;
- The preliminary plat petition requests four (4) subdivision waivers, including: right-of-way width waiver, overhead utility waiver, sidewalk waiver, and street tree waiver;
- The Bean Blossom Township Stinesville Volunteer Fire Department building is located approximately 10.6' from the edge of pavement of W Main Street;
- There are several existing overhead utility lines across the petition site;
- Proposed Lot 1 and Lot 2 to receive access off of W Main Street via existing

- driveway cuts;
- W Main Street is maintained by the Town of Stinesville;
- W Main Street is classified as a Minor Collector roadway according to the Monroe County Thoroughfare Plan;
- The petition site does not exhibit any area designated by the Indiana DNR Best Available Floodplain Map;
- The petition site does not exhibit any area located in the Environmental Constraints Overlay;

(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;
- The petition site is located partially outside of the town limits of Stinesville;
- West Main Street is located within the town limits of Stinesville;
- See findings under Section A;

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

Findings

- 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 either High Density Residential (HR) or Agriculture/Rural Reserve (AG/RR);
- The use of neighboring properties is either residential or vacant
- 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

- There is no designated DNR Floodplain on the petition site;
- There are no known sinkholes or karst features located on the petition site;
- Proposed Lot 1 and Lot 2 both exhibit areas of slope greater than 15 percent;

- No hydrological features are identified 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 ROAD RIGHT OF WAY REQUIREMENT

The petitioner has requested a waiver from the **856-28. Streets: Dedications and Reservations** requirement per Chapter 856-28(B), which reads:

Where a subdivision borders an existing narrow street or when the Comprehensive Plan, Official Map, Thoroughfare Plan, or zoning setback regulations indicate plans for realignment or widening of a street that would require use of some of the land in the subdivision, the Applicant shall be required to improve and dedicate such streets at his own expense. Such frontage streets and other streets on which subdivision lots front shall be improved and dedicated by the Applicant at his own expense to the full width required by these subdivision regulations. Land reserved and/or used for any street purposes may not be used to satisfy the minimum yard setback or lot area requirements of the Zoning Ordinance.

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 site maintains frontage and gains access from W Main Street, a minor collector roadway;
- W Main Street is maintained by the Town of Stinesville;
- W Main Street measures 20 feet in width and is paved with asphalt;
- Under the current Thoroughfare Plan, a minor collector roadway requires 45 feet of right-of-way dedication for a subdivision;
- The petitioner has filed a minor subdivision to create two lots to establish separate lots for the Stinesville Volunteer Fire Department and the former Stinesville Elementary School, which requires compliance with the right-of-way dedication requirement under Chapter 856-28;
- The existing structure on proposed Lot 1 serving as the Stinesville Volunteer Fire Department is approximately 10.6 feet from the edge of pavement of W Main Street;
- The existing structure on proposed Lot 1 serving as the Stinesville Volunteer Fire Department has existed since 1963;
- The existing structure on proposed Lot 1 will encroach approximately 34 feet into the required 45 feet of right-of-way;
- Without a waiver from the right-of-way requirement the volunteer fire department will be about 34 feet in the right-of-way along W Main Street and would need to be relocated, remodeled, or demolished to exclude the area out of the required right-of-way;
- The waiver’s approval will allow the minor subdivision to continue with approximately 17 feet of right-of-way dedication along W Main Street for the entire length of proposed Lot 1;
- The existing structure on proposed Lot 2 is approximately 43 feet from the edge of pavement of W Main Street;
- The required front yard setback for the IP zone on a minor collector roadway is 35 feet measured from right-of-way;
- The petitioner is requesting a 28-foot reduction in right-of-way dedication along proposed Lot 2 to ensure the existing structure on proposed Lot 2 can still meet the front yard setback requirement;
- The waiver’s approval will allow the minor subdivision to continue with approximately 17 feet of right-of-way dedication along W Main Street for the entire length of proposed Lot 2;

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 # 1;
- The 2018 Thoroughfare Plan does not contain language to allow the Highway Department staff the ability to waive a right-of-way classification requirement based on individual road segments or findings;

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:

- The site is serviced by sewer system via the Stinesville wastewater treatment plant operated by Bynum Fanyo Utilities;
- W Main Street is maintained by the Town of Stinesville;
- The Monroe County Transportation Alternatives Plan shows W Main Street as “High Priority Road Improvements” on the Monroe County Vision Map – North West;
- A partial sidewalk waiver has been requested by the petitioner that is supported by staff;

- 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);
- Approval of the waiver would not substantially alter the essential character of the neighborhood;
- West Main Street appears to be located within the National Register Historic District known as Stinesville Historic District;
- The majority of proposed Lot 1 is outside of the town limits of Stinesville;
- The majority of proposed Lot 2 is within the town limits of Stinesville;

- 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 #1 above;

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

Findings:

- See findings under #1, #2 and #3 above;

- 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 #1, #2 and #3 above;

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

Findings:

- See findings under #1 through #7 above;

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

Findings:

- See findings under #1 and #4 above;

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

FINDINGS OF FACT – WAIVER OF UNDERGROUND OF UTILITIES

The petitioner is requesting a waiver from the *Improvement, Reservation and Design Standards* outlined in 856-41 (Utilities), which reads:

All utilities, including but not limited to gas, sewer, electric power, telephone and CATV shall be located underground throughout the subdivision.

Existing utility lines located above ground on public roads, rights-of-way or in easements serving other property are exempt from this provision.

Existing utility lines servicing residential and residential accessory structures shall be removed and placed underground unless waived.

Waivers from these provisions for existing utility lines may be granted subject to the waiver modifications in Chapter 850-12, Sections A through D, excluding sections 5, 8, and 9. Waivers may be granted via the following process:

1. for Subdivisions of more than 4 Lots by the Plan Commission
2. for Subdivisions of 4 Lots or Less by the Plat Committee

All utility lines and other facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the Subdivider's expense. At the discretion of the Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots that are to be retained in single ownership and that are to be developed for the same primary use.

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:

- Overhead utility lines run along the length of proposed Lot 1 for approximately 173 feet;
- Overhead utility lines run into proposed Lot 2 for approximately 162 feet;
- The overhead utility lines along proposed Lot 1 continue travelling north and south of the petition site to service other properties and therefore is exempt from the burying requirements;
- The overhead utility lines running through proposed Lot 2 traverse the paved parking area;
- The additional utility lines not delineated on the preliminary plat appear to cross over areas of slope greater than 15 percent;
- To underground a utility line currently over a paved parking area or up steep sloped terrain is a practical difficulty;

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 Subdivision Control Ordinance calls for utilities to be placed underground in all subdivisions, except on public roads and rights-of-way or in easements serving other property;
- The Subdivision Control Ordinance provides the following definitions related to easements and right of way:

852-2. Definitions

Easement.

A right of use over designated portions of the property of another for a clearly specified purpose.

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:

- The Subdivision Control Ordinance calls for utilities to be placed underground in Minor subdivisions, except on public roads, in rights-of-way, or in easements serving other property;
- The petitioner has applied for a waiver from Chapter 856-41 due to the pre-existing nature of the petition site and the rough terrain and pavement where lines cross;
- The majority of existing overhead utility lines do not appear to serve another property and is not exempt from undergrounding provisions;
- The overhead utility lines along W Main Street ST in front of proposed Lot 1 continue

travelling north and south of the petition site to service other properties and therefore is exempt from this requirement;

- Any future power lines needed for further development would have to be buried;
- If the overhead utility line waiver is approved, it will apply to the existing lines only;
- Advantages and disadvantages exist in undergrounding electric lines both of which involve safety hazards.

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

Findings:

- Waiver approval would permit existing conditions to persist;

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 items 1-4 above;

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

Findings:

- See findings under #2 and #3 above.

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:

- The improvement is required due to the proposed subdivision of the property;
- The Subdivision Control Ordinance calls for utilities to be placed underground in all Minor subdivisions, except on public roads, rights-of-way, or existing easements that serve other property;
- The existing overhead utility line serves only the petitioner's parcels as it travels south from the north property line;
- Occupants of the petition site and sites served by the overhead utility lines will continue to be serviced regardless of the location of the lines above- or below ground;
- The installation of utilities underground is consistent with the policies and purposes of all relevant regulations.

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

Findings:

- (See findings under #1 & #7 above);

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

Findings:

- (See findings under #1 & #7 above);
- The installation of utilities underground is consistent with the policies and purposes of all relevant regulations.

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

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 right-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 W Main Street required five (5) feet sidewalks along approximately 180 linear feet;
- The sidewalk improvements are required due to the petition site meeting the criteria described in 856-40 (A) (3) above;
- The site gains access from W Main Street, designated a Minor Collector in the Monroe County Thoroughfare Plan;
- There is an existing, non-connecting sidewalk, four (4) feet wide along the east side of W Main Street and runs nearly the whole length of road frontage for proposed Lot 2;
- The existing sidewalk runs from just south of the fire station to the north end of the southernmost parking lot entrance to the former Stinesville Elementary School;
- The requirement is that sidewalks be constructed within the right-of-way along the petition site’s remaining frontage of W Main Street for approximately 180’, unless the waiver is granted;
- There may be physical constraints, including steep slopes and vegetation, where the sidewalk would be required along W Main Street;
- The fire station is located only 10.6 feet from the edge of pavement of W Main Street;
- The total length of required sidewalk for which the waiver is requested is approximately 180’;
- 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 Designated Communities as designated by the Comprehensive Plan;
- The Comprehensive Plan calls for transportation alternatives throughout Monroe County;
- The Monroe County Transportation Alternatives Plan shows W Main Street as “High Priority Road Improvements” on the Monroe County Vision Map – North West;

- 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;
- The existing 4-foot sidewalk along the road frontage of proposed Lot 2 does not connect to any other existing sidewalks;

- 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);
- Approval of the waiver would not substantially 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 not 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.

FINDINGS OF FACT – WAIVER OF STREET TREE REQUIREMENT

The petitioner is requesting a waiver from the *Improvement, Reservation and Design Standards* outlined in 856-43 (B) (1) (Preservation of Natural Features and Amenities), which reads:

- (B) As a requirement of final approval, the applicant shall plant and/or preserve trees on the property or the subdivision in accordance with the following:
 - (1) Street trees shall be planted or preserved within five (5) feet of the right-of-way of the street or streets within and abutting the subdivision, or at the discretion of the Plan Commission and the County Engineer, within the right-of-way of such streets. One tree shall be planted or preserved for **every forty (40) feet of frontage along each street**. Such trees shall be planted or preserved when any of the following are applicable:
 - d. 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 street tree improvements are required due to the petition site meeting the criteria described in 856-43 (B) (1) (d);
- The site gains access from W Main Street, a designated Minor Collector Road;
- There are no street trees present on any adjacent lots to this proposed subdivision;
- The requirement is that street trees be placed within five feet of the right-of-way along the frontage of W Main Street;
- There are two existing trees along the petition site’s frontage of W Main Street, which is approximately 600 linear feet;
- According to Ordinance Provision 856-43 (B) (1) above, 15 trees would need to be planted to meet requirements along W Main Street; give that there are two existing trees only 13 trees would need to be planted;

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:

- The street trees are required due to the petition site’s location in relation to 856-43 (B) (1) mentioned previously;
- Street trees can add value to the aesthetic character of a proposed development and is consistent with the Comprehensive Plan and the Zoning Ordinance;
- See findings under section (1);

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:

- The waiver of street trees would not have a detrimental relationship to the delivery of governmental services (e.g. water, fire protection, etc.);
- See finding under section (1), (2);

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 section (1), (2), and (3);
- Approval of the waiver would not substantially 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 section (1), (2), and (3);

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:

- The street trees are required due to the petition site's location in relation to the aforementioned 856-43 (B) (1);
- There are two existing street trees on proposed Lot 2;
- See findings under section (1), (2), and (3);

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

Findings:

- See findings under section (1) and (7);

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-23-3 - Stinesville

Morris: Commissioner Thomas?

Thomas: It is about the Street Tree Waiver. I am wondering if there was something that we could create that would be worded a little bit more strongly. For example, to designate an area on that could be a one foot by one foot square. It sounds like MS. Thetonia, our MS4 Operator, has some suggestions or ideas for ways to enhance. This is a very sloped area, which slopes into the town on top of it, so, I wonder if we could get something more strongly worded. My next question is if an area is designated for tree preservation does that become a conservation easement or is it just noted on a map and it gets in the file drawer and, well, the electronic file drawer and never seen again.

Jelen: We can have people put on the plat a tree preservation area that doesn't count towards their buildable area so when we are referencing the plat that gets recorded, we would know that

area is not supposed to be built on. I say though if they do go to remove those trees it would take a planner looking at the plat to see that area is preserved and that could be enforceable, but I think either way conservation easement or tree preservation area would probably be the same. If you wanted to place it in a permanent conservation easement, we could do that as well.

Thomas: It doesn't matter to me. I was just wondering if there is a legal distinction really, between these 2. I don't want to hinder their ability to build next to it or near it or whatever. I think a designated area is a great thing. We never, when do we check, right. Same thing with the conservation easement. But I am wondering if we could get something worded a bit stronger on the planting of other trees. They don't have to be on the street, and I can see why they can't be on the street. But if Ms. Thetonia believes that there is a call for it, that it would be beneficial, then instead of the street trees we could have that. Whether it is preservation or planting a few more, whatever it might be, I would just like something a bit stronger. Maybe that is something for the petitioners to think about when they come up here. That is my only comment. Otherwise, it makes sense. Thanks.

Morris: Thank you. Any other questions or comments? Drew, can you check zoom to see if anyone has hands raised, please? Ok, thank you Jackie. Ok, we will turn now to the petitioner. Is there someone who would like to represent the petitioner tonight? Thank you. You will have 15 minutes, if you could start by writing your name and stating your name to us, please.

PETITIONER/PETITIONER'S REPRESENTATIVE – SMN-23-3 - Stinesville

Brown: Good evening. My name is Darla Brown and I represent the Town of Stinesville, and I don't have a whole lot to add to the staff report. I think it was very thorough. As noted, the whole purpose of this petition is to simply memorialize something that has been in place for years now. The fire station has been there since 1963. It looks, the location looks pretty much like it has since 1963 and so currently the fire station encroaches on what is now the Town's territory. The Town just wants to separate out the parcels so that the Town has its own parcel, and the fire department has its own. With regard to the trees, we will do obviously whatever the Plan Commission wants us to do. Certainly, Doug Graham is willing to go back and indicate an area on the plat for tree preservation. If you can go back to the pictures though that show the fire station and the trees. There is really not too much, there is no space for one to go to build. That parking lot area there is still going to belong to the Town, and it is my understanding that the terrain behind the fire department is pretty rough. I am not saying somebody couldn't get back there to cut down trees or build but they would need a lot of equipment, so it is not likely it is going to happen. You can see how close the fire station is to the road there. Thank you for hearing us out and we are asking for several waivers. We appreciate your attention, and we would ask you to grant all of them and the petition. Thank you.

Morris: Thank you, Ms. Brown. Do any members of the Plan Commission have questions for Ms. Brown? Ok, thank you. We will now turn to the public speaking portion of the event. Is there anybody here to speak in favor of this petition or anybody on zoom? Thank you, Randy. If you could state your name.

SUPPORTERS - SMN-23-3 - Stinesville

Cassady: Randy Cassady. Just a member of the public but part of the area that we look at in regard to Stinesville and hopefully I think Jerry you understand in regard to it, the smaller community that has a heart and soul of itself and I would encourage everybody on the Plan Commission and the members of the public who are here to go over and support the Stinesville General Store. Look at the area and see where the heart of limestone started in Monroe County and the Stinesville Town Board and what they are doing to try to separate the fire station and keep it all moving forward is a testament to the individuals that are trying their best to make that community what it was in the 1800's and grow it accordingly. The fire station having its own thing. The Town have itself and the County Commissioners and the Plan Commissioners supporting this it could be a good thing for our rural communities. Thank you.

Morris: Thank you Randy. Is there anybody else here that is interested in speaking in favor of the petition or anyone on zoom? If not, we will turn to members of the public on zoom that may be interested in speaking against the petition. It doesn't look like we have anybody to speak against either. With that, I will bring it back to the Plan Commission for any comments or discussion or a motion.

REMONSTRATORS – SMN-23-3 – Stinesville: None

ADDITIONAL QUESTIONS FOR STAFF – SMN-23-3 – Stinesville

Pittsford: I do have one question. The zoning that is going to be on the former school building, does it provide a broad range of opportunities for reuse of that building without any change in zoning? Because I think that is probably going to be such an essential concern for them going forward, so, if it is not addressed in this petition maybe we can address it when we do the CDO and give some sort of attention to that.

Myers: I can pull up the table for Chapter 802 that states all of the permitted uses in the IP zoning district. But it looks like there are some uses that are available to the site. I am not sure of what Stinesville is wanting to do with that property. I know that there have been some conversations in the past about what their plans are for that structure. But I know that Planning Staff has talked about the idea of a PUD as well in the past to provide some flexibility in zoning.

Pittsford: Ok and I don't think we necessarily at this time need to go through those. I just know that building is going to be in continued use. Some conditional uses are going to have to be considered because it is going to take really some creative thinking to make that building a viable use going forward. I would hate for them to get very far down the road on some creative proposal to find out then they have to go through the zoning process and the old adage is to strike with the iron is hot and if you get into that situation the iron will cool pretty quickly. Since I know that folks who are concerned with that building are here, I thought I would mention that.

Morris: Any other questions or comments?

Thomas: I know they have asked for a waiver of final hearing, but I would really like to get something a little bit clearer on the street tree waiver and I will note for the record that I went out during the tornado cleanup early in the summer and the school was put to go use by the Red Cross. I really appreciate that they were willing to help out the community in that way. It was a nice community center for that recovery effort. But I would rather wait to get something clearer on paper about this. Thank you.

Myers: To that item, Julie, we do have in the Subdivision Control Ordinance there is some language about tree preservation. Chapter 856-43(B)(2), it states that the number of trees planted or preserved shall be equivalent to 1 tree for every 40 feet of frontage for the proposed lot. Such trees shall be planted or preserved for any subdivision not identified in Chapter 856-43(B)(1) and then it continues on talking about administrative subdivision procedures. So, we could include just that language, simply the number of trees planted or preserved shall be equivalent to 1 tree for every 40 feet of frontage that way it preserves the same number of trees that was going to be planted.

Thomas: That would be great for me. It is clearer than what we have now, and I don't know if the petitioner is ok with that.

Brown: I think that is fine.

Thomas: Thank you.

Morris: Any other comments or is someone willing to make a motion?

Guerrettaz: On the plat that Mr. Graham drew on that south line and maybe the aerial will help, is that shaded area, that is not the one in the packet, is it? Ok, I guess it is, it is just bigger. Is that south line the hashing, Drew, is that intended to be where the tree preservation or is that just showing the trees?

Myers: The hashing that you see is the slope greater than 15%.

Guerrettaz: Ok, on the southside. It looks like on the aerial, I am switching back to that, it looks like on the aerial that entire south line is wooded.

Myers: I believe that most of the area that is over 15% slope is currently wooded, although I can't say for certain.

Guerrettaz: One thing I would be concerned with is where the fire department is located physically and that tree area that is just to the east of it, I don't know that we would want to get into a tree preservation there partly for what Ms. Brown said with, you know, if there is any expansion. I think I could probably get a motion to where at least satisfaction of the ordinance, Planning Staff and the MS4 Operator. Is that something that would work for you Julie?

Thomas: That would be fine Because I understand where the heaviest slope is, is where the trees are now but there is also some area that is at the top of the slope into the town that has very few

trees and so there is somewhere on here where it would make sense and if we could just have them work with the MS4 that would be perfect. Thank you.

Guerrettaz: I can make a motion. Jerry, you wanted to make a motion on this one. Ok, you ready?

Morris: Go right ahead.

FURTHER QUESTIONS FOR STAFF – SMN-23-3 - Stinesville

Guerrettaz: **In the matter of SMN-23-3, Stinesville School & Fire Department Minor Subdivision, 2 Lot Minor Subdivision Preliminary Plat, I move that we approve this subdivision with a positive recommendation, based on the findings of fact and that the proposed preliminary plat meets the Subdivision Control Ordinance and is subject to the Highway Engineer’s report and MS4 Coordinator and the conditions that follow;**

- 1) The petitioner address all remaining comments from the Planning Staff pertaining to plat edits.**

I also add that we approve the Right of Way Width Waiver, based on the findings of fact, the Overhead Utility Waiver, based on those findings of fact, approve the Sidewalk Waiver, based on the findings of fact and we approve the Street Tree Waiver, based on the findings of fact and the petitioner’s representative work with staff and the MS4 Operator to conclusively determine where those tree preservation areas are going to, those areas are platted and the definition that Drew read under 856 are listed on the plat, so from here forth everybody can understand exactly what the agreement is. I think that is all that I have got.

Pittsford: **Second.**

Morris: Ok, Jackie. We have a motion and a second. Could you call the roll for us after you finish your notes?

Jelen: Just to clarify, do you wish to recommend approval on the basis the petitioner’s findings or on staff’s findings in the packet?

Guerrettaz: The petitioner’s findings.

Jelen: We will prepare those. I believe Margaret needs to sign those.

Schilling: If you could put in your motion that Margaret is authorized to sign on behalf of the Planning Commission.

Guerrettaz: **Friendly amendment, I will add that Margaret is authorized to sign for the Plan Commission.**

Pittsford: **I accept his friendly amendment.**

Jelen: It has been moved and seconded to approve SMN-23-3, which includes the Preliminary Plat Subdivision, with the condition that the petitioner address all remaining comments from Planning Staff pertaining to all plat edits, approve the Right of Way Width Waiver, approve the Overhead Utility Waiver, approve the Sidewalk Waiver and approve the Street Tree Waiver, based on the findings of fact provided by the petitioner that is authorized to be signed by the Plan Commission President with the following condition on the Street Tree Waiver, that the petitioner and representative work with the MS4 Coordinator to determine the area of tree preservation to be in compliance with Chapter 856-41.

Thomas: Yes, and we are waiving the final hearing, right?

Guerrettaz: Yes, if I did not have that. **Waive the final hearing.**

Thomas: Thank you.

Guerrettaz: Thank you.

Jelen: Just to clarify that last motion, that is 856-43. Apologies. It includes a waiver of final hearing.

Guerrettaz: Yes.

Jelen: Ok. A vote in favor is a vote to approve all of those items as well as the waiver of final hearing. I will call the roll. I do want to make a note that I apologize, Chris Cockerham is our City representative and he is present. He is a nonvoting member tonight, but I do want to acknowledge his present. Apologize, Chris. Cheryl Munson?

Munson: Yes.

Jelen: Edward Oehlman?

Oehlman: Yes.

Jelen: Dee Owens?

Owens: Yes.

Jelen: Jerry Pittsford?

Pittsford: Yes.

Jelen: Julie Thomas?

Thomas: Yes.

Jelen: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Jelen: Bernie Guerrettaz?

Guerrettaz: Yes.

Jelen: Geoff Morris?

Morris: Yes.

Jelen: Motion carries 8 to 0.

The motion in case SMN-23-3, Stinesville School & Fire Department Minor Subdivision, Right-of-Way Width Waiver Requested, Buried Utility Waiver, Sidewalk Waiver Requested. Street Tree Waiver Requested, Preliminary Hearing, Waiver of Final Hearing Requested, in favor of approving all requests with condition as stated in motion, based on petitioner's findings to be signed by Plan Commission President, carried unanimously (8-0).

ADMINISTRATIVE BUSINESS

2. SIA-23-1 **Brenda Baugh Minor Subdivision Subdivision Improvement Agreement**

Two (2) parcels on 2.16 +/- acres in Section 04 of Bloomington Township at 6419 N Charlie Taylor LN and 6427 N Charlie Taylor LN, Parcel #: 53-05-04-200-034.000-004 and 53-05-04-200-034.002-004.

Owner: Baugh, Brenda and Thompson, Mark & Elizabeth

Zoned LB. Contact: drbrown@co.monroe.in.us

STAFF ACTION:

Brown: Thank you. The petitioner is requesting to release an existing Financial Guaranty was required as part of the Subdivision Improvement Agreement for the Brenda Baugh Minor Subdivision. The improvements required under this agreement includes only street trees of which there was 11 in the subdivision total. Furthermore, the SIA was found only for the installation of 5 street trees on Lot 2. The amount of the performance bond is for \$1,155.00. This original SIA was finalized in May of 2015. The location of the street trees is on private property and therefore our requirements for a maintenance bond is not required. While an initial site visit and subsequent review by staff found that one of the five required street trees was missing, said missing tree has been since planted. Here is 858-8, which is for the release or reduction of performance bond and financial guaranty. The commission may release or reduce the performance bond, I'm sorry, would the Board like me to run through all of this?

Pittsford: Not particularly.

Brown: Alright. Here is the letter to the Plan Commission and Plan Department. On the right is the original letter that has a photo of the cashier's check. Here is the Subdivision Improvement Agreement itself. I do want to call attention again to number 2, (inaudible) street trees on Lot 2 and here is the plat for the Brenda Baugh Minor Subdivision, again for the 5 trees on Lot 2 as you can see here. This center tree here that was the one that staff determined was missing and has since been planted. These are site photos. It can be a little hard to see. I confess, I am not the best photographer. But there are 2 trees here. This was before the fifth tree was planted as well as the trees for this location here and here, they are in a site visit that was conducted I want to say last month. As you can see the fifth tree has been planted. Staff recommends releasing the Financial Guaranty of \$1,155 for the Brenda Baugh Subdivision without the need for a 2 year maintenance bond.

RECOMMENDATION TO THE PLAN COMMISSION

Staff recommends releasing the Financial Guaranty of \$1,155 for the Brenda Baugh Subdivision without the need for a two year maintenance bond.

858-8. Release or Reduction of Performance Bond and Financial Guaranty

The Commission may release or reduce the performance bond and financial guaranty, but only if:

- (1) the Subdivider applies to the Commission, in writing, for the release or reduction of the performance bond and financial guaranty and provides the Commission with a certificate,

signed by the Subdivider's engineer, stating that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the subdivision improvement agreement. The certification of the Subdivider's engineer shall be accompanied by detailed "as-built" plans of the required improvements. Such as-built plans must be prepared and signed by the Subdivider's engineer;

See Exhibit 1 for the petitioner letter. No "as-built" was required as the only improvements were street trees.

(2) the County Engineer reviews the as-built plans and the subdivision site and reports to the Commission, in writing, that all required improvements, or a portion of such improvements in the case of a reduction, have been completed in the manner prescribed by these regulations, by preliminary approval and by the subdivision improvement agreement;

N/A. Staff did conduct a site visit to confirm the location and planting of the street trees.

(3) the Subdivider provides the Commission with written assurances, in the form of affidavits, releases or waivers of liens from all contractors, subcontractors and materialmen, that liens will not be filed against the dedicated land and/or improvements after they are accepted; and,

Since the trees are on private property, this reference is N/A.

(4) the Subdivider provides the Commission with the maintenance bond required by Section 858-9.

N/A

(B) A performance bond and surety may be reduced only upon the acceptance of the required improvements, and only by the amount that corresponds to the cost of the improvements that are accepted as set forth in the preliminary approval. Furthermore, a performance bond and financial guaranty may be reduced only one (1) time. The reduction may be approved only after at least fifty percent (50%) of the required improvements have been completed and accepted. However, in no event may the performance bond be reduced to less than ten percent (10%) of the original performance bond amount or ten thousand dollars (\$10,000.00), whichever is greater, until all required improvements for the subdivision or the approved subdivision section have been completed and accepted.

N/A - The street trees will remain on private property.

(C) The costs incurred by the Commission and/or the County in connection with a request for performance bond and financial guaranty reduction or release (for example, without limitation, engineering inspection fees, legal fees, etc.) shall be borne by the Subdivider, regardless of whether the request is ultimately granted. No performance bond and surety shall be released or reduced until such costs have been paid by the Subdivider.

N/A

(D) The Commission may, by rule, authorize the Director to reduce or release performance bonds and, by rule, may establish the procedures by which the Director may reduce or release

such bonds.

Staff has recommended approval of release of the funds.

QUESTIONS FOR STAFF – SIA-23-1 – Brenda Baugh

Morris: Are there any questions for Daniel?

Enright-Randolph: I will ask a question. Is this related to some of what the discussion was at the beginning of the meeting?

Jelen: Yes.

Enright-Randolph: I remember seeing some of these at our admin meeting saying a lot of this is not something that is discussed extensively at the Plan Commission. I guess more information on these types of requests would be very helpful. It sounds like the problem has been fixed. It sounds like we are releasing this, but I guess my real question is does this naturally become released after everything is in compliance? Why are we releasing it? So, we can free up their capital or something? Is there not like a sunset on this or when they hit compliance it just automatically? Why are we seeing a higher frequency of these requests?

Jelen: According to the Subdivision Control Ordinance if a person who subdivides a property is not able to finish all of the improvements at the time of final platting which is when the lots get created and building permits can be issued, they can file for a financial guarantee letter of credit or a cashier's check. In this case the person applied under a cashier's check because I-69 was doing work along the road frontage, and they couldn't put in the street trees at the time because they would be damaged. So, we take in the cashier's check as Lisa mentioned earlier that is done by a project manager at the Highway Department and it becomes a budget line. In order to release that budget line back to the applicant we have a requirement under the ordinance to take it to you all for that release or reduction. So, if you agree that our staff site visit is adequate and that you can see that the street trees are being planted and that the requirement is being met you could authorize us to release those funds back to the subdivider.

Enright-Randolph: Ok, great. Thank you. I just have a question that pertains somewhat to this. But more general. How many bonds or cashier's check or I guess line items are out there that are waiting to be released once they come into compliance? That is maybe just for future discussion so I get a better sense of really what kind of issues are going on and where maybe we can provide some assistance, recommendations and even ultimately a solution to kind of what was expressed earlier today. I am very curious of how many I guess, lines, if you will, it sounds like there is 3 different ways that they are able to kind of proceed and how many of those are still kind of under the Plan Commission to release? I know I am not asking that super clear because I still am not really versed in this way of this part of the Plan Commission.

Jelen: I would say there is at least 20 and we could give you a better report back once we do a little bit more research, meet with the Highway Department and present that information to you all in a comprehensive way.

Enright-Randolph: Ok, thank you. Thanks everyone.

Pittsford: I just have one point for the clarity of the record here. Under the petitioner we have Elizabeth Taylor listed as owner and Elizabeth Taylor as the applicant. But the documents in the petition bear the name Elizabeth Thompson.

Brown: I think that might be a genuine typo on our part. It is supposed to be Thompson.

Pittsford: Ok, just for the sake of public record that should be corrected.

Morris: Any other comments or questions? I don't see any hands raised on zoom either. Would anybody like to make a motion?

Enright-Randolph: I am willing to make a motion. I guess I just need to know how to cite it.

Morris: I think it is up on the screen there, Trohn.

Enright-Randolph: I move to release the Financial Guaranty, is there no case number?

Jelen: SIA-23-1.

Enright-Randolph: I should have just let someone else make this motion. I'm sorry.

Pittsford: I've got it. I will just go ahead, and do it if you don't mind. **In case number SIA-23-1, this is a request for release of Financial Guaranty for Subdivision Tree Requirement which has been met, I move approval.**

Enright-Randolph: **Second.** Thanks Jerry.

Pittsford: No worries.

Jelen: It has been moved and seconded to release the Subdivision Improvement Agreement Financial Guaranty for SIA-23-1. A vote in favor is a vote to release the \$1,155 for the Brenda Baugh Minor Subdivision as a result of street tree installation. Trohn Enright-Randolph?

Enright-Randolph: Yes.

Jelen: Bernie Guerrettaz?

Guerrettaz: Yes.

Jelen: Geoff Morris?

Morris: Yes.

Jelen: Cheryl Munson?

Munson: Yes.

Jelen: Edward Oehlman?

Oehlman: Yes.

Jelen: Dee Owens?

Owens: Yes.

Jelen: Jerry Pittsford?

Pittsford: Yes.

Jelen: Julie Thomas?

Thomas: Yes.

Jelen: Motion carries 8 to 0.

Motion in case SIA-23-1, Brenda Baugh Minor Subdivision, Subdivision Improvement Agreement, in favor of releasing the Financial Guaranty in the amount of \$1,155, carried unanimously (8-0).

ADMINISTRATIVE BUSINESS

3. Fee Schedule for Reconstruction due to Damage

STAFF ACTION:

Jelen: The last time we spoke we discussed possibly 2 options for the fee reduction as a result of natural disaster or disaster. Staff has placed in the packet 2 options for your consideration. The first option reads, reconstruction from damage due to fire, flood, wind, earthquake, explosion, et cetera. The fee would be \$50.00. The second option reads, reconstruction from damage due to natural disaster such as wildfire, flood, wind, earthquake, explosion, et cetera and the fee would be \$50.00. The difference would be whether the Plan Commission finds it pertinent to have a fee reduction based on a natural disaster or if it could be encompassed as just having some sort of disaster that may or may not be natural in the reduction of the fee.

QUESTIONS FOR STAFF – Fee Schedule for Reconstruction due to Damage

Owens: I have a comment on that.

Morris: Go ahead, Dee.

Owens: Thank you. Typically, a wildfire can be either natural or human caused. Explosion is usually human caused. Flood can be either. It might be better to say due to a disaster.

Morris: Go ahead Trohn.

Enright-Randolph: I might be in support of due to a disaster. I think any type of relief that we can provide for someone experiencing difficulty is a public service that we should be looking to strive for.

Thomas: I would agree. I do think that having to make that determination is just a lot of extra time that the petitioner won't need or won't have, and we shouldn't spend on this time of thing. I just trust people to do the right thing, I guess. If anybody is very concerned about making sure that it is something larger scale, we could make it contingent on having an emergency declaration in the county about the event. Because we did that for the floods. We did that for the tornados and that takes into account a lot of FEMA issues and loans and grants and things like that for homeowners and business owners. But it is something that recognizes that it was not a one off, it was not a single resident impacted. But for me, I don't think we need to do that. I am happy enough to just help people. Whatever caused the fire, caused the damage, let's just get them back on their feet.

Morris: Thank you. Any other comments? I do agree that it feels like any type of disaster that somebody is going through that anything that we can do to help I am sure would be appreciated so I think differentiated just makes it more complicated. Any other comments or is anyone willing to make a motion?

Oehlman: Can we just **make a motion for the second one but take out the word “natural”, so the word “disaster” is still there?**

Thomas: Yes, I like that.

Morris: Do we have a second?

Thomas: I will **second** it. I had to read it. I had to see it on that screen. Yes, it makes sense.

Oehlman: Do you need that spoken better or is that good enough?

Jelen: No, I can go ahead and read it out loud. The motion has been moved to change the fee schedule to read as follows; Reconstruction from damage due to disaster such as wildfire, flood, wind, earthquake, explosion, et cetera, would be a fee of \$50.00. A vote in favor is a vote add that line item into the fee schedule. Bernie Guerrettaz?

Guerrettaz: Yes.

Jelen: Geoff Morris?

Morris: Yes.

Jelen: Cheryl Munson?

Munson: Yes.

Jelen: Edward Oehlman?

Oehlman: Yes.

Jelen: Dee Owens?

Owens: Yes.

Jelen: Jerry Pittsford?

Pittsford: Yes.

Jelen: Julie Thomas?

Thomas: Yes.

Jelen: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Jelen: Motion carries 8 to 0.

Motion to change Fee Schedule to read; Reconstruction from damage due to disaster such as wildfire, flood, wind, earthquake, explosion, etcetera, with fee of \$50.00, carried

unanimously (8-0).

ADMINISTRATIVE BUSINESS

4. CDO Work Session (Page 5 of PC Admin packet:

https://www.co.monroe.in.us/egov/documents/1690403851_36032.pdf)

STAFF ACTION:

Jelen: I wanted to bring to your attention the CDO Module 2 that has been posted online. We were unable to meet at the administrative meeting, but I wanted to bring it forward as an administrative item to the Plan Commission and bring you up to speed on what staff has been working on and some questions that we have for the Plan Commission that hopefully we can get answered from you all. The first item that I wanted to bring up is we are going to be hosting 4 listening sessions throughout the county. We have online a flyer that one of our planners, Anne Crecelius, was able to make for us. Here are 4 locations that we will be hosting public meetings in the county, and I will go ahead and just read those out loud since we are hoping that anyone listening on CATS TV or in person are able to attend. The first meeting is Thursday, August 24th at 5:30pm at the Monroe County Public Library The second meeting is Tuesday August 29th at 5:30pm at Ivy Tech Community College, that will be in Lampkin Hall. The third meeting will be at the Ellettsville Town Hall on Tuesday, August 31st at 5:30pm and the fourth and final meeting will be Thursday, September 5th at 5:30, which will be at the Monroe County Government Center Room 100B. There will be zoom options for all 4 meetings and the goal of these listening sessions are to listen to the public. Two goals that have stated here are we want to listen to county residents whether they are satisfied or dissatisfied with their individual draft zoning and then also relate that draft zoning map back to the draft use list so that we can use these meetings as a way of informing the public of not only what their draft zone will be but how to utilize the draft CDO and get their comments. We believe that will be useful down the line as we go into public hearings, and we can make revisions to the Module 2 so that it best reflects the communities wants and needs. At the meeting we will have a handout, which is also online on our monroecdo.com website and this will be useful for anyone that attends in person or that is online. If they want to call our office if they are unable to attend, they can fill out this handout by phone or we can help them in person. The purpose of this handout is to discuss what your current zoning is, how to identify it, what you are proposed zoning is and to talk to a planner about what might be changing on your property. So, on the backside we will have some frequently asked questions such as what is zoning, how does it affect my property, what is the CDO, how do I know what is changing on my property, if I speak during a listening session how will my testimony be heard and how will I be alerted why the CDO is going for a public hearing? I will speak to one of the items on this frequently asked questions page, how will my testimony affect the zoning map. We believe that these meetings will be listening sessions, but they are not public hearings. County officials that will be tasked with reviewing and ultimately approving the CDO will be interested in listening to people's opinions about the zoning map and the use table and staff will compile all testimony heard during these listening sessions to refer back to once the time comes for adoption of the CDO. Does that encompass your hopes for the listening sessions or is there anything else? Ok. Edward?

Oehlman: Just kind of a point of clarity. When you listed the locations, Number 1 as listed at the Monroe County Public Library, just for clarification that is the new southwest branch?

Jelen: Yes, the new southwest branch. Thank you.

Oehlman: You might want to document; I would hate for someone to show up at the downtown branch or something.

Jelen: Yes, on the flyer it is better worded. It does have the address of 900 West Gordon. Thank you for the clarification. Ok, I will keep moving.

Thomas: I have a quick question. I'm sorry. Is a copy of this flyer with that information, is that available on the CDO website?

Jelen: Yes, it is linked CDO website. It is also on the document center. We have got it posted up in the Showers Building but we will be posting some flyers here soon. If anyone wants copies that they are able to post at respective locations, you think might be helpful let us know.

Thomas: Do you have this on a power point slide besides this one? Do you have it sort of?

Jelen: Digital?

Thomas: Yes.

Jelen: Yes.

Thomas: Ok, so could you provide that to TSD for our, to show before the County Commissioner Meetings?

Jelen: Yes.

Thomas: Thank you. County Council, too, might as well.

Jelen: Yes.

Morris: Jackie, I received an email about this, this afternoon so could you mention for anybody that is listening how to get on the email list?

Jelen: We have a petty robust email list serve and if you would like to be added to that list serve you can go to monroecdo.com and there is a tab for public input, and you can sign up for updates on our website. That will add you to the list.

Morris: Thank you.

Jelen: I do have a few questions for the Plan Commission based on the CDO draft that I would like to go through with you. First off, on the screen I know it is small print because it is a lot of text. I will have a zoomed in version of this, but this is something that we had asked the consultants to work on and we are excited about. It is going to be a pager for every zoning district. It is going to list all of the uses permitted, accessory, conditional on one page and then on the second page it is going to be all of your design standards, setbacks, what is your minimum lot size, things like that, with an illustration at the bottom. So, anyone that is interested in their

zoning will be able to just print off 2 pages of the zoning ordinance and get a very good idea of what is in the document without going through several chapters. We are excited about this template that they have offered us, but we do want to go over some of the content with you this evening just to get your eyes on it and some feedback. Something that is new in the Module 2 draft is the design standards. This will minimum lot width, minimum lot size, maximum height, setbacks, things of that nature. This will look a little bit different from what we have currently in our zoning ordinance, and I would like to point out a few differences and also ask you a few questions. The first question that I have for you is in regard to minimum lot width at building line. We are proposing that there be 2 different standards for minimum lot width. One is for development, so, that means you have a pre-existing lot zoned AG2.5 in this instance and you would like to put a residence on it or an accessory structure. That is one instance. The other instance is you are creating a subdivision of 2 or 3 lots and that would be required to have a certain minimum lot width to meet those standards. In other words, if you are subdividing, we are asking that you meet the 200 foot lot width which is what the ordinance currently requires but if you are not subdividing and you are just coming in for a building permit for a residence or an accessory structure, we would hold you to a lower threshold for a minimum lot width of only 125 feet. The reason that staff is proposing this smaller lot width is due to some of the data that we have seen come through our office since 1999. We have looked at over 55 variances from 1999 with 53 that have been approved and one that was denied. The 53 that were approved ranged anywhere from 90 feet up to 180 feet. It is much more likely that if someone comes to us with a minimum lot width issue for an existing lot, they tend to get granted variances. Our goal with this CDO is to look at the best use of our staff time moving forward, and we want to make sure that we get it right, but we also want to make sure that the Plan Commission's wishes are heard. So, I didn't know if you had any comments or feedback on the lot width change.

Morris: Go ahead, Commissioner Thomas.

Thomas: This makes a lot of sense to me because it avoids a problem with a flag lot or trying to build something on a flag lot that should not have anything built on it, where the pole of the flag lot should be the driveway. So, this makes a lot of sense to me, and I think it is really great that you have used your data very well to try to avoid the need for residents to file for a variance, so it makes sense to me. Thanks.

Morris: My only question is does this cause confusion down the road? I think what you are proposing makes sense and like Commissioner Thomas said I like that you are using data to make these decisions. But I am curious if you are subdividing a lot right now, the 125 foot distance would apply but what if somebody comes to you 20 years from now on the lot and wants to build. Does the 200 foot distance apply or is it still the 125?

Jelen: Are you talking about subdivision that will have been in place prior to this ordinance or after the ordinance goes into effect?

Morris: I think either one. I think in my mind I was thinking if somebody subdivides next year after this ordinance is in place and then comes back 20 years from now and wants to build something, which would apply?

Jelen: The way that we would read this table is if they are going through the subdivision procedure after this ordinance is in effect, they would have to meet the 200 foot lot width.

Morris: Ok, ok, thank you. Any other questions?

Jelen: The next question that we have is in regard to lot size. Similarly, we have seen a lot of variances come through regarding the 2 and half acres. We have taken 94 variances from 199 to present and 3 have been denied. I looked up the median lot sizes of the draft zoning map of the AG2.5 properties and it looks like right now it is about 1.3 acres. Staff could go back and try to rezone all of those properties that are under the 2 and half acre to an appropriate zone to make them smaller, to have a smaller minimum lot size but we don't want to have situations in which there may be one lot or two lots in an area of AG2.5 that we would then have to separate out just due to lot size. We are wondering if it makes sense to have some discretion to allow for a deviation from that 2 and half acre minimum or if you would rather staff just go through and attempt to zone those properties for the sake of the minimum lot size only. Worded another way, if there is a character of an area that is agricultural in nature, but it doesn't meet the minimum lot size of 2 and half acres, staff feels that it meets all of the other intents of the district and so only to rezone it to meet the minimum lot size may not be what the goal is of the zoning map. If it is important to take into account the lot size first and then the character second, we can do that or if there is room for some discretion there to allow us, we have asked prior about maybe having some sort of 25% deviation to the 2 and half acre. Right now, it is 10% in the ordinance that we are allowed to grant waiver for. We would just like to get your thoughts on this before we proceed.

Guerrettaz: So, the reason why we probably had 94 ...

Jelen: Sorry, can you speak into the microphone?

Guerrettaz: The reason why we probably had 94 variance requests was because on the last zoning ordinance we overlaid Agricultural/Rural Reserve on areas that adapted to the character versus what the individual lot sizes were at the time. Would that be correct?

Jelen: Yes, that would be correct. We haven't necessarily subdivided property to my knowledge since the 1997 ordinance that had been under that threshold. I know prior to that timeline we used to allow subdivisions lower than the minimum lot size, which has created some difficulties for us. But moving forward we have not so it may have just been an error at that time of the 1997 zoning map. But people do identify sometimes with the naming of these districts and sometimes can be alarmed at the change of their district naming or zoning district. I want to verify that it is first important to factor in the lot size and then address that to the zoning district that most matches that lot size or if you want us to go by what the character of the area what it is used as and then have a deviation of that lot size.

Guerrettaz: So, then, if you could explain again, I am a little slow here, the 10% and the 25% and how staff would or the Planning Commission, whoever would use that as a tool, to use that as a tool.

Jelen: Right now, if there is a 10% deviation and someone comes forward with a 2.25 acre lot, they are not required to go through the variance process. But if they have 2.24 acres, they would be required to go through the variance process. Increasing that to 25% would give that person even more room to be able to develop on the lot without getting a variance first.

Enright-Randolph: What would be that math? Sorry.

Oehlman: (Inaudible) 0.62 acres, sorry.

Enright-Randolph: 0.62 if they had 25% of discretionary measure.

Oehlman: 25% percent comes out to be 0.62 acres.

Enright-Randolph: Oh, so minus that so.

Jelen: They would have to have a 1.875 acre parcel lot size.

Enright-Randolph: I guess since I jumped on the mic, I am inclined to support increasing the discretion of the Plan Commission to 25%.

Thomas: Planning Department.

Enright-Randolph: Oh, yes, both Planning Department, Planning Staff, this room, team. I think adding that discretion could only favor certain parcels out there that don't meet the 2.5 minimum and I am in support of that.

Morris: Dee, you were next and then we will go to Jerry.

Owens: Thank you very much. I would agree with Trohn on that. I think in working with the BZA we see this all the time and I love this data. It is beautiful. It really is what I imagine if we tweaked things how much time we could save both on the part of the BZA but mostly on the part of staff that have to prepare all of that. It makes a whole lot of sense just from that perspective alone. So, I would say go for it.

Morris: Jerry?

Pittsford: Ok, thank you. I was trying to write what I wanted to say so I didn't trip over my words too much. I think if the Plan Commission can rightly take for granted that the staff is committed to the intent of the ordinance and following the ordinance with fidelity when possible, to the letter of the ordinance, then and I think we can, I think the Plan Commission can take that step and believe that is the true intent of staff is always to do what the ordinance says and give them the flexibility to respond to the situation and provide good customer service to petitioners with a 25% fudge factor, for lack of a better terminology, is appropriate. You are the ones who face these people right there and to subject petitioners to a variance process that very easily could have been resolved over the counter in the Planning Office seems unfair. I fully support this. Because I think based on only 3 denials on 94 requests just shows that these requests are

basically sailing through the Board of Zoning Appeals who are simply saying what staff would have said had they been given the opportunity and for that reason I seriously support this and think we really ought to kick ourselves for not having thought of it earlier and I thank Jackie and whoever else is responsible for bringing this forward. Because I think it makes county government much more responsive to the citizens of the county who are impacted. Thank you.

Thomas: I have a comment.

Morris: Yes, go ahead.

Thomas: I am going to throw something out there and everybody is going to moan and hold their heads in angst. I don't know why you have a 2.5 acre minimum lot size if you are not going to have 2.5 acre minimum lot size of 2.5 acres. So, do we need another lot size? Do we need an AG/RR 1.5? That looks just like 2.5 except and so if you look at that list of all of the uses by right and the conditional uses, some of those don't fit into a 1.5. So, is it possible then to go back and grant that AG/RR 1.5 to those lots that are less than 2.5 but more than 1.5 and call it that but the uses would be more limited? Typically, this happens because the lots are just not available in larger. It is not like somebody is trying to go on cheap and buy something smaller and have the AG/RR designation. I just think that why I agree that we don't want to make people go through a variance process what is the point of calling it 2.5 if it really means 1.8? That to me doesn't make sense and I think we need to be very clear that if you do that on this one, you need to do that, I think to be fair, on all of them. So, if you are 25% off either pro or con on any of your minimum lot sizes that is a pretty big variance over the course of the county. That worries me. So, there has got to be another way to do this. I don't know what it is. But I am uncomfortable with this only being applied to one zone. So, I assume it is going to be applied everywhere and then what is the point? Thanks.

Morris: Go ahead, Bernie.

Guerrettaz: I think the interesting point you brought up, Judy, err, Julie was that this would transfer over to the other zoning districts, potentially. Have you thought about it, staff, that this would be something that would trickle over to the other zones?

Jelen: Right now, as it is written in Chapter 804, it does specifically relate only to the AG/RR, FR, CR zoning districts. I can pull that up, but I believe it is not to all of the zoning districts. But let me go ahead and pull that up and see what it says.

Thomas: I thought ER was listed in there as well if I remember correctly. I don't have it open.

Jelen: I will go ahead and read what it says currently and share the screen. This is what we currently have in 804. This says lot layout measurements in the LR, MR, and HR zoning districts when parcels are connected to a public sewer disposal system or AG/RR, CR, FR and ER zoning districts. It says legal, pre-existing lots of record shall be deemed to conform to the height, bulk, area, and density regulations when one of the following situations is present; the lot is in a platted subdivision, or the Director determines that the lot or parcel configuration measurements are consistent with the prevailing measurements for lots and parcels in the neighborhood. In

making the determination the Director shall not approve a deviation of greater than 10% of the standards as set forth in table.

Pittsford: These are lots that are already created. These are parcels that have been through the subdivision process at some point and have been approved and then the zoning on them now is such that they can't meet the requirement. Is that correct? So, we are not creating lots that are at 25% deviation from what is required. We are responding to the fact these lots exist in a zoning category that came about when they were after the point when they were created legally. Correct?

Jelen: Yes, this is how this would be referenced.

Pittsford: So, somebody has this piece of property, this parcel, ok, and it is in a subdivision, and it has less than 2.5. They go to build on it and they discover that the zoning doesn't allow them to build on this parcel because it is you know, off by two-tenths of an acre, half an acre and now instead of being able to build on this parcel in this subdivision that they thought when they bought it they could build a house on, now they have to go through the variance process. Correct? That is what we are dealing with.

Jelen: Well, the last part you said, if its in a subdivision, if it is in a subdivision that standard would not apply.

Pittsford: Ok, it is a piece of property. It is a parcel that exists.

Jelen: Yes, if it were not in a subdivision.

Pittsford: It existed in this size.

Jelen: Yes.

Pittsford: Ok. So, it is fair to assume that whoever bought that parcel didn't consider the overlaying zoning on it and thought that if they bought it, they could use it.

Jelen: That does occur frequently with people purchasing property. But we do have other land use regulations too that we have to inform them of at that point.

Pittsford: But if somebody comes in and says I bought this lot 10 years ago, I just now found out that it is 2.2 acres and it has to be 2.5 for me to build a house on it and you say yes. They say what am I going to do. You have to go through the variance process. That is great. That is wonderful. That is exactly how citizens ought to be treated in the county. I don't think so.

Guerrettaz: I think it goes back to Jackie's original question. How do we want staff to define the overall zone and do we want whatever falls under this sheet of paper because it is geographically consistent within a region of the county, that is all AG/RR or do we want to go through and mine the data for smaller parcels that would fall underneath that sheet of paper that would be AG/RR and determine which ones would be deficient based on what you are proposing. I think it goes back to the original question of how we want to, you know, it all goes back to how it looks on

map and how we fix the colors, right. But that would be the question. So, I guess maybe as a solution and with GIS maybe it is simpler, I am not going to say that it is simple but maybe under the AG/RR then we look and see. I hate to mess with outliers and standard deviation on all of that stuff but see where you are with your average of 1.3 acres. Because I understand what Julie is saying about another AG/RR zone in there but that gets a little getchy and maybe we do have a less contiguous region. This piece of paper is kind of this instead of just a nice kind of area that we can just overlay and say that part of the county is AG/RR.

Pittsford: I think you also run into problems to though where people look down the street and are making comparisons. This is zoned this one and this is zoned this other one and then on the other side it goes back to the one that it was before. It destroys the predictability and that is always a concern, the predictability of what the overlying zoning is.

Guerrettaz: But if one is 13 acres and one is 1.75 acres, you wouldn't necessarily have that predictability, I don't think, because you are on the same roadway. I think I would like to see if there is a way to mine that data under and to find out what impact this is on the number of parcels. 96% or 3 denials out of 96 petitions is what I am kind of hanging my hat on that staff should have a lot of latitude here. But when we are creating a zone that falls over these areas, I think we have got a tool to understand how close we are now and then we can find out if it's a problem. Is that a big task, Jackie?

Jelen: No, I think that's good guidance. I will also mention though that by changing the zone based on the lot size alone we will be shifting the uses that we permitted within those areas, so, if its, let's say that the majority of the lots that are lower than the 2 and half acre threshold are used for residential anyways, we could verify that. But if they are used as agricultural, I would be less persuaded to rezone them to a residential zone to make their use nonconforming. So, that is where the discretion for the size maybe handy, but I understand it defeats the purpose of the naming of the district and other attributes of the district. We will go ahead and take a look at that zoning map and try to re-allocate some of those smaller lots to a different zone and maybe report back to you on some of those changes when we get to the draft zoning map.

Enright-Randolph: I have one final comment and it just goes to those pre-existing nonconforming parcels out there. I have said this a lot, we need to figure out a way to provide them opportunities to do things. I feel like we have really kind of hand-strung potential development on these pre-existing nonconforming lots in all of the zones and I don't think that is a good way to move forward by trying to fit a square peg in a round hole. It kind of feels like one person got in trouble and we punished the whole class. I really strongly advocate for any ability for staff to build in more flexibility for these pre-existing nonconforming lots that are across the county. Yes, I do think technology can assist with analysis, but the data is not necessarily perfect so understand being able to do the best that you can with what we have with our parcel data. Anne Crecelius made a great point that our right of way parcels might kind of skew some of the initial analysis but there are other codes that kind of distinguish what type of use those parcels are. That might help to filter out some of the data so making sure we are only looking at lots and not right of way. But again, I think we really need to figure out a way to address these pre-existing nonconforming lots across the entire county, not just in this particular zone.

Jelen: The last time on this design standard table, which I hope that this discussion will encourage everyone to take a closer at the Module 2 draft, certainly we are not covering all of the content within the use table, but these are some of the important points that I think I want to point out that is changing. The last item is this discussion about the maximum impervious cover and then the maximum impervious cover for development within a critical watershed. If a lot is within a critical watershed the MS4 program has put together a shade file layer. We would be able to pull up a lot and see what they are constrained by that layer. It would have a smaller impervious cover allowance. Right now, under the zoning ordinance we have a maximum lot coverage, and, in some zones, we have a minimum open space area requirement. The difference between lot coverage and impervious cover is impervious covers everything that in which water cannot drain, so that would include driveways, that would include other decks, concrete patios, tennis courts, basketball courts, things like that are not covered right now under lot coverage. So, this is a large distinction that we want to make sure that we have support or whether you would like to see any changes to this. We are still fine-tuning the square footages and trying to get those correct based on what we see as an average in the county. Do you have any thoughts on switching from lot coverage to impervious cover?

Guerrettaz: I think that the percent of impervious is too low. If you look at a 2 and half acre parcel, you are only looking at 16,000 square feet of building, barn, impervious cover over the parcel. If you have got a 2 and half acre parcel that may not be enough for what you need or for what you want. Heaven, forbid we do what we want. But that is something that I think we need to look. I don't know what other standards we have out there, but it just doesn't seem like a lot to me.

Pittsford: Would a water feature or a pond be counted as impervious surface?

Jelen: That wouldn't be counted against the impervious cover. It is mostly just things that don't drain.

Pittsford: Well, a pool doesn't technically drain, and water features and I am really not be facetious. They are, they hold a certain amount of water but there are a number of things that you can do with your property that become impervious surface.

Enright-Randolph: I am curious how this relates to the stormwater ordinance. We are basically retaining the same amount of runoff that exists currently so if they build more impervious surface, they still got to comply with whatever is needed like bioretention and stormwater ordinance where they are still only releasing the same amount that was on the site and in some of these critical drainage ways, I think we have more strenuous release rates. How does this jive with that? I guess is what is really the case.

Jelen: This example is in the residential -zoning districts or the rural area so this would be under AG2.5. Typically, we don't require any detention for development of lots in the AG2.5. It is more likely it would be commercial, industrial or business district where you would see those critical release rates. Does that answer the question?

Enright-Randolph: Sort of. I guess I would be really curious to kind of hear from our MS4

Coordinator and how this really kind of jives with our stormwater ordinance and also our drainage ordinance. Because I kind of prefer if someone can do things on their property but make sure that they are retaining the same type of stormwater release, then is it a nonissue in a sense? Obviously, we want to have limits, but I guess I am chasing my own tail on this one. Because there is a lot of other overlaying ordinances that I think we need to understand how they all work together.

Jelen: So, maybe a little bit more information from stormwater in the way this regards to their ordinance.

Enright-Randolph: Or if they have any recommendations or opinions on this.

Oehlman: Jackie, just for clarification we are only talking about AG/RR here?

Jelen: You will see similar information for other zones but for tonight's purposes we are just talking about AG2.5, yes.

Oehlman: I just want to kind off echo something similar to what Bernie had said about the number being low because I think from an ag perspective I have been on plenty of lots that have more than your lower number of 10,000 square feet that's a quarter of an acre, I have been on plenty of lots for the sake of functionality from an agriculture perspective requires a gravel lot, an asphalt lot, barn coverage of more than a quarter of an acre of surface. So, I think from a needs assessment you are really cutting into the need of that land from an agricultural perspective. That's a personal opinion.

Jelen: There is a, should have mentioned this earlier, there is a footnote on some of these measurements. 2 is applicable here and it says excluding agricultural buildings. If you don't like the way that is formatted or if you think that could be made clearer or if you think we should just not have an impervious cover maximum in this zone, those are all good comments that we could take forward and make those changes.

Oehlman: But now when you define agricultural buildings you are only talking about actual structures, does that include like the gravel lot or the paved lot around a grain operation that you need that land to be able to turn around trucks and things and I think you would rather have an impervious surface than have gravel or like just dirt that you are making mud at that point.

Morris: Any other comments?

Jelen: That is all that had so the next time we will be meeting as a group we will be at that listening session on the 24th.

Morris: Thank you, Jackie for continuing to lead us through this. That finishes up our administrative business, so, we will move on to reports. Jackie o Dave do you have any reports for us tonight?

REPORTS:

Legal/Schilling: I do not.

Morris: Jackie?

Planning/Jelen: I don't have anything further.

Morris: Ok, that takes us to the end of the meeting. Thankyou all for attending. Do we have a motion for adjournment?

Owens: **Move to adjourn.**

Morris: Do we have comments in the chat?

Jelen: It was just a comment by one of our staff members that Trohn recently brought up.

Pittsford: Oh, ok, well, there was 5 chat things.

Enright-Randolph: I posted the link to the flyer in there.

Thomas: Let's try not to use the chat.

Morris: Thank you. Have a good evening, everyone.

The meeting adjourned at 7:10 pm.

Sign:

Attest:

Margaret Clements, President

Jacqueline N. Jelen, Secretary

DRAFT