

MONROE COUNTY PLAN COMMISSION
Hybrid Meeting - Minutes
September 19, 2023 – 5:30 P.M.

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES - NONE

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

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

ABSENT: *Dee Owens*

STAFF PRESENT: Jackie Jelen, Director, Shawn Smith, 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, carried unanimously.

APPROVAL OF MINUTES

No minutes to approve at this time.

ADMINISTRATIVE BUSINESS: None.

UNFINISHED BUSINESS: None

NEW BUSINESS:

- 1. SSS-23-3 Mercuri Sliding Scale Subdivision Preliminary Plat
Road Width Waiver Requested.
Final Hearing.**
Two (2) parcels on 34.32 +/- acres in Bean Blossom Township, Section 1 & 2, at 9695 N Bowman RD, parcel #53-03-02-400-008.000-001, 53-03-01-300-006.000-001. Owner: Mercuri, Carol
Zoned AG/RR. Contact shawnsmith@co.monroe.in.us

- 2. PUO-23-4 Worms Way PUD Outline Plan
Final Hearing.**
Two (2) parcels totaling 12.86 +/- acres in Washington Township, Section 28 at 7850 N Wayport Road, Parcel #s 53-02-28-100-006.000-017, 53-02-28-100-002.000-017. Owner: Ah & Sh LLC
Zoned AG/RR. Contact: dmyers@co.monroe.in.us

NEW BUSINESS

1. SSS-23-3 **Mercuri Sliding Scale Subdivision Preliminary Plat Road Width Waiver Requested.**

Final Hearing.

Two (2) parcels on 34.32 +/- acres in Bean Blossom Township, Section 1 & 2, at 9695 N Bowman RD, parcel #53-03-02-400-008.000-001, 53-03-01-300-006.000-001. Owner: Mercuri, Carol

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

BOARD ACTION: Clements introduced the petition.

STAFF ACTION:

Smith: For members of the Plan Commission and members of the public this specific request is a Preliminary Plat to subdivide 34.26 plus or minus acres at 9695 North Bowman Road into 4 lots. This request includes a Road Width Waiver, and this is the reason for bringing it to the Plan Commission and then also Waiver of the Final Hearing. Just a quick summary, the road width here is approximately 15 feet. 18 feet is required for the subdivision. Some details for each of the lots, Lot 1 will be 18.9 acres with 12.9 acres buildable. Lot 2 will be 3.70 acres with 2.79 acres of buildable. Lot 3, 5.21 acres with 3.74 acres of buildable and then Lot 4 being 6.45 acres with 2.42 acres of buildable. Background discussion for this subdivision, the Road Width Waiver, the petitioner has requested a waiver from the Improvement, Reservation and the Design Standards outlines in Chapter 862-4 (A), which is the general design considerations for the Sliding Scale option and this reads; Number 5; Subdivisions on roads less than 18 feet in width shall be prohibited, unless otherwise waived pursuant to Chapter 850-12. Regarding the Comprehensive Plans designation for this area, it is designated as Farm and Forest, and this is categorized as Low Residential Density is necessary in order to protect associated ad adjoining vulnerable lands and to sustain particular quality of life and lifestyle opportunities for the long-term in a sparsely populated, scenic setting. This site gains access from North Bowman Road, a designated local road, measured by the surveyor as approximately 15 feet wide. The existing driveway entrance on the northeast side of the petition site is required to be removed per the Highway Department to meet safety standards and then I did include some slides after this talking about this. Staff believes that widening the road requires significant land disturbance and possible removal of trees that currently add character to the area. As such, staff believes that practical difficulties have been demonstrated. The image that you see here on the screen, this is an easement that travels through 9700 North Bowman Road that is outlined here in the orange color. This is not part of the subdivision, but an easement does run through it. We did want to point out that the petitioner applied for a Right of Way Activity Permit, RW-23-246, and this ensures access to the property. This permit was also issued on September 8, 2023. This is because the deed does not grant rights to this property to use the existing easement so staff wanted to be sure that the property had its own means of access and was not going to be utilizing the existing easement, which would otherwise trigger road improvement standards. This is just the location and zoning maps. As you can see on the right, the entire area is zoned Agricultural/Rural Reserve. This is the site conditions map. There is quite a significant amount of buildable area to be utilized. On the left side of the screen, you will notice the location of the existing driveway that is to be removed and then on the right hand side this is the point of access for the proposed subdivision. These are just some site photos and some aerial photos of the surrounding environment. You will note that

it is a pretty densely vegetated area. Staff did feel it was necessary to include a discussion about Sinkhole Conservancy Areas for this site. Sinkholes are present on this site and as such are designated as Sinkhole Conservancy Areas which are included on the plat. The existing easement does not encroach into the Sinkhole Conservancy Area. The total buildable area factors in these Sinkhole Conservancy Areas and each lot exceeds the minimum 1 acre buildable area requirement. Just as a note, the southern sinkhole is approximately 27 feet from the last closed contour to the easement and the northern sinkhole is approximately 25 feet from the last contour. This illustrates that while there is a Sinkhole Conservancy Area on the lot both of which exceed the required 25 feet per Chapter 829. On August 17, 2023, the Plat Committee did vote to send a positive recommendation of the Preliminary Plat and Road Width Waiver to the Plan Commission by a vote of 3 to 0. On the right hand side is just a snippet of proposed subdivision. Staff does recommend approval of the Sliding Scale Subdivision Preliminary Plat, as well as the Road Width Waiver, based on the findings of fact as well as subject to the Monroe County Highway Department reports.

STAFF RECOMMENDATION

Staff recommends approval of the Sliding Scale Subdivision Preliminary Plat and the Road Width Waiver based on the findings of fact and subject to the Monroe County Highway Department reports.

FINDINGS OF FACT - Subdivisions

850-3 PURPOSE OF REGULATIONS

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

Findings

- Approval of the subdivision would subdivide two parcels into four (4) lots which will meet all design standards;
- Lot 1, the designated Parent Parcel Remainder, shall not be further subdivided for a period of twenty-five (25) years from the date of recording of the Final Plat unless connected to a public sewage disposal system or further subdivision of the property is authorized by ordinance;
- Steep slopes are present on the proposed lots but would meet the Buildable Area design standard requirements;
- Proposed lots have an approved septic permit location;
- Proposed lots have received, ‘approved with conditions’ driveway permits off of N Bowman RD;
- The MS4 Coordinator has reviewed the application and the petitioner has added a drainage easement to Lot 4;
- 45’ of right-of-way is required to be dedicated along N Bowman RD, a Minor Collector road;

(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 site as Farm and Forest, which includes low-density single-family subdivisions;
- The site has access to utilities;
- 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 (A);
- The proposed use is residential;
- The surrounding uses are residential or agricultural;

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

Findings

- The property is currently zoned Agricultural Rural Reserve (AG/RR) and is a Single Family Residential use;
- Adjacent properties are zoned Agricultural Rural Reserve (AG/RR), and are used for Single Family Residential or agriculture;
- Approval of the subdivision would create four (4) lots that meet the design standards for the zoning designation AG/RR;
- 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

- See findings under Sections A & C & D;

(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 of the recorded deed of the petition site.

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

Findings

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

FINDINGS OF FACT – WAIVER OF ROAD WIDTH REQUIREMENT

The petitioner has requested a waiver from the *Improvement, Reservation and Design Standards* outlined in 862-4 (A) (General design considerations for Sliding Scale Option), which reads:

(5) Subdivisions on roads less than 18 feet in width shall be prohibited, unless waived pursuant to Chapter 850-12.

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:

- Note Exhibit 6 for Petitioner Submitted Findings for road width waiver;
- The site gains access from N Bowman RD, a designated Local Road;
- N Bowman RD is measured by surveyor as 15 feet wide;
- The petition site has approximately 585’ of frontage along N Bowman RD;
- The existing road serves properties all along Bowman RD, as well as the proposed petition site;
- The existing driveway entrance on the northeast side of the petition site is required to be removed per the Highway Department to meet safety standards;
- The petitioner did submit findings for the waivers (Exhibit 6);

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 Comprehensive Plan’s Farm and Forest designation states that “a low residential density is necessary in order to protect associated and adjoining Vulnerable Lands and to sustain particular “quality of life” and “lifestyle” opportunities for the long-term in a sparsely populated, scenic setting”;

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 findings under Section 1;
- Result of subdivision would appear to have no substantive impact on the volume of traffic for the subject road/area;
- See the findings submitted by the petitioner (Exhibit 6);

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;

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;
- Adjacent property owners on N Bowman RD would face the same practical difficulty pertaining to road width in seeking to subdivide via the Sliding Scale Subdivision method;

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:

- See findings under Section 1;

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

Findings:

- See findings under Section 1;
- The road was not constructed by the petitioner or as part of a prior subdivision or development;

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 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 northeast portion of the property of proposed Lot 4 for approximately 143 feet;
- The overhead utility lines along proposed Lot 4 continue travelling north and south of

the petition site to service other properties and therefore is exempt from the burying requirements;

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 Sliding Scale 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 cites the financial burden of burying said line;
- The overhead utility line in question does not appear to serve another property and is not exempt from undergrounding provisions;
- The overhead utility lines along N Bowman RD in front of proposed Lot 4 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 line 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 Sliding Scale 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 west from the eastern 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);
- Practical Difficulties have not been met.
- 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.

QUESTIONS FOR STAFF – SSS-23-3 - Mercuri

Clements: Thank you, Mr. Smith. Are there questions of staff from members of the Plan Commission? Does anyone have any? Ok, then we will turn it over to the petitioner or the petitioner's representative. If you would kindly come to the podium and sign in. You will have 15 minutes to discuss it with us, Mr. Deckard.

PETITIONER/PETITIONER'S REPRESENTATIVE – SSS-23-3 – Mercuri

Deckard: I don't think we are going to need 15 minutes tonight but thank you. I am Eric Deckard with Deckard Land Surveyors and I here to represent the petitioner. I would like to thank the Planning Department for a nicely composed report. I don't have any further comments to add to this. It is really kind of what it is. Where we have the 30 foot easement navigating in between the 2 sinkholes. We tried to play as conservative as we possibly could when we created the Sinkhole Conservancy Areas around the sinkholes, meaning we gave them a little bit more than what was necessary. But if Plan Commission has any questions, I would be glad to answer.

Clements: Thank you Mr. Deckard. Do members of the Plan Commission have questions for Mr. Deckard. I don't see any. Oh, yes, Mr. Pittsford.

Pittsford: Did you look at the sinkholes and make any kind of assessment of the condition they are in? Are they pretty heavily vegetated? Are they open and can they still giving way that you could, see?

Deckard: Jerry, I did not get in and really do any analysis on the sinkholes. Really what we did was we brought in lidar contouring over the top of our boundary survey and we were able to determine where the last closed contour was. The easement, itself was a previously recorded easement. We had modified that easement by extending it beyond the property that it had already navigated through. It also meandered between the 2 sinkholes. But I did not pay attention to whether these were open sinkholes or closed sinkholes.

Clements: Thank you, Mr. Deckard. Mr. Enright-Randolph?

Enright-Randolph: I think this would be a perfect time to have Planning expand on how these conservancy areas are identified and what kind of task that the professional surveyor is charged with delineating them on the survey. But not going out there and ground-truthing those because that is not part of their profession. Would you like to expand on that?

Jelen: Sure. The definition of the sinkhole rim in Chapter 829 it references the last closed contours, so, as Mr. Deckard referenced, he went ahead and went out 25 feet from that last closed contour. In speaking with Mr. Deckard, I think he wanted to have it just a concentric circle, although most sinkholes are not perfectly round. So that is why there is a little bit of difference between 25 feet versus what is being shown, which is a little bit larger than that.

Pittsford: If I might clarify, I was just asking antidotally if you noticed if they were long existing or if they were still in the process of giving in.

Clements: Ok, I don't believe there are any further questions from us, but we will hear from the public and if need be, you might have an opportunity to come back. Ok, thank you.

Deckard: Thank you.

Clements: If there are members of the public in this room or online or on the telephone, please either come to the podium, raise your virtual hand on zoom or press *9 on the telephone to be recognized. We don't see anyone. If there are members of the public who are opposed to this petition, please either come to the podium, raise your virtual hand on zoom or press *9 on the telephone in order to be recognized. Staff I can't see the attendees on the, I don't know if anyone is trying to be recognized.

Jelen: I don't see anyone with their hand raised.

Clements: Ok, there is no need for a rebuttal because there was no public participation, so we move back to us. If there is a member of the Board that would like to make a motion to approve this proposal. Thank you.

SUPPORTERS - SSS-23-3 – Mercuri: None

REMONSTRATORS – SSS-23-3 – Mercuri: None

ADDITIONAL QUESTIONS FOR STAFF – SSS-23-3 – Mercuri: None

FURTHER QUESTIONS FOR STAFF – SSS-23-3 - Mercuri

Guerrettaz: In the matter of SSS-23-3, Mercuri Sliding Scale Subdivision Preliminary Plat, I move that we approve the Preliminary Plat, including the Road Width Waiver and the Waiver of Final Hearing, subject to the staff report findings of fact and conditions set upon it by the Monroe County Highway.

Enright-Randolph: **Second.**

Clements: I think I did see Cheryl Munson's hand briefly raised. I don't know if you could check that out. Yes, is your hand raised?

Munson: Hi, there. My hand is raised, please. I want to advise that the motion was completely inaudible to anybody on zoom. I think the microphone may not be working for Mr. Guerrettaz or it is not positioned well. We have a lot of difficulty with microphones.

Clements: Thank you Ms. Munson.

Guerrettaz: Thanks, Cheryl. Is this better?

Munson: Much better. Thank you.

Clements: Do you want to repeat your motion?

Guerrettaz: I can. **In the matter of case number SSS-23-3, Mercuri Sliding Scale Subdivision Preliminary Plat, I move that we approve the Preliminary Plat, including the Waiver of Final Hearing the Road Width Waiver as requested, subject to the findings of fact and subject to the Monroe County Highway Department.**

Enright-Randolph: **Second.**

Clements: Thank you and also the waiver of final hearing? Did you say that?

Guerrettaz: I did but I will say it again if I need to.

Enright-Randolph: My second still stands.

Clements: Ok if you would kindly call the roll.

Jelen: It has been moved and seconded to approve SSS-23-3, Mercuri Sliding Scale Subdivision Preliminary Plat, with a Road Width Waiver and a Waiver of the Final Hearing. A vote in favor is a vote to approve the subdivision and the waiver of final hearing with the road width waiver. Geoff Morris?

Morris: Yes.

Jelen: Cheryl Munson?

Munson: Yes.

Jelen: Edward Oehlman?

Oehlman: Yes.

Jelen: Jerry Pittsford?

Pittsford: Yes.

Jelen: Margaret Clements?

Clements: Yes.

Jelen: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Jelen: Bernie Guerrettaz?

Guerrettaz: Yes.

Jelen: Motion carries 7 to 0.

The motion in case SSS-23-3, Mercuri Sliding Scale Subdivision Preliminary Plat, Road Width Waiver Requested, Final Hearing requested, in favor of approving all requests, carried unanimously (7-0).

NEW BUSINESS

2. PUO-23-4 **Worms Way PUD Outline Plan Final Hearing.**

Two (2) parcels totaling 12.86 +/- acres in Washington Township, Section 28 at 7850 N Wayport Road, Parcel #s 53-02-28-100-006.000-017, 53-02-28-100-002.000-017. Owner: Ah & Sh LLC
Zoned AG/RR. Contact: dmyers@co.monroe.in.us

BOARD ACTION: Clements introduced the petition.

STAFF ACTION:

Myers: Thank you. This is PUO-23-4. It is a Planned Unit Outline Plan petition for the former Worms Way property at 7850 North Wayport Road. The petitioner is seeking to establish a Planned Unit Development or PUD at this address for both the 6.65 acre lot and the 6.21 acre lot, both A and B respectively, of the Worms Way Type "A" Plat. The subject property is currently zoned Agricultural/Rural Reserve and was originally developed pursuant to a 1995 Special Exception for Agribusiness to allow for the establishment of Worms Way. At the date of this packet's publication and today the petitioner is proposing the following permitted uses to be included within this PUD, Religious Facilities, Pet Services, Furniture Sales, Transfer or Storage Terminal, General Contractor, Metal Fabrication, Warehousing and Distribution. If approved by the County Commissioners, the petitioner will be directed to submit a Planned Unit Development Plan. The petitioner has said that there are no plans to expand the building footprint or parking lots or driveways at this time. All of that information would be included in the outline plan that governs those permitted uses and the use of the site. The next couple of slides I have Use Definitions from Chapter 802 of the current zoning ordinance. Each of these definitions would apply based on petitioner's identification of the uses that they want on the site, that is Religious Facilities, Pet Services, Furniture Sales, Transfer or Storage Terminal on this page. I also included the intensity of each of those uses and where they might be permitted in other districts in the county. Religious Facilities, it is a high intensity use and it is currently permitted in all residential zones, Limited Business zone and the General Business zone. Pet Services is a low intensity use that is permitted in the General Business zone. Furniture Sales is a low intensity use as well permitted in the General Business zone and Transfer or Storage Terminal is a high intensity use permitted in the Light Industrial and the Heavy Industrial zoning districts. The remaining uses here are General Contractor, a medium intensity use permitted in General Business, Light Industrial and Heavy Industrial. Metal Fabrication, which is also a high intensity use permitted in the Light Industrial and Heavy Industrial districts. I added a special note with this one. This use technically is permitted on the site per the 1905-VAR-28 Use Variance request that was approved by the Board of Zoning Appeals and that use is technically available today on that site. Warehousing and Distribution Activities is a high intensity use and is permitted in the Light Industrial and Heavy Industrial zoning districts. A bit more background on this petition. In 1995 the Special Exception was made by Worms Way to both the Board of Zoning Appeals and the Plan Commission for the use of Agribusiness and Greenhouse. It was approved and met the permit requirements to allow for the business. According to the property report card the building on Lot A was erected in 1995 and the site plan was amended in 2001 to develop the northern parcel to accommodate the expanding business. Somme recent cases here are on the screen. 1905-VAR-28 that was the Use Variance to add Metal Fabrication to the property as mentioned

previously. Again, that was approved by the Board of Zoning Appeals in 2019. REZ-21-3 was a rezone request from Agricultural/Rural Reserve to Light Industrial. That petition received a positive recommendation by the Plan Commission in October of 2021. However, it was ultimately denied by the County Commissioners on October 27, 2021. Next, VAR-22-34 and VAR-22-36 were both Use Variances to add General Contractor to the site. Both of those were ultimately denied by the Board of Zoning Appeals in August of 2022 and March of 2023. On this slide I have included a letter from the Monroe County Assessor. After these failed attempts at a rezone and additional use variances, the petitioner or property owner wrote to or called to the County Assessor talking about how they were not able to sell the property and they made efforts into changing its zone or allowing different uses and can't get anyone to purchase the site. The Monroe County Assessor performed a review of the site and the evidence that the property owner provided as well as a conversation with Planning Staff and ultimately produced this letter that talks about reducing the assessment of the property. Her assessment includes these changes are for the tax year 2023, pay 2024. This is also included in the packet. Here I have got just a quick slide about Planned Unit Developments if anyone is curious about what they are. Planned Unit Developments or PUDs are customized zoning that allows for a combination or unique set of uses not possible under other zoning designations. Applicants create a PUD Outline Plan that will dictate what uses or mix of uses that will be permitted on the property as well as what design standards those uses will adhere to. The Outline Plan is typically crafted in a way that wherever it falls silent of the rules of the underlying zoning district will apply. I have the definition as well for a Planned Unit Development that is found in Chapter 801 here at the bottom of the screen. Here is the current zoning map. You can see that it is Agricultural/Rural Reserve with Estate Residential to the north and the east. Agricultural/Rural Reserve continues to the south and to the west for a short distance. Here we have the Comprehensive Plan that designates this area as Rural Residential. Here we have aerial screen shot of the subject property as well as a few neighboring properties that are of commercial nature. To the south, not adjacent, but to the south is Bloomington Auto Parts. To the north, again, not adjacent, but still within a reasonable distance is Cook Regenotech and Oliver Winery. The next few slides are a collection of site photos that were taken by staff. This was just to get you familiar with the site if you have not driven out to the property to look at it. I am just going to scroll through all of these, and we can come back to any if we feel necessary. This slide here shows distance to nearby residential structures. The colored flags are locations where pictures were taken. Those pictures will be in the following slides. They also have the flags colored here that picture was taken. This was taken during a time of year that the foliage is low so it is a little bit easier to see how wooded it is and how much of the neighboring properties that you can see. All of these are included in the packet as well. This slide here is the Monroe County State Road 37 Corridor Plan. This was produced in February of 2010. Staff felt it important to include this in the packet and this presentation because it does talk about the corridor plan for when I-69 was coming through and there was some information in here that specifically calls out to or makes reference to the Worms Way property and other commercial activity in the area. In the staff packet as well as on the screen, you will see the yellow boxes that around sections of that report that specifically call to our reference commercial activity in the area as well as Worms Way property specifically. This plan makes mention of allowing existing commercial uses to expand within their own property. However, it recommends not allowing them to expand into new properties or adjacent properties in the area. Ok, these next couple of slides are the petitioner statement to the Plan Commission that talks about their request in general. It talks about Worms Way's property history; zoning

uses as well as their rationale to request the Planned Unit Development. I will just click through these. We can come back to them if needed. I am sure the petitioner or the petitioner's representative will have more to speak on this item. Here we also have the amended PUD statement and outline plans. This is the document that would govern the Planned Unit Development on this site. It includes outline plan details such as the use permitted, setbacks, parking standards, paving standards as well as standards including open space requirements, green space, et cetera. Overall, the petitioner is saying that there will be no expansion of the existing buildings. There will be no change to the parking. Here we have the original Worms Way Type "E" Administrative Subdivision that I referenced in the beginning. We did receive one letter of support. This is from Peterson Realty, Mr. Andy Peterson. This was included in the packet. In the next few slides, I have a few letters of opposition. I will note that these were not included in the original staff packet that was published last week. However, I did make amendments to the packet, so, if you opened it today you would see these. But I also have hard copies here if any Plan Commission members would like to see them. If you have not read through them, I can hand them out. But I am going to click through these as well. Jackie is going to hand those out to you all right now. That brings me to staff's recommendation. Staff recommends forwarding this petition with a negative recommendation to the Board of Commissioners based on the findings of fact, specifically due to its incompatibility with the Monroe County Comprehensive Plan. Staff also makes note that consideration of this petition site under the CDO draft zoning should be considered by the Plan Commission to identify a suitable zoning district and whether an amendment to the Comprehensive Plan is warranted. I will now take any questions.

RECOMMENDATION

Recommendation to the Plan Commission:

- Staff recommends forwarding this petition with a negative recommendation to the Board of Commissioners based on the findings of fact, specifically due to its incompatibility with the Monroe County Comprehensive Plan.

Consideration of this petition site under the CDO Draft Zoning should be considered by the Plan Commission to identify a suitable zoning district and whether an amendment to the Comprehensive Plan is warranted.

PUD REVIEW CONSIDERATIONS

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

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

Findings:

- The site is designated "Rural Residential" by the Monroe County Comprehensive Plan adopted in 2012;
- The proposed planned unit development appears to not be consistent with the Comprehensive Plan per the Rural Residential designation;
- The Monroe County State Road 37 Corridor Plan adopted in February 2010 calls out

Worms Way business specifically and also states that, “Existing commercial/industrial businesses should remain and be allowed to expand within previously developed parcels as needed to remain viable. However, the intensity of the uses shall not be allowed to increase beyond current conditions, and such businesses shall not be permitted to expand onto adjacent properties.”

- The site has remained vacant of any commercial activity since the closing of Worm’s Way in 2016;
- The site was given a special exception in 1995 by the Monroe County Plan Commission and Board of Zoning Appeals to operate “Agribusiness and Greenhouse”;
- The current zoning is Agriculture/Rural Reserve (AG/RR) per the Monroe County Zoning Ordinance adopted in 1997;
- Chapter 802 of the Monroe County Zoning Ordinance lists all permitted uses for the AG/RR zone;
- The property was granted a use variance for “metal fabrication” in 2019;
- The property was denied a rezone to change the zoning from AG/RR to Light Industrial (LI) in 2021;
- The property was denied a use variance for “general contractor” in 2022 and 2023;
- The uses proposed under this PUD outline plan fall into the following categories listed in Chapter 802:
 - Public and Semipublic;
 - Business and Personal Services;
 - Retail and Wholesale Trade;
 - Automotive and Transportation;
 - Manufacturing, Mining, Construction and Industrial;

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

Findings:

- The proposed plan includes a section dedicated to site plan standards including: permitted uses, setbacks, parking, paving, greenspace/open space, improvements, signage, operation restrictions, and employees;
- The petitioner has not indicated that any other deviation from the Zoning Ordinance would be sought at this time related to density, dimension, bulk, use, required improvements, and construction and design standards;
- Site plan improvements including parking, landscaping, and bioretention requirements will be addressed at the development plan stage;
- See Findings under section A, regarding use;

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

Findings:

- See Findings (1) and (2);

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

Findings:

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

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

Findings:

- Parking minimum requirements will be reviewed for the petition site with respect to it's proposed permitted uses;
- The outline plan prohibits the expansion or enlargement of the existing impervious surface area;
- The outline plan protects the existing open space/greenspace pervious surface area;
- Development plan requirements including parking, landscaping, and bioretention requirements will be addressed at the development plan stage.

(6) The relationship and compatibility of the proposal to the adjacent properties and neighborhoods, and whether the proposal would substantially interfere with the use of or diminish the value of adjacent properties and neighborhoods.

Findings:

- See Findings (1), (2) & (4);
- The petition site borders the Windsor Private Subdivision to the north and east;
- Residents of the Windsor Private Subdivision have expressed various concerns towards particular proposed commercial activity on this site in the past;
- Homes in the Windsor Private Subdivision are no less than 500 feet from the existing structures on the petition site;
- Much of the surrounding area is zoned either Agriculture/Rural Reserve (AG/RR) or Estate Residential (ER);
- Development plan requirements including parking, landscaping, and bioretention requirements will be addressed at the development plan stage.

(7) The desirability of the proposal to the County's physical development, tax base, and economic well-being.

Findings:

- See Findings under Section 1;

(8) The proposal will not cause undue traffic congestion and can be adequately served by existing or programmed public facilities and services.

Findings:

- Access is derived from N Wayport RD which is designated as a Major Collector in the Thoroughfare Plan;
- Water and electric utilities are provided by WTWC and REMC, respectively;
- The petition site does not appear to connect to public sewer and likely operates with a commercial septic system;

(9) The proposal preserves significant ecological, natural, historical and architectural resources to the extent possible.

Findings:

- There are no known karst features on the property;
- Drainage will be reviewed under a PUD Development Plan if this petition is adopted;
- The property operated as Worm’s Way under a special exception approved in 1995 by the Plan Commission and Board of Zoning Appeals for an “Agribusiness and Greenhouse”;
- There is a cemetery located adjacent to N Wayport Road on Lot A.

QUESTIONS FOR STAFF – PUO-23-4 – Worms Way

Clements: Do members of the Plan Commission have questions for staff? Mr. Enright-Randolph.

Enright-Randolph: I guess mine goes back to the Comprehensive Plan and staff using that as a matrix to really determine a recommendation. I just wanted to ask a couple of questions. That Comprehensive Plan was passed when, 1997?

Myers: The Comprehensive Plan was...

Enright-Randolph: Oh, sorry, I was thinking of the zoning ordinance.

Myers: The zoning ordinance was 1997. The Comprehensive Plan has had multiple iterations, one in 2012 and then the Urbanizing Area Plan was in 2015.

Enright-Randolph: Ok, 2015, 2012, ok, great. By de facto, I guess Planning came with the recommendation as a negative recommendation due to the Comprehensive Plan and our role as Plan Commission members is to reconcile what the petitioner is requesting what the best use of that land is and how the coincides with the Comprehensive Plan. In a sense we are charged with looking at things outside the context of the Comprehensive Plan. Correct?

Myers: I think that can be a fair assessment.

Jelen: Are you talking about in the recommendation right now for the rezone or for the County Development Ordinance?

Enright-Randolph: I am talking about kind of our charge as Plan Commission members that if we see things askew or let’s say or are maybe the best use of that land is outside of the Comprehensive Plan, we are supposed to be evaluating those. Correct?

Jelen: Yes.

Enright-Randolph: We are not a BZA body, but we are supposed to look at things that don’t fit with the Comprehensive Plan and the Comprehensive Plan it sounds like is almost 10 years from that and I think the fact that we have an interstate now in the county and also other factors. I guess that is more of a comment. I won’t get into comment. Those are my questions. Thank you.

Clements: Do you have anything that you would like to add to your response to Mr. Enright-Randolph? No. Ok, other questions from members, yes, Mr. Pittsford.

Pittsford: The referenced State Road 37 Corridor Plan dated February 2010, who published that? I was on Plan Commission, and I should know that, but I don't recall that being published by the Plan Commission.

Clements: It was published by the Economic Growth Team if you look down at the bottom right hand corner.

Pittsford: Who is the Economic Growth Team?

Clements: Monroe County Courthouse Centennial. It is unclear. Isn't it, Mr. Myers?

Jelen: It does say under the plan it says that it was Strategic Development Group was the name group. Scott Burgess was the Senior Project Manager.

Pittsford: And that was commissioned by the County Commissioners and Plan Commission?

Jelen: I believe this was a County Commissioners plan that they had allocated funds for this study.

Pittsford: Ok. Because a 13 year old study and it was written before 69 and the surrounding areas were developed, the arterial roads and stuff. I just wanted to have a little context and refence to that. Thank you.

Clements: Are there other questions for staff from members of the Commission? Mr. Carmin?

Enright-Randolph: I do have another question.

Clements: Oh, yes, Mr. Enright-Randolph?

Enright-Randolph: Outside of the factors of the Comprehensive Plan was there any other reason to recommend a negative recommendation as far as constraints on the site? I know it is a commercial septic. Were any of these other factors a driver for the recommendation that staff has put forth?

Myers: There are some items in the findings that didn't quite meet the requirements. Let me see if I can find those.

Enright-Randolph: While you are doing that, I just want to commend you on that background report. I thought that was tremendous and I really thank you for your effort and time on that.

Jelen: One of the things that we did discuss in a staff meeting was just that this is a request for a Planned Unit Development so when you are requesting a Planned Unit Development it is a mix of commercial where that can include business uses, industrial uses, residential uses. This tends

to have a mix of business and industrial uses. There could be maybe a coordination with the petitioner regarding a zoning district that already exists in the county that might be fitting. I understand that this is a request that is coming after other several other denials of requests and so I think we are still looking at this from a perspective of a brand new Planned Unit Development, does it meet the criteria? It is providing a mix of business and industrial uses not really in a coordinated effort. It is sort of special, specific uses that might work at the site.

Enright-Randolph: Thank you. That carries a lot of weight for my decision making versus it just doesn't comply with the Comprehensive Plan. Thank you for addressing that. If there is anything else you would like to add, I am really trying to hear it from Plannings perspective.

Myers: I will note on the findings page, Findings 1; the extent to which the Planned Unit Development meets the purposes of the zoning ordinance, the Comprehensive Plan and any other adopted planning objectives of the county and then Number 6; the relationship and compatibility of the proposal to the adjacent properties and neighborhoods and whether the proposal would substantially interfere with the use of or diminish the value of properties and neighborhoods. Those were 2 that had a lot of discussion based on prior cases as well as the Comprehensive Plan.

Enright-Randolph: Thank you.

Clements: Yes, Mr. Oehlman?

Oehlman: If I may just kind of make a note towards Jerry Pittsford's question about who was involved with that what was the Monroe County State Road 37 Corridor Plan. I was able to locate it and, in the acknowledgement, they give notice of 8 people were in the guided planning process. of the 8 people 6 of them were from the Plan Commission at the time or were in the Planning Department. The additional was a resident and Monroe County Highway Engineer. I can forward those names to you, if you would like, Jerry.

Clements: Thank you. I would also appreciate that, and I see that the Foundation for Sustainable Futures was consulted on this, and this was an organization or still is an organization out of Lanesville, Indiana that the registered agent is Denise Piece. I think that answers some of the questions that we have right now. Are there any other questions from members of the Plan Commission? Ok, Mr. Carmin. Thank you for being patient.

PETITIONER/PETITIONER'S REPRESENTATIVE – PUO-23-4 – Worms Way

Carmin: Mike Carmin representing the petitioner but Jackie, Mr. Heydt should be in zoom with a raised hand. The petitioner Mark Heydt is A & H and S & H, LLC, that is Mr. Heydt and has been the owner of this property through the development of Worms Way to date.

Clements: Would we like to hear from him first or you first?

Carmin: Yes, please.

Clements: Ok, so, if you could unmute Mr. Heydt and thank you, Mr. Heydt for showing up and continuing to further your property. You and Mr. Carmin combined have 15 minutes.

Heydt: Alright. Thank you to everyone for showing up to this important meeting. I believe this is the last chance to put a profitable business into this value commercial property. I would like to begin with if you could bring up our petitioner's letter. I want to comment about a few things in that letter that would be useful.

Clemens: Ok, we have the up before us.

Heydt: I think it is very important to point out that Worms Way was established in 1995 and in 1997 when Oliver Winery and the BP gas station were given Pre-Existing Business designations, Worms Way should have been included in that. I realize this commission is not here to vote on that matter, but this would not even be necessary if Worms Way was recognized as a Pre-Existing Business at that time. Number 2 is, and I want to give Mike time to speak and give you time for questions but if you could bring up the zoning, the conforming uses in the AG zone. This may shed some clarification on this.

Myers: One moment, let me pull that up.

Heydt: The zoning table that was included in the packet that has the AG zoning conforming uses.

Clements: Mr. Myers is bringing that up.

Heydt: While he is doing that, let me comment on the highway study done in 2010. In it, it says that Worms Way should be allowed to remain there. Now, no one had a crystal ball in 2010 or else they would have included it. Gee, if Worms Way goes out of business, these buildings should be allowed to be there. It is a commercial property that has been built. It makes no sense to tear it down, so, I just wanted to comment on that. Ok, here is the crux of the matter that has been presented at the BZA meeting, the 2 petitions and at the rezone. The AG zone has about 50 uses here. 90% of them are not viable on these 13 acres. 90% from all various reasons. That all comes down to dollars but some of these businesses would never use 54,000 square feet of commercial buildings so why would you buy them and never use them. For instance, a Christmas tree farm or aquaculture or feed lot. Other uses would say well, there is not enough space here. 12 acres. I don't know anybody that would start up a Christmas tree farm on 12 acres. Put it this way, if you could buy 12 acres for, I don't know \$12,000, maybe you would. But all of this comes down to dollars. In the 7 years the property has been listed for sell, not one single offer from any of these conforming uses. Not one. Nothing. So, the property wasted away for 7 years, and I hear people say, well, let's include this in the Comprehensive Plan. The Comprehensive Plan CD was supposed to be out in, I don't know, 2021, maybe previous to that. I would venture to say that it won't be completed in 2024. I would also say, someone suggested maybe a rezone would be reasonable. We tried rezoning to Light Industrial. If you are suggesting why not try rezoning for General Business, why not try to rezone for something, that is what the PUO is about. You have got 6 or 7 uses in this property that makes use of the commercial buildings and it has to be an established business. There is no startup business anywhere that could purchase this type of property and startup. In round numbers and I have several parties that are interested

in buying but in rough numbers, buying both lots you need \$300,000 year cash flow to meet your mortgage, interest and building expenses. That's not the business. That's not the employees and benefits and utilities and on and on and on, advertising, everything that goes into a business. There is no startup business in the world that has that kind of money to start a business. Therefore, it has to be an established business. Somebody that says, you know what, I have cash flow, I can handle this with the bank, I need the space, I want to use it. It is not going to detract from the value from anybody close by in no way shape or form. Many of the houses that were built in Windsor Private were built after 1995. People bought lots, built houses and never looked up and geez, these 3 buildings over here are detracting from my value. I understood that when I-69 was coming in people would say, that might detract from my value as a homeowner. I'm against it. I understand that. I would definitely say, I don't think there are any studies or any proof that I-69 has detracted from your home value. That just remains to be seen with the market. But I am going to say again if anybody on the commission or staff pick something on this conforming use. Pick any one of them. Like I said 90% of them do not apply. Who does apply? Government use, utility use. They have cash flow, and they could afford this. In 7 years, there has been no utility company. There has been no government use. Monroe County is looking for a new jail. They are not looking at the property. In other words, it doesn't exist. Things like 2 family dwelling or anything that tried to use these buildings unless they are as is and you understand them, then you are going to invest further into this property before you would use it. People who are looking at it and saying, hey, I can use the buildings as they are, go in and do some cleaning or something. But as far as adding onto the buildings or building new buildings or retrofitting the building to fit something that I was going to do, a taxidermist, I realize this chart was made along time ago and I realize the new CDO may adjust some of these things. But it is a pipe dream, or it doesn't fit this property despite the AG zoning for a business to occupy the property unless you are an established business and that you understand cash flow. No startup business is going to say, yeah, I am thinking about opening a taxidermy deal. One other thing I did investigate because it is on here and sure I will try to get along, ok, solar farm. Yeah, I looked into a solar farm for the property. It is a 20 year payback. If you invest 2 million dollars in solar in 20 years you will get your 2 million dollars back. That's not the price of the property. That's a 20 year payback to install a solar farm on this property. I am not in the position or would I ever dream of investing 2 million dollars for 20 years to break even. So, I am going to yield the rest of my time to Mike Carmin and let's see if he has anything to add. I appreciate your time this evening and I respectfully request that you give this a positive recommendation so the Commissioners can vote, and we can determine if this is even possible.

Clements: Thank you Mr. Heydt and thank you Mr. Carmin also for being here.

Carmin: We have got what about 5 minutes left. Ok. A few comments more. Martin gave you the history of the property and what he sees as an owner, and I think the Judy Sharp assessment letter speaks to his concern. The AG/RR zoning stripped the property of its value. You have got good condition, very good condition, quality buildings out there that are wasting away, that cannot be used. Nobody will use them and pay the price the price for that. So, let's look at the zoning ordinance then. First of all, the core study that was referred to and you talked about who sanctioned that was pretty specific about the concept of further development along the highway. They showed the zoning map, and they talked about the surrounding zones briefly. They didn't talk about PB zone immediately to the north of this adjacent to other, in fact, adjacent to the

north end of our neighbors here who he subdivision who has Pre-Existing business to the north of it. We have got Pre-Existing Business to the west of that. We have got Thompson Furniture that was given LI zoning down the way. We have got LB zoning south of this for the old PB station and the Nature's Way building down there. We have got Bloomington Auto Parts which happens to be hit with an AG/RR zone, but it is never going to go away. They can't afford to go away because nobody is going to pay to clean it up. So, it is there for our lifetimes. Unless the federal government comes in and does an EPA cleanup on it. There is no other way that it ever disappears. That is life on this corridor, and we have got buildings. Why a PUD? There is no zone that does not have permitted uses in that zone that you would not want out there. There is no zone that is going to be approved by you or the Board of Commissioners because there is going to be uses permitted in that zone that you are going to say we don't want there. Whether it is a gas station, a trucking terminal, it is just not possible. So, you are looking at a PUD because that is an opportunity to shed those undesirable uses and focus on what works and what fits there. So, it is the blend of uses from the different zones. But everyone of them can be conducted on an appropriate scale within the existing buildings, which is a condition set out in the proposed PUD Outline Plan. All operations are interior. No exterior business operations. Make use of the existing buildings, live with the existing parking and live with the existing infrastructure on a perfect road for this, Wayport Road does not go through any neighborhood. It doesn't even touch on a neighborhood. We do have one house that lives in between the ramp for 69 and Wayport Road. I don't remember the name of the owner down there right off of the cul-de-sac, not cul-de-sac, the roundabout down there. Wayport Road is a state highway quality road, great construction on that, carries all traffic from there to Sample Road, which has gone through massive improvements onto 69. Traffic does not affect any neighborhood. Martin made the comment about construction. If you look at the 8 lots that have houses close to this property, 2 of them I believe have construction dates of 1992, one in 1993 and then we get into 2000, 2004, 2007. The point being these existing buildings, this site in existence did not deter people from investing significantly into building their homes on those lots, which says a lot by itself. The distance between these buildings to the nearest structure is several hundred feet. There can't be no building built closer than what exists right now. If you look at the subdivision, there about a third of that is houses and built that could not be built today. They lack the buildable area. There are severe slope restrictions over there. The houses are built. The subdivision is platted. The houses were allowed. But if you apply the ordinance strictly, tell them to vacate those homes. Because they are built on areas where they can't have a home. But you aren't going to do that. I am not asking you and I don't expect you to do that. But that is what you are telling Mr. Heydt with this property that these buildings got built and we are not going to let you because of the zoning ordinance make use of them. It is just not practical. The PUD does that. The constraint that even you might say pet services or terminal allows for uses that are too big. They have to fit the scale of living within the existing building and within the existing allowed parking because there is no proposal to change that. Live within that. So, uses fit. The PUD allows the opportunity to make appropriate use of existing, substantial of commercial construction that has been there for many years and the neighborhood has developed around it without any hinderance. It does not negatively adversely affect the surrounding properties. We would ask for your support in getting this matter finally resolved. Thank you.

Clements: Thank you, Mr. Carmin. We will move onto the public comments. If there are members of the public who are in favor of this petition, please come to the podium and sign in or

if you are online raise your virtual hand on zoom or if you are calling in by telephone, please press *9. We see no one. Could you see if any of the panelist, Cheryl or, I don't know if Julie will be able to join us.? Commissioner Thomas at any point? Ok, we are moving onto the public now who is opposed to this petition, and we have a number of people in the room and a number of people online. Each person has 3 minutes to come to the podium, sign in and give your testimony in opposition to this petition.

SUPPORTERS - PUO-23-4 – Worms Way: None

REMONSTRATORS – PUO-23-4 – Worms Way

Barnes: Good evening. Let me sign this. My name is Randy Barnes. I am President of the Homeowners Association at Windsor Private.

Clements: Thank you Mr. Barnes for coming again. If you could reset his time, he is still signing in.

Barnes: I would like to point out that we have no opposed everything that has been brought up for this property. We opposed storing tar right next to our retention pond. We have opposed 24/7 truck traffic. We are trying to be reasonable. The one thing we approved was basically knocked down by I believe by Planning by insisting on another \$100,000 worth of landscaping by the potential owner. I don't understand what that was about. I am new to the property. I am sorry I live 700 feet away. But I have got 3 and half acres and that is my backyard. I don't want the tar stored back there I don't hazardous chemicals. I don't want 24/7 truck traffic. We already have enough trouble with the winery. I mean, they have gotten to become a very serious business over the last few years. Mr. Heydt talked about us making, or his attorney, talked about us making poor decisions in building next to Worms Way. I point out that Mr. Heydt maybe made a bad decision renting to Worms Way and to continue building for them when they went out of business. I just would like to see some reasonable business move into this and I don't believe there has been a really fair attempt to that. That is all that I have.

Clements: Thank you Mr. Barnes. Let the record reflect that Commissioner Thomas has joined the meeting before the testimony. If the next person who is in opposition to this petition would come to the podium and sign in. You will also have 3 minutes.

Booze: Thank you. My name is Bryan Booze. I am a resident in Winsor Private been there for 24 years, probably now. I submitted, it got added today, this is probably something that you just got today. So, that s unfortunate that you just got it today because you probably haven't had a chance to read it yet. I am going to paraphrase from it because it states what I am after here. There are 3 things that I would like to oppose this one. One is I think the PUD concept that is being applied is a last ditch effort. There are 3 general ways. Rezoning, a variance and a PUD. The other 2 didn't make it. This is the third one of the triad that is being tried. It is being modified beyond what a PUD would normally be considered a tool for. But it is the third and last option to be used. I think that is the reason a PUD is being proposed here. I don't think it is the right use for a PUD. It is being proposed at a time when there is the revision of the Comprehensive Plan, COD, COE, whatever that is. That is ongoing, presumably that is going to conclude before too long,

hopefully. This looks to me like an effort to slip this in before that happens in case the rezone of the new plan that covers that whole area doesn't allow this. So, let's go ahead and get this PUD in there now as a safeguard if the larger effort doesn't go that way. I think that is another reason why the PUD is in front of you right now and I don't think that is a good reason when you have a more comprehensive plan already being evaluated. This is an early short-cut around it in case it doesn't go their way. Finally, there has been a lot of talk about the buildings and the value and this and that. Mr. Heydt ran a successful company, Worms Way, for a long time. He made a lot of business decisions for his private company. A lot of those decisions generated a lot of benefits for the company, for the owner, for the employees and that is wonderful. That is the way it is supposed to go and knowing exactly how it was zoned. In fact, he was involved in getting that 1995 zoning which allowed it to go forward in the first place in a way that helped him that ran for a while. Then he made another well-educated decision to sell the business but keep the properties. So, the business that was generating the money that paid for all of these expensive properties that he purposely put on there, that went away, by choice. Keep the property. Sell the business. Now, he is left with the burden of the properties and we do hear from others about whether his efforts to sell it have been realistic or not. But he made that decision knowing exactly how it was zoned, exactly how much money he had put in it, everything about it he was well aware. It is a private company. He makes his own decisions. He kept the burdens, the expensive part, sold the business and after several tries to dump that somehow off, all of these efforts are an effort to shift those burdens of his own corporate decisions now to the county and us residents of the county. He did everything fully well-aware of how things were zoned, what was going on, kept the expensive part and acts like that somehow just happened to him. It didn't. Those were all conscience decisions that he made along the way. He is unhappy with them now. This whole effort is to shift the burden. Change the rules around it so it can sell under some criteria and get himself out from under those burdens. I disagree with that. I don't think the county should take on burdens of his privately, well-educated decisions that now have baggage associated with them.

Clements: Thank you so much, Mr. Booze. Thank you for coming again.

Booze: Thank you.

Clements: If there is another member of the public who would like to speak, please come to the podium and sign in.

J. Booze: Before I do that can I give you a handout?

Clements: Sure. If you would be sure to give one to staff or we will pass one down to staff. If you could save one for Jackie and Drew.

J. Booze: My name is Julie Booze, and I am a local realtor here in Bloomington. We all know that the price sells the property. That's been a known fact. Mr. Heydt has not marketed this property as you can see on this handout. He is listed as the broker. He listed it though one avenue, LoopNet. If you look at the second page, you will see circled in red, he has consistently listed two buildings, B and C as industrial. The property has never been zoned for industrial, but Mr. Heydt has tried over and over to sell it as an industrial property, and he has priced it as an

industrial property. If you look on the next page, you will see down at the bottom the date. Two times I showed this property to two specific buyers that would have fit the zoning for the current zoning on this property, but price was a major factor and for what the buildings are and some of like Building A's condition, they were not interested in it at that price, and they were so far apart they didn't feel they could even put an offer on it. So, they did not buy it. If you will look at the next one you will see also industrial. These were back in 2020 and 2021 when I showed these properties. He consistently advertises that way. He has never hired a commercial local realtor to market this property and there is probably a good reason for it because they probably would not have taken it. Because a realtor is sworn to uphold the code of ethics in truth in advertising to the public. Because that is important. We have to do that, and we are shown to do that. But Mr. Heydt is not. He is basically a for sale by owner. He may have a broker's license. I am not sure. But we can't do that, and we wouldn't do that to the public. But as you can see on these papers, he has done it for years. Because of that it has not sold. I am sure there has been several commercial realtors that have seen it. LoopNet is a popular place to advertise, and I am sure they have seen it. So, I have to wonder why didn't they buy it? Well, they probably looked it up and a god realtor first will go and see what the zoning is and what they can use it for. How can we sell it? Well, when they look it up and it shows on here that its industrial, but they see that it is AG they blow past it. Because they can't sell it.

Clements: Thank you, so much Ms. Booze. Thanks for coming out again. I am going to turn now to somebody who is online on zoom. Ms. Druckemiller. If Tech Staff could unmute her and you have 3 minutes.

Druckemiller: Thank you. Can you hear me?

Clements: Yes.

Druckemiller: Ok, thank you. I too am a realtor and I also live behind Worms Way. I am the house that is the closet to Worms Way. To Mr. Carmin's comment about buying a home with Worms Way there that was not an issue because Worms Way did not omit any smells, odors, or any kind of noise, so, it wasn't noticeable. What new zoning can do will add a lot of those features, therefore that changes a lot for my backyard. Also, as a realtor I did reach out to Mr. Heydt once. I had a church that was very interested in maybe leasing the property. Mr. Heydt went on to tell me that he was not in the business to lease the property, which I understand that. But we had just kind of heard that maybe hard terms and some income would be better than no income. But Mr. Heydt was not interested in doing so. So, I did not bring an offer because I took his information back to my client so therefore, we couldn't really make an offer if he wasn't interested in leasing at least one of the buildings to the church. So, with that when he says that he hasn't had anyone, there have been people that have approached him. It just hasn't been what he has wanted. Thank you.

Clements: Thank you Ms. Druckemiller. Ok, we will return to the room here and then we will go back to zoom. If you would kindly sign in.

Long: Hi, my name is Andrew Long, and I am a resident of Window Private. As a Monroe Conty resident we are constantly fighting this issue. I have been here many times as you know. All of

these different rezones and requests are getting very tiring for everybody, I think. My Carmin said that no neighborhoods are affected by Wayport Road. That is totally not true. We ride our bikes down there. There are families walking down there on the side of the road and any increase in traffic due to a business is going to make that a lot more dangerous for families in the neighborhood. The owner of the property has repeatedly tried to sell the property and he has been less than honest in his description as Julie said. He needs to realize this property is zoned Rural Reserve and Agricultural and that attempts to rezone it don't align with the Comprehensive Plan or the local residents or the local area. Whether it is asphalt, metal fabrication, construction, storage yards or other uses these were all previously denied by the county. Now the owner is trying to get around this by doing a PUD which includes these same use cases. So, having services like pit services or religious activities that is not even going to work because he has already said it will be 7am to 6pm, Monday through Friday. There are no churches that meet during the week during the day. So, it is limited and other use cases are already being denied. It is not up to the county to find a way for the owner to sell at a high price. It is not the county's responsibility to make exceptions for him. It is up to the county to protect residents. It was a nice speak from the owner, but it is not our fault or the county's fault that this property is inappropriate for the zone. Also, if the owner wants to reduce his asking price to a reasonable level, then it may sell as Julie said. The owner needs to accept that he has made his huge profits over the years of Worms Way, and it is time to sell the property for closer to assessed valued. This is a residential, agricultural and rural area, not a business and industrial area. Rezoning to PUD, which allows business use cases that are already being denied is inappropriate and I am requesting that you please deny this rezone request and any future rezone requests. Thank you.

Clements: Thank you Mr. Long. Thank you. I am going to switch now to Mr. Loren Abon, on zoom. If Tech Staff could unmute Loren Abon. You will have 3 minutes. I believe you are unmuted. Maybe you need to push an unmute button on your side, but you are unmuted on our side, Loren Abon. We are not seeing that ok. We will return to Loren Abon after another person who is in the room would like to come to the podium and speak for 3 minutes in opposition to this case. Thank you. If you would kindly sign in.

Salazar: Good evening, everyone. My name is Jose Salazar. I am the house that lives right directly behind Worms Way in front, and we have 5 acres. We really do not want any more traffic going through there. We are very opposed to it. We feel that given this broad view of the business that they want in there I just don't feel safe. Who is going to be there? To see the kind of business that they want to get in there, if you have a general contractor and he is going to do asphalt or whatever, I don't want that smell right into my house. I really don't. So, I am totally against this. I hope that you take this into consideration of all of us that we are feeling the pressure of the landlord that he wants to sell it. It is not our problem. He chose to do his business as he did. That is my point. Thank you.

Clements: Thank you, Mr. Salazar. Thank you.

Guerrettaz: Mr. Salazar, I didn't hear the first part of your introduction. You live in Windsor Private. Is that correct?

Salazar: I do. I live on 7951 North Ames Drive.

Guerrettaz: Thank you.

Clements: Thank you. We don't see Loren Abon anymore online so if the next person in the room who is in opposition to the petition if you would kindly come to the podium and sign in.

Jelen: I will leave a note in the chat on how Loren can reconnect.

Clements: Ok. If there is anybody online, on zoom, please raise your virtual hand on zoom in order to be recognized to speak or if you are calling in by phone please press *9 to be recognized to speak. Just reviewing here to see if there is anyone else who would like to speak in opposition to this petition. I see Loren Abon has signed in again.

Abon: Can you hear me?

Clements: Yes, we can hear you. You have 3 minutes. I think we can hear you. I think he signed off again.

Jelen: I am not sure what is happening with their audio.

Clements: Yes, Mr. Guerrettaz?

Guerrettaz: Maybe I could fill the gap until Mr. Abon gets back on.

Clements: Yes.

Guerrettaz: I have a question for staff. A couple of the neighbors had talked about the traffic. There is no traffic that is coming through Windsor Private into the development. Is that correct? Everything has access off of I-69.

Myers: That is correct. The petition site has access to Wayport Road which does not go through Windsor Private.

Guerrettaz: Ok and the other question, can I ask Mr. Long a question?

Clements: Sure. Mr. Long, if you would kindly come back to the podium.

Guerrettaz: Sir, I read your email and it says that you retained an attorney.

Long: No, I said the Windsor Private was going to obtain an attorney.

Guerrettaz: I'm sorry, your email says the neighborhood is going to.

Long: I am not sure if that has actually happened yet. At the time it was in process.

Guerrettaz: Ok, I just wanted to clarify whether or not you were being represented or not.

Long: Not at this time and I can't speak for the others.

Guerrettaz: I understand. Thank you.

Clements: Thank you, Mr. Long. Mr. Abon has already signed in again so if Tech Services could unmute, there we go. If we could try again.

Abon: Can you hear me?

Clements: Yes, we can. You have 3 minutes.

Abon: Fantastic. Goodness, gracious. I apologies for my failed computer skills. A question, Arnold Asphalt has tried to get clarence or a variance through this committee to buy the property. If this PUD was approved, would they be allowed under the General Contractor classification to basically sidestep what has been denied in the past?

Jelen: They had requested a Use Variance for General Contractor for this property but if they were to obtain approval for this PUD it would include the list of General Contractor, so, yes it would allow for someone like Arnold Asphalt to obtain site plan approval.

Abon: Thank you for answering that question. So, earlier comments have been made by the petitioner that the neighbors built after Worms Way was in existence. In 1995 Windsor Private did support Worms Way going in. In 1999 my wife and I, a lifelong resident of Bloomington, I moved away for 4 years and came back. In 1999 we were looking for property. When looked at the area I knew that Worms Way was Agriculture. I knew that Oliver Winery was there and so based on those 2 factors they were zoned the way that they were we went ahead and built our home in Windsor Private. The re-assessment of Worms Way property closely matches the assessed value of my home which causes me to scratch my head significantly. But in an earlier petition when I spoke before the Zoning Board the question was asked if there were industrial or general contractors would I have bought my property ad built in Windsor Private and the answer was no. For what it is worth you can go back and check the record. It will impact whether or not people will move into the neighborhood. I am siting in my dining room, and I can see Worms Way. The concern is any concern regarding the cemetery that is on Worms way property, any consideration for Joe and his grandchildren who live there off of Sample Road whose property was divided by the I-69 project. Any consideration for Oliver Winery, I mean, it is a designation in the Midwest. What impact, I don't know, does turning this over to other uses have? That is the question for the Zoning Board. What do you want Bloomington to look like when people drive down I-69 and come into Bloomington? What impact, if any, does this have on Oliver Winery and that successful business? Based on those issues I request that it be denied.

Clements: Thank you Mr. Abon. Thank you for keeping on trying to connect, thank you. We turn now to the petitioner and the petitioner's representative for a 5-minute rebuttal. Mr. Carmin.

PETITIONER REBUTTAL - PUO-23-4 – Worms Way

Carmin: Does Mr. Heydt have his hand raised?

Clements: Yes, he does. Mr. Heydt, if he could be unmuted. You and Mr. Carmin have 5 minutes total together. I think he has to be unmuted.

Jelen: Mr. Heydt if you would go ahead and unmute. There you go.

Clements: Yes, we can hear you now.

Heydt: Ok, thank you. I will just make a few comments to the Commission. Number one the industrial listing that is on LoopNet, that doesn't describe the zoning. It is the type of buildings that they are. They are industrial type buildings. A limitation when you are listing with a service online is they are going to plug you in somewhere. At no point have I ever told anybody who approached me, and I have had in the past 7 years probably 60, 70, 80 companies approach me. At no point did I say that it is zoned industrial. That would be ridiculous. If we could bring up Andy Peterson's letter that was in the packet. It was the last page.

Clements: Are you finished?

Heydt: What?

Clements: We are having, I think that this is breaking up a little bit. Sometimes there is intermittent silence, Mr. Heydt. Are you still there? Ok, so, Mr. Carmin?

Carmin: A couple of points. You have to read the plan. We had one remonstrator who acknowledged the hours of operation issue. Somebody else's complaint is about 24 hour truck traffic. Totally ignoring hours of operation as a condition, as a restriction on the use. I don't ever believe that it is productive to do finger pointing and undermine people's professional integrity. I am troubled by these accusations being less than honest, particularly coming from realtors. They had done it and then they know, as your man sitting here knows any offer of purchase of a property like this is going to have contingences, one of which is obtaining all necessary permits and government approvals for the intended use. No body is going to be tricked into buying industrial property that is not zoned for that because they don't have the opportunity to cancel the contract because it is going to be contingent on first getting zoning approval for their continued use. If they don't get it, no contract. It is inappropriate to undermine professional integrity and I just will move on. I do not believe I said people made a bad decision to build in Windsor Private. In fact, I think I was trying to say quite the opposite. They made appropriate decisions because this property, the Worms Way property did not adversely impact those properties. That is why they were safe to invest in building their homes there and we had one of them even acknowledge that. Worms Way was not a problem. That is the use conditions that we have in here of interior operations. They threw out the name Arnold Asphalt as fear mongering. If Arnold Asphalt can operate entirely inside a building, then more power to them. If he can. If he can't. There is no provision for stockpiling asphalt provision because that is exterior operations. This PUD proposal was intentionally thought-out to what fits consistently with Worms Way having fit there and allow the development of the adjacent properties so do these uses restricted to interior operations, restricted the buildings that are there, restricted with hours of operation. It constrains the use to things that fit as to not adversely impact the neighbors. I would ask you to keep that in mind. Margaret, I don't know where I am at on time but if its seconds, I will wrap it up. The

comment was made about the property needs to fit the zoning. My Heydt's original comments where he started was, the zoning should have fit the property to. It was in existence, and it was done to fit for the old round school and CFC and the use was done to fit Oliver Winery. It was done to fit Thompson Furniture. It was done to fit the BP station. It was not done to fit this property. That is a concern.

Jelen: Mr. Heydt is back on if we want to have him speak.

Clements: Thank you Mr. Carmin. Mr. Heydt, there was an interruption in your transmission If there is something final that you would like to say.

Heydt: Now I am unmuted.

Jelen: We can hear you.

Heydt: I know we lost each other so I didn't hear. Can you hear me now?

Clements: We can hear you now, Mr. Heydt.

Heydt: I was in the middle of discussing Andy Peterson's letter. If we could bring that up again.

Clements: Yes, the letter is before us.

Heydt: Ok, I can't see it. Its coming up. Anyway, Mr. Andy Peterson is a local realtor and as his letter states its not price that is holding up his buyer. It is the zoning. So, I wasn't sure if I got through on the fact that I never listed those sites as industrial, it's the type of buildings that they are. That is a limitation when you list property online. They pigeonhole you where you belong. Of the 70 or 80 people that I have had

Clements: Mr. Heydt, I'm sorry that connection must be unstable. I am going to turn to Mr. Carmin to see if you could finish his thought for him and then the rebuttal will be finished.

Carmin: I appreciate the offer, but I don't think I can finish for hm.

Clements: I think he was saying that he had 7 offers on the property.

Carmin: This is what he talked about early on.

Clements: Yes, ok. Thank you so much. I think we understand what you are trying to say Mr. Heydt and Mr. Carmin represented you well so we will turn now to the Plan Commission for discussion and/or a motion. Mr. Cockerham?

ADDITIONAL QUESTIONS FOR STAFF – PUO-23-4 – Worms Way

Cockerham: I am a nonvoting member, but I have a couple of comments. LoopNet with Mrs. Booze they do allow for principals and owners to list on there, so I think the email that was in

here stated he was broker. But this system does allow for owners to list on there. A couple of things. Mrs. Booze talked about commercial brokerage and brokerage, and I do only commercial, so the first thing we do as Jackie knows is I call to find out the zoning and try to find out the highest and best use within that zoning. However, sometimes the highest and best use doesn't fit the zoning and that's for a body like this for them to come and ask for changes and for us to decide that. I commend him for asking and for searching for the highest and best use, whether this group decides that this is it or not. The one question I do have Jackie, is the other properties that were zoned Pre-Existing Business and this one was not. Do we know the history as to why this one was left out of Pre-Existing Business?

Jelen: I think Drew's report did a nice job of highlighting some of the history of this parcel, but it was given a special exception back around 1995. So, when we did the rezone back in 1997 my guess is that they didn't want to disrupt that special exception, or they thought that was a use that could carry forward and it worked within the agricultural district. PB was a zoning designation that was put on properties that had a business use that otherwise they didn't want that business use to expand to other properties nearby. It was sort of a placeholder to say they properties are limited in their business capacity. They can expand but we don't want other properties in the near vicinity to also be a business use. It doesn't fit the Comprehensive Plan. We understand that those businesses exist, we don't want to take away their privileges as a business, but they are limited. This site was just zoned Agricultural/Rural Reserve. I went back and looked at the previous zoning and that is what it was zoned prior and then in the proposed, which is now, the 1997 zoning map it was still AG/RR.

Cockerham: I know this is hypothetical but if the owner, it sounds like the owner might have asked of the AG but if we were looking at that, is there a zoning class that this business would have fit into if it was Pre-Existing that it could carry on?

Jelen: It is zoned AG/RR, and the special exception was for agribusiness was the specific use and I believe that use is still a possible use under 802.

Clements: That area of work and interest in our community is growing, agribusiness.

Jelen: I think to your other point, the petitioner's representative point, if this would have been zoned Pre-Existing Business how that would have worked is we would have looked at what the use intensity was in the chapter. So, let's say it was agricultural uses, nonanimal, for instance, and that is a high intensity use. They would be granted the ability to switch from another business use that is similar or lesser intensity. It depends on how they would have been categorized at that time. They were not categorized as Pre-Existing Business, but I just provided you with that example since that was brought up.

Cockerham: Ok, thank you.

Clements: Thank you. Are there other members of the Plan Commission who have questions? I see Mr. Enright-Randolph. I will continue on my right here and we will go down the line.

Enright-Randolph: Questions and comments, right?

Clements: You can do either, Mr. Enright-Randolph or both.

Enright-Randolph: It goes back to our admin, really what area we are asking the petitioner to do with this property. Are we asking him to tear down the buildings and convert it back to the zone? It is a pretty big ask there in my opinion. I heard speakers that had spoken about there has to be some type of use that that could fit this character of the county. I am very curious of what type of use that may be. Maybe kind of what the petitioner's thoughts are on that. I guess what I am really getting to is that we don't waive the final hearing and we do bring this back for another discussion. Because I can just only imagine if I owned a piece of property, and my only option was to tear down the buildings and lose almost 2 million dollars of assessed value. Also, I don't want to take Jerry's thunder but with that corridor study we had representation from the Commissioners, from the Plan Commission and from private consultants that all identified this as operational commercial use. That speaks loudly to me. Also, at one of our CDO Listening meetings we were looking at another piece of property that when we went through the last rezone of county it was missed. I think adjacent properties were zoned correctly and theirs wasn't. It could have been an overlook. I am not saying it was an overlook but it kind of feels the same that this has been used as a commercially viable use and now we have really kind of hamstrung them in a sense where there are no more options and absolved their options. It was talking about shifting burden. I think there is an onerous burden on all property owners in Monroe County because we have a very strenuous ordinance and also other overlays and ordinance that relate to that. So, I don't think it is shifting the burden. I think it is just kind of where we are at this time, and we need to figure out the best use of the property and I don't think the best use of the property is bringing a bulldozer in there and just tearing down the buildings. That's my comment.

Clements: Thank you, Mr. Enright-Randolph. Mr. Pittsford?

Pittsford: South of this property on the other side of 69, we had a petition on Bell Road for a rezone. What was the request for that? Was it to go to AG/RR?

Myers: Yes, that request for that was a winery.

Pittsford: Right, right, the winery.

Myers: To Agricultural/Rural Reserve.

Pittsford: We voted in support of that, right. We supported that with a favorable recommendation.

Myers: Yes, I believe the Plan Commission forwarded it with a positive recommendation.

Pittsford: What was the end result of that?

Myers: The County Commissions denied the petition 2 to 1, I believe.

Pittsford: Ok, so down the road from this someone wanted AG/RR and it was denied. Now, up the road on the opposite side of the road it is AG/RR. They want to change it and they can't change it. Seems like a heck of a paradox, doesn't it? That's rough. If I owned that property, I wouldn't know which way to go. The next point I would like to make the state road 37 corridor plan is interesting because it is not even, I am not 100% clear because it says furthermore the lack of frontage roads, that is what they anticipated, would make it inadvisable along the 37 corridors in this area. Is there a lack of frontage roads on 69? Do we see a lack of the ability to support business on the frontage of 69?

Myers: Wayport Road provides frontage to this petition site.

Pittsford: Ok, is this sufficient to support something other than AG/RR?

Myers: I would have to doublecheck with the classification of what Wayport Road is. I think it might be a collector roadway.

Pittsford: That is an important question to answer. Because when you consider best and highest use the infrastructure is part of that equation. Is it appropriately supported? My question is will Wayport Road appropriately support something other than AG/RR? And if it does that is something that should be considered. I don't know if that has really occurred. That study continues to say this plan is encouraging employment sites to be directed to the previously developed areas, where they are permitted by current planning policies. So, my question was employment encouraged by current planning policies on this property in 2010? Because then it says employment sites be directed away from undeveloped portions of the State Road 37 Corridor. This seems to be devolved and it seems to be employment in 2010, which would indicate that the State Road 37 Corridor Study would actually support a change in zoning in order for employment to continue on this property. Right? Am I right there? That is a serious question. Am I right? Is that a logical conclusion?

Jelen: I think based on that section, yes. There is a little bit of conflicting information in this corridor study and of course this was prior to the buildout of I-69.

Pittsford: By my interpretation it both tends to support and discourage in the same sentence, so, do we get to choose which part we use?

Clements: Are you finished?

Pittsford: I am do.

Myers: For what it is worth, on the screen now is the site conditions section from the staff report that talks about Wayport Road being listed as a major collector roadway and that the site does not exhibit any sidewalks. The site is serviced by Washington Township Water and REMC for electrical utilities and there is no floodplain designated and environmental constraints overlay on the property. This section is in the packet. And also, commercial septic.

Pittsford: Ok, just one last, and this is kind of a comment. The purpose of this Board, the Planning Commission is to look at properties and try to determine best and highest use. Our decisions are not necessarily solely to be based on the financial impact on the property owning petitioner or on the adjacent properties either. We are to look at what is the best use for this property in terms of the benefit to the county. That is my understanding. That is all that I have. Thank you.

Clements: Thank you, Mr. Pittsford. I am going to start at the end of the table, at Mr. Oehlman.

Oehlman: Thank you. So, one of the things when I really started to process the information on this is I was brought back to our CDO Listening Sessions as we working through the Comprehensive Plan and we had a gentleman speak from I believe it was Business Development of Monroe County, I forget his official title but he spoke a lot about where Monroe County can grow businesses and all of the things that we have to attract business from the airport, from the school, from the city, from our proximity to bigger cities like Indianapolis, the interstate and the list went on and on. One of the things that was referenced was the Business and Industrial Overlay. Drew or Jackie would you mind just briefly giving what exactly the Business and Industrial Overlay is?

Jelen: Sure, the Business or Industrial Overlay was highlighting different agricultural zoned properties that could be switched to industrial use in the future. It is not over all of the agricultural zoned properties, but it was specific to certain agricultural zoned properties.

Oehlman: When I went and looked at the Business and Industrial Overlay, which I encourage everybody to look at where that overlay falls, I would argue that a lot of that area falls in area that is better classified as rural and agricultural with a small exception of where the 37/69 interchange is on the south side of the town, the south side of Bloomington that really falls out past Ellettsville towards the county line where keeping our agricultural integrity I would see as more valuable than this particular lot that is currently designated as AG. Most of the BIO is also a vast majority, I forget the exact percentage, vast majority does fall on AG/RR land and here I see a situation that is currently infrastructure to better care for businesses and industrial but instead the BIO encourages us to look at AG/RR that is currently in row crop, more expanse land and create infrastructure there to promote business and industrial and I kind of have a bit of a gripe with that and don't see eye to eye with that. In the same light I also want to point out that some of the comments we heard made note of smell and sounds and what Worms Way brought to the area and how there was a lack of smell and sounds and some of the arguments made against other industries that might come in. But if this tract of land is to remain in AG/RR there is a fair share of uses in the use table that would be allowed on this land that would create what I would consider a substantial amount of smell or sound greater than that that would be allowed with the exceptions that are being requested. Some of those being a confined feeding operation, I don't think that the neighboring landowners would want 7,000 head of cattle in their backyard. A composting operation, night sale barn or stockyard. All of those from agricultural background I would argue will create a significant greater impact to neighboring landowners than the ones being suggested. Those are just some of the things that I am processing, and I wanted to share with the rest of the Plan Commission.

Clements: Thank you Mr. Oehlman. Mr. Guerrettaz?

Guerrettaz: I think that Trohn's suggestion that we are going to see this again is probably a good one. So, I think maybe just some comments that I am not going to get too deep on them. One, I think that we have got an opportunity here to see a site that is existing now. We don't have to guess what the setbacks are going to be. We don't have to guess what the buffers are going to be. There is a huge bufferyard. I mean if you take the time to know the property and just even to see staff's pictures you see the location of the truck docks, you see the grassy area, you see the trees on the east and the north side. You have got the Forney property on the south, which is immediately adjacent to the salvage yard I guess for lack of a better term. I think that the placement of this site knowing what it is with as I understand it the commitment the petitioner is making with all of it being contained, to me makes it significantly less intrusive than what we would find on the ag list and just a couple of other lists would be a sawmill or a green compost yard or the green fill area and those are just a couple. The AG/RR uses can be very intense. I don't know that there are any surprises when you look at truck docks and you look at what the turning radius is on the pavement, how the trucks got in and out, that the neighbors would see much a difference between what is its initial primary use when houses at Windsor Private were going in, when this site was being built and the 37 corridor was there and the plan that Jerry spoke about a little while ago was being evaluated. So, I think we have an opportunity to see what this site has evolved into after almost, what 30 years, I guess. I made this comment at the very beginning this property has been very well kept, very well maintained and getting a use in there that is viable I think promotes that for everybody. We talk about the corridor plan, and we look at what is going on with I-69, I think that is an asset to the public. I think a user in there that does bring the property value up to where the property tax revenue can be increased, probably goes to a little bit about what Jerry might be talking about. I think the key thing with the Comprehensive Plan, the Comprehensive Plan is a broad brush of what the county is proposing at the time it is put into place. The zoning ordinance specifically targets, excuse me, specifically targets uses and what is supposed to happen on that property based on what the unique characteristics of it are. But the Comprehensive Plan does its job in saying in this area. It paints it red and some hues of pink and fuchsia and all of these other magical colors to give us a concept of what guidance we are supposed to do. I don't think staff was necessarily incorrect in what their recommendation was because it is what the Comprehensive Plans says. That is our job. I think Trohn did a great job on kind of bringing that point to light and that is why I am not going to spend much time on that. I see that the uses the petitioner is requesting again when you couple them against what the AG/RR zone is I think frankly its, I will just say in most because I don't know in all but in most cases, it is less intensive and again, partly because of the bufferyard, Jim and Cathy Slinker owned property to the north and to the east. I think that is part of the plat at Windsor Private, but I could be wrong. I don't know if they own that in fee outside of the subdivision or if that long, narrow area that comes in on the east and north of this property is part of the plat or not. But that gives some controls with what would happen here, and I am sure that the Homeowners Association has some sort of review over that as part of the plat. I remember staking those roads back in 1989 and it was a great subdivision. Oliver Winery was growing at the time. All of the businesses. Sample Road was just a road. Now that the I-69 corridor has come through and they have lit it up like a Christmas Tree like nothing else between there and Bloomington. There is a designation that the Comprehensive Plan does not take into consideration with what that interchange is supposed to do and what it is supposed to look like in

my opinion. The highest and best use, you know, I think the highest and best use is where the county can see in general what the Comprehensive Plan is telling us to do and secondly what the owner can do to maintain the property in a manner that is especially on a corridor like I-69 can keep it in the best condition possible. I pat Jerry on the back for his analysis of the Bell Road Kinser Pike petition with the Ping-Pong ball analogy, I am putting words in this mouth with the no AG/RR, AG/RR yes, what is the best in this corridor. These are essentially in the same general location. I think that was very intuitive and I didn't think of that so thanks for bringing that up. For right now that is all that I have got. I think that the bufferyards are extraordinary. I think we have got a painting that we know what it is going to look like with the added condition that there is nothing outside of the existing buildings I think is important. So, thank you very much for letting me speak.

Clements: Thank you, Mr. Guerrettaz. Mr. Morris.

Morris: I have several concerns about the proposed PUD. Several of the things on the list like religious facilities is top of mine probably wouldn't have much impact on the neighborhood so that doesn't concern me too much. But I took a walk through Windsor Private on my lunchbreak the other day and it was quiet. I heard an occasional noise from the highway, maybe a noise from Oliver Winery. It was a very quiet neighborhood and if I look at some of the proposed uses on this list here, I think that would drastically change the character of that neighborhood. My other concern in the proposed PUD is the operating hours of 7am to 6pm. I think that is difficult to enforce. I think the Planning Staff doesn't have the resources to go out there every day at 6 o'clock to make sure that operations have shut down and I think that puts the burden of that on the neighbors, which I don't think is good for the neighbors, the business owner or the county either one. I think when I look at the use table for AG/RR there are quite a few uses that are still permitted so I don't think by denying this that we are making this property unusable. Those are my thoughts.

Clements: Thank you Mr. Morris. Councilor Munson, do you have anything to say?

Munson: Can you hear me now?

Clements: Yes, we can.

Munson: Thank you. I will be very brief. I was truck most of all by the table of uses that I thought were incompatible with the adjacent properties and I think this is something that is going to continue to be an issue until just the right new use for the buildings is identified and I hope this is the case. Because we do want the best use possible. I hope the property owner will work with realtors to move this forward and that we will see this again with an entirely different set of propositions and with support from the neighbors who I think would also appreciate having a viable good use next to them rather than deteriorating commercial buildings. Thank you.

Clements: Thank you, Councilor Munson. Commissioner Thomas?

Thomas: I think I would echo a lot of Cheryl's wise words so I will try not to be repetitive, but I agree that the petitioner should be meeting with the neighbors and talking to them and coming

back with a list of potential uses for a rezone. I don't think a PUD is appropriate anyway. It is just another way to rezone and to avoid rezoning something appropriately. So, I would recommend that. I think what strikes me and in one way I don't think it is fair to create an analogy between every AG/RR petition that has been proposed before us, but I will say that in both cases for me it's the neighbors who matter. It is the people who already live there, who already have an investment and it might be the best and highest use to put a Walmart down the street, but I don't want a Walmart down my street. It's not zoned commercial for that reason. So, I think we need to listen to the people who live there and who have invested for their families, for themselves in residential property based on Worms Way being there and it would be a good idea to go talk to them and see what can be done. See what uses are viable. It may be that, and I agree with Mr. Morris that there is, to put some time constraints on it is a difficult thing. It makes sense on one hand but on the other who is going to enforce that and how do we enforce that. That is really tricky. Thank you.

Clements: Thank you. I just have one or two things to say because you have all been so eloquent and insightful in all of the comments that you have made. Number one I would just like to express my appreciation for the public for coming out and for the business owners coming out and for the real estate professionals for weighing in on this decision. Because we have learned a lot tonight. But we also have to consider the future of our business economy in and around Bloomington. I frankly can see a lot of opportunity for an agribusiness to come into that structure and utilize it if its marketed properly. On the way in here today I read an article about an investment firm made up of several former athletes at IU who are actually in the business of making business from agribusiness. So, this could be an ideal site to do what it was originally designed for without the pressures on the surrounding neighborhood and frankly I see the strongest point having been made by staff, that those business overlays have not yet been set because this CDO is still under deliberation. Until that Comprehensive Development Ordinance is passed which takes a lot of buy in from the community, we should not be perhaps passing these PUD's that would as Mr. Morris said run the risk of being quite noise some for the neighbors. Transfer Storage Terminal, Metal Fabrication and General Contractor. If anything, if you look at the zoning map where this current business is, it is right in a residential neighborhood. Oliver Winery is north of that. It is north of that and so this is a residential neighborhood, and the neighbors continue to come here before us, repeatedly to plead with us about keeping their neighborhood, keeping their investment and their property and treasure as it is. So, I think that the staff's recommendation to deny this as this point, is the strongest recommendation that we have had. Because there are a lot of moving parts. We don't know where the business and industrial overlays are going to be. There are just a lot of things that we just do not yet know. There have been a lot of pleas tonight to bring this back to yet another hearing and so I would like to turn to my colleagues here and see if there is a motion or, yes, Mr. Enright-Randolph.

Enright-Randolph: Not a motion I guess just a request to staff if this does come back I would like to get out prior to the vote and that is just Use Variances in that area, I guess when we look at a zoning map and it all has the same contiguous zoning but there are allowed uses, it kind of convolutes or there is a little ambiguousness to the whole thing. It would be nice to see that laid out because there are places to the north that have Use Variances. There are places to the south that have Use Variances and I think that creates a better understanding of what is going on in that

area. Also, I think maybe a snapshot of when Worms Way was built and how many homes were constructed. I did a quick 1998 overlay and numerous of those homes were not even constructed as Worms Way was already built out. We hear a lot of impacts, but a lot of people had moved into that area knowing that that operation already existed. I think finally, I jotted down my notes, I have an assumption that this might move forward to another hearing or an administrative meeting. What do Plan Commission Members don't want to see there and what do Plan Commission Members do want to see there? I think we need to give some guidance to the petitioner if they are going to meet with the neighbors and also what do the neighbors think is ok there as a potential allowable use. I have bn working on Comprehensive Development Ordinance, Consolidated Development Ordinance, and the County Development Ordinance, basically the CDO. There have been multiple name iterations of that as well since 2016. I know that we are moving towards getting a final version. I have all of the faith in Planning. I am very optimistic that we are going to get this done but to have the assumption that this is going to be ready for adoption this year I think is too much speculation and if we are able to come to some type of understanding of what best uses allowed on this property we should move in that direction. Versus putting them on the backburner of the CDO. Also, one other thing, sorry, I am a stickler. When we talk about the Planning Department going out there and policing these areas making sure they are in compliance. There is a slew of things out there that the Planning Department does not have the staff for, so I really feel those are more overall concerns and not baked into each petition that we see. Because if we start to use that as a consideration, we should pretty much deny most of what we see because they do not have the capacity to go out there and police all of these things. That is an issue I see and try to deal with on a daily basis. We can make no action and it just moves forward or if someone wants to try to make a motion.

Clements: Does anyone want to make a motion of if there is no motion can we at least have an agreement that there is no motion? So, we can send the public home with the correct information and action at least on our part. Is there a motion or no motion?

FURTHER QUESTIONS FOR STAFF – PUO-23-4 – Worms Way

Enright-Randolph: I am in support with the no motion.

Clements: Ok, everybody else are you in support of the no motion? Yes, Mr. Guerrettaz?

Guerrettaz: One of the suggestions that was brought forth because we are looking at a property that exists and we are looking at neighbors that exist, right and those are sometimes conflicting, sometime not. Not putting the petitioner on the spot or the petitioner's representative but is there any interest in the petitioner meeting with the neighbors and seeing if that could be pared down any? I think that just cuts to the chase on whether or not we would proceed this evening with a motion of not.

Myers: I do know, I will note that part of the PUD requirements is to hold a neighborhood meeting so that was held with the petitioner's representative.

Guerrettaz: Ok and I assumed that. Thank you for clarifying that. My question is it was brought up again this evening so is there any interest to look at that list further? I am not putting the

petitioner or the neighbors on the spot to get together. It would be a meeting that wouldn't be necessary based on the ordinance, but my feeling is listening to the Plan Commission members, and I said it after Trohn had made his comment about the final hearing. But listening to the Plan Commission members it sounds like if there is no way the neighbors and the petitioner's representative are going to be looking at uses that could accommodate on another, then we should just go ahead and proceed with the motion and move on. That is just my personal take on it. I am open to any discussion.

Clements: My meter has expired so if we are going to have further discussion, I have to excuse myself for a few moments.

Morris: I would second Trohn's motion to go forward with no motion so we can discuss this again next meeting.

Guerrettaz: Is it ok if the petitioner's representative could at least say yes or no if they are looking at...

Clements: Could you speak into the microphone? I'm sorry.

Guerrettaz: I think I am but yeah, I can.

Carmin: Bernie, the sound effects in here are really bad. So, if I understand your question, you are asking if this goes to the next meeting, in the interim is the petitioner willing to have another neighborhood meeting and further discuss the planned proposals and get more input on proposed uses and whatever.

Guerrettaz: Yeah, I am just trying to cut to the chase that if the petitioner's representative and the neighbors are really interested in trying to hammer out this list then I don't know of a reason to continue to another meeting. Because that is the issue.

Carmin: Not being able to confer with Mr. Heydt, I will commit him that the petitioner would be willing to do it, whether it would be effective or not is a different question. That is really a question that I can't answer but he will make the attempt certainly.

Guerrettaz: Yes, sir. I got you. Trohn, whatever you have got there, excuse me for that.

Enright-Randolph: I think we just move to adjournment, or something to that. We don't have to make any motion; it will just move forward. Is that correct, Jackie?

Jelen: That is correct, and the next meeting will be on October 26th is the next regular meeting of the Plan Commission. It is moved because of the budget hearings.

Clements: Ok and I just want to just let the public know that what just happened is there was no motion made tonight and we will continue this discussion at the October 26th meeting of the Plan Commission. It is an irregular date. We normally have this on the, is it the second week?

Jelen: Third Tuesday.

Clements: Third Tuesday of the month but we have a different date because the room is reserved for the budget deliberation. We will be hearing this again on October 26, 2023, at 5:30pm and that will be the final hearing for the Plan Commission, just so you know tonight that there was no vote, no recommendation and we will continue the deliberation. If you would kindly, maybe come together with the petitioner or on your own, if you would come up with a list of things that you might like to see there that would be very helpful. It would be a good step forward and we would appreciate it. Yes, Mr. Guerrettaz.

Guerrettaz: If it is possible that might happen before the next administrative meeting that might be helpful too. Because that could be information that we could have at that meeting as well. Just a suggestion. You guys can do what you want to do.

Clements: October 3rd. The first Tuesday in October. It is in the county building, the Showers Building on the north end where some of you have been in the last few weeks. We have an admin meeting in that room on the first Tuesday of the month.

Jelen: There is an administrative meeting on October 3rd. We do not accept public comment at that meeting so are advertising October 26 so if you would like to come and speak it is a public hearing and you are able to do so. But Plan Commission member Bernie Guerrettaz is asking if you can have a meeting by October 3rd and send those notes to staff, we would be able to bring that up to the Plan Commission for their discussion prior to the October 26 meeting.

Clements: And maybe give you feedback.

(Inaudible)

Jelen: Yes, because the budget hearings are moving the meeting.

Clements: I would probably send the recommendations to the staff and attend the meeting by zoom so you don't have to come out until October 26th. But that is me. If I could, I would attend by zoom. We thank you for participating. Thank you. Yes.

No motion is made in case PUO-23-4, Worms Way PUD Outline Plan, Final Hearing, petition is moved to the next regular Plan Commission Meeting on October 26, 2023.

REPORTS:

Carmin: (Inaudible)

Enright-Randolph: Mr. Carmin, just hang on, we are still live. **I will go ahead and move for adjournment** and if so moved and then maybe we can turn off the zoom.

Carmin: (Inaudible)

Enright-Randolph: Mr. Carmin, I'm sorry. I think we are still active, and we are still live.

Clements: We have to adjourn first. Just one second. There was a motion to adjourn. Is that seconded?

Pittsford: **Yes.**

Clements: Is there any objection to adjourning? No? Ok, the meeting is adjourned.

Legal/Schilling: No reports.

Planning/Jelen: No reports.

The meeting adjourned at 7:37 pm.

Sign:

Attest:

Margaret Clements, President

Jacqueline N. Jelen, Secretary

DRAFT