

**MINUTES
MONROE COUNTY PLAN COMMISSION
August 16, 2005, 6:00 P.M.**

CALL TO ORDER: 6:00

ROLL CALL: Dan Baugh, Andy Dodds, Kevin Enright, Iris Kiesling, Richard Martin, Charles Newmann, Jerry Pittsford, Sophia Travis

INTRODUCTION OF EVIDENCE:

Cowell requested that the following items be entered into the record:

The Monroe County Comprehensive Plan (as adopted and amended)

The Monroe County Zoning Ordinance (as adopted and amended)

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

The Plan Commission Rules of Procedure (as adopted)

The case files and contents for each of the cases on this agenda

Letter from Bill Williams which is referenced in each of the Staff Reports

APPROVAL OF AGENDA WITH AMENDMENTS:

0501-SPP-02 Admiral Estates Subdivision, Preliminary Plat, 19 lots on 25.02 acres, 5300 block of Fairfax Road, Perry Township, Section 28, zoned Estate Residential (ER). (Request by applicant to continue to September meeting)

0505-SPP-07 Cowden Park Subdivision, Preliminary Plat, 25 lots on 33 acres, NE Corner of Woodyard Road and Vernal Pike, Bloomington Township, Section 30, zoned Light Industrial (LI). (Previously continued to the September meeting)

0506-REZ-11 Cornerstone Design Concepts, LLC Rezone from AG/RR to MR, 11 lots on approximately 53 acres in the 5900 block of W. SR 46 in Richland Township, Sections 10 and 11, zoned Agriculture/Rural Reserve (AG/RR). (Requested by applicant to continue to September meeting).

0507-SCA-01 Monroe County Board of Commissioners, Text Amendment, Section 856-1, Section 1 and 2(B). Basis for approval/denial of subdivision plats (Continued to September meeting due to lack of action from Plan Review Committee).

0506-SPP-11 Southern Indiana Medical Park II, Preliminary Plat for 8 lots on 38 acres at 4300 S. Rockport Road in Perry Township, Section 19, zoned GB/LI. (Request continued by staff due to failure by applicant to comply with submittal requirements)

0506-SPP-12 Freeman Fields, Preliminary Plat for 35 lots on 100 acres at the 8600 block of S. Strain Ridge Road in Clear Creek Township, Section 15, zoned AG/RR ECO Areas 2 and 3. **(Request continued by staff due to failure by applicant to comply with submittal requirements)**

APPROVAL OF MINUTES: The July 19, 2005 regular meeting minutes were approved with amendments.

Cowell introduced Mark Yates who will be joining the Planning Department in September as Planner replacement which is a result of Gregg's promotion to Assistant Director and Jason's promotion to Senior Planner. Mark is currently employed as a Plans Reviewer for the Building Department, has a Master's degree in Architecture and a Minor in Planning and has worked for the Building Department for almost two years. He said hopefully he will be joining us right after Labor Day and that they are working with the Building Department to make the transition as painless for them as possible, given they only have two Plan Reviewers. Cowell welcomed Mark and said he will be joining us for real in the September Plan Commission meeting.

OLD BUSINESS:

0505-SPP-08 Shawnee Bluffs, Preliminary Plat, 20 lots on 127.87 acres, 7500 block of Rush Ridge Road, Salt Creek Township, Sections 33 and 34, zoned Forest Reserve (FR) and ECO Areas 1 and 2.

BOARD ACTION: Martin read the petition.

STAFF ACTION:

Cowell said primarily as a reminder to the Plan Commission and to the public they have conducted their public hearing for this case at the last meeting and it is at their discretion to reopen that public hearing. Schilling has pointed out that if there are new plat revisions being proposed they may indeed wish to reopen the hearing and it may be appropriate to discuss those changes only, not the general concept. He said he suspects during this presentation Zody is going to give some update based off of the questions they left with the last meeting and Steve Smith for the applicant can give an update of any changes that have occurred on the plat.

Zody conveyed two corrections; on page 53 at the bottom there is a sentence that stops midway; that should be removed and one paragraph up where it says Lot 5 should say Lot 7.

Zody started where the Plan Commission gave the Staff direction to work with the petitioner on addressing a few items of concern. He prefaced that by saying the petitioner has withdrawn the request for the community system; they are now proceeding with the mound system for each individual lot and Staff has on file conditional mound permits for each of the lots. He said Staff met with Mr. Smith two weeks ago. He said as they had discussed they had gone over some of the comments Wednesday at the Plan Commission meeting; he gave them a copy of plat where he had noted **some** and he believed he had mentioned the areas around Lots 16 and 18 were some

of the most prevalent areas that Jess had cited as being disturbed areas and thus being restricted. That is where a difference of opinion comes in with Mr. Smith and Staff. He said there wasn't a lot more to their meeting; they went over the areas cited by Mr. Gwinn and they could see where there were some discrepancies between what Mr. Gwinn found, who is a registered Land Surveyor, and what Mr. Smith found when he re-evaluated the slopes and what Staff found. That agrees with what Mr. Gwinn pointed out in that disturbed area; it is still in the restricted area of the slope, still in area 1 and is still subject to those regulations in Chapter 825. He said Mr. Smith addresses the meeting in a memo following that and also supplied a new map which he will let him address. Secondly, Mr. Bohrer relayed there was an agreement reached between the petitioner and the property owners to the north in Lands End. He said he does not know the details of that and presumes Mr. Carmin will address those.

Zody said saying Staff is proposing to subdivide approximately 128 acres into 20 lots, located in Salt Creek Township off Rush Ridge Road on the east side of 446. He showed an aerial view which gives a better shot of the currently disturbed area on Rush Ridge Road where IU Campground currently sits and showed the plat which he said does not give good resolution. The petitioners proposed developing all the areas that are currently less than 12% in the areas that are in area 1 of the watershed. Zody gave a rundown of the conditions:

Zody said the petitioner has proposed since he is going with the mound system to take the area around that was a pasture area on the western part of the site and add it into Lot 7 which would create a 15 acre parcel. One of Staff's more notable conditions was to relocate or remove Lots 13 and 14 and Lot 20; one of the areas they had cited was the pasture area. The petitioner had received a variance earlier this year for this area to be used as a maintenance road for the common treatment system. Since the common treatment system is off the table, Staff feels they could utilize one of the conditions we gave at the BZA which was that this maintenance road could also serve no more than four lots, so they feel that moving either 13 and 14 up to what was part of the common area and they could access it there now as opposed to using this road where you are going to have at least 5 or 6 culverts feeding in to this area. They are going to have two drives proposed; one which does not encroach and an area that serves Lot 20. It does have a contiguous area which is another concern Staff had that the developable area for that is only about 50 to 60 feet wide at the most and they feel it would be unsuitable for a building site. It does meet the one acre contiguous developable area. He pointed out an area saying it would serve as the end of the right of way dedication into the right of way for county maintenance. From here all the way up north to Lands End the petitioner has proposed correcting the road, has improved the curve and the slope so it would meet AASHTO's standards. The petitioner has also proposed improving Rush Ridge Road where it makes a slightly left 90 degree turn upward. Most of the lots are located on Rush Ridge Road. One of Staff's issues was that it would have to go across what is a logging trail but they felt it wasn't sufficient enough to serve two lots and that the petitioner in order to install the culverts would also have to disrupt the restricted land and that would necessitate a variance in Staff's opinion. Zody went over the conditions, noting that No.'s 7 and 8 are from the Drainage Board's recommended motions.

1. Lot 20 is removed and/or relocated
2. Lots 13 and 14 are removed and/or relocated
3. A large commercial driveway shall be applied for and shall be constructed at the entrance

to the subdivision on Rush Ridge Road. This construction is the extension of the existing road improvements made with a previous development, on a new alignment. If the old roadway is to be used for lot development, a vacation of the road easement may be required.

4. Street stubs in accordance with Sections 856-13 and 21 are being provided to the adjacent boundaries where practical road extensions may be made in the future
5. The interior roads are to be constructed in accordance with public road standards as outlined in the Subdivision Control Ordinance. Construction plans shall be submitted for review and approval. A performance surety will be required at final plat approval
6. The interior streets shall have a 50 foot overall Right-of-Way. This requirement has been satisfied
7. The amount of tree clearing per lot shall be limited to one-half acre
8. A certified drawing showing tree removal area shall be submitted for each lot

Zody referenced letters from Libby Frey, Bloomington Environmental Commission and The League of Women Voters saying they were to go on record.

Kiesling reminded folks they had a public hearing at the last meeting and they will not take any public comment unless there is new information.

Cowell said they will try to identify the new information and they can choose whether or not it is necessary to open up that part. Steve can follow up also and explain if there is any new information he missed. He said there has been a slight modification to the plat since July which focused primarily around the cabin area where the existing cabins are. There were some questions about whether or not those should be counted toward the regulated slopes. It was the Staff's recommendation that they do be counted; Steve Smith has concurred and they have adjusted the lot lines to demonstrate that area being in the regulation slopes and yet still providing the one acre contiguous for each of the lots. He believes plat wise that is the only change since the last meeting. The other changes are those Zody itemized in the memo that is included in their packets in terms of the fact that now we are dealing only with mound systems though that did not result in a plat change and the other information regarding the private agreement that has been established. He said as far as he is aware at this point those are the only changes that have occurred between the July presentation and today.

BOARD DISCUSSION:

Pittsford read the letter from Bloomington Environmental Commission regarding development of Shawnee Bluffs, dated August 16, 2005: "Monroe Reservoir is the main source of water for the city of Bloomington and a large portion of the surrounding area. The city's water treatment plant provides high quality drinking water distributed not only City of Bloomington Utilities but also several rural water companies serving most of Monroe County and parts of surrounding counties. Since development of any kind adjacent to Monroe Reservoir endangers the quality of this water, it would be preferable to prevent it entirely. With regard to the proposed Shawnee Bluffs development, the Bloomington Environmental Commission recommends that to the maximum extent permitted by the Monroe County Zoning Ordinance requirements and restrictions be opposed in order to minimize detrimental effects on water quality and quantity. In particular, it would be prudent to safeguard the long term integrity of the sewage system by requiring that it

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be under the supervision of a responsible public entity rather than individual property owners or a homeowner's association."

The 6 page letter from Libby Frey was passed around for reading. Kiesling said she had information from Mrs. Frey that was similar to what Mrs. Russell had talked about at their last meeting.

PETITIONER:

Steve Smith spoke, representing Mike Jarvis, owner of the property. He reminded them that this is the Shawnee Bluffs Alumni Camp; the road they are talking about is already in place and most of the areas where the lots are going to be have already been cleared and disturbed so it is not a new site. We are talking about some private roads being built and some houses being put up. The first item of discussion over the last month or so has been the slope determination and he thinks it was clear in the workshop that the method they used for slope determination was the method that was adopted by the Plan Commission and the Commissioners about 10 years ago and has been used consistently by everyone involved since that time. He said they submitted large scale drawings with additional detail on the slope and that is what he and Zody went over on August 2nd. One thing they found was their slope analysis agreed with Jess's who was there last month taking issue. They agreed except in two areas but basically they agreed on the method of determination. He said they believe that method of slope determination ought to be the one that continues this evening and until a legislative body changes that method. At the work session, the Staff had given them input that the areas that were previously disturbed, where the cabins are, primarily on Lot 16 and a couple on Lot 18, should not be counted as a part of the one acre minimum required. Lots 16, 17 and 18 were in question so they took the Staff's interpretation and went back and what they needed to do was move Lots 16 and 17 a little to the south because there is plenty of room on the ridge top. But they didn't have enough in Lot 16 when they took out that .2 of an acre so they moved them over a little bit and that was the revision to the plat. They made that change since that time.

Smith said the other item that was raised was the artificial (man made) slopes, like the slope that comes when you cut or fill a roadway. They had at least one spot where there was a private road that was built 30 or 40 years ago that definitely had slopes that were about a 3 to 1 or 33% and Staff indicated that those would not be controlled by the Environmental Constraints Overlay, in large part because we've got those all over the county in the road construction areas and the areas that are artificially built for that criteria. He said Lot No. 20 has had a lot of discussion and contention and there has been a lot of discussion about whether there is room to build a house. He pulled a series of house plans off the internet and said they have got 50 feet of width, and maybe a little more, and well over 100 feet in length. It was easy to go on the internet and find homes that were less than 50 feet in depth; most of them were less than 50 feet. Smith passed examples of his findings around which had the depth of the houses highlighted. He said most of the houses in our community are less than 50 feet in depth. Lots 13 and 14 have been an issue. On August 2nd they presented a drawing to Staff that showed that the existing logging road generally is less than 12% slope; there is one 50 foot section that is actually at 12%; the rest of it varies from 11% down to 2%. Also that existing logging road is enough of a road that it has side ditches, drainage has been provided. At the last meeting Staff pointed out that their pipes that went under the road extended out into the environmental constraints overlay and they did

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because they put standard end sections on those pipes and they stick out a little. Since then they pulled back and said let's run the pipe from edge of the roadway on one side to the edge of the roadway on the other side and put an old concrete headwall there so it stops and doesn't have to go out at all. They can put those pipes within the area that is the old road. In contrast, to build this road up here, they did need a variance. Not only did they need a variance, but the valley up here is much more significant than any of these pipes up here. These are minimal size culverts to get a little bit of the hillside down there. There is a lot of drainage area up here that flowed into this one but it is much more significant getting back to this piece than it is to get down to these. In 13 and 14 there are several culverts but those culverts will be built within the confine and they are all relatively small. He said they got a variance to build this road back to what would be the sewage treatment plant and Staff is recommending they put lots back there, but that variance required us to cross the bigger creek and cross slopes steeper than 12% which they don't need to do over here. He said they did get the variance but it doesn't mean it is a good thing. They can build Lots 13 and 14 without a variance; Lot 7 would require them to utilize that variance they were given. He said the shading on the drawing is dark because there are a lot of contour lines; one slope is pretty steep, another couple are pretty flat; once they drive down to the building site on 13 and 14 the slopes out to the water are relatively distant and flat. This was discussed with the Universal Soil Office equation; it is a function of slope and distance. The slope from the building site on Lot 13 varies from 5% to 10% and it is about 500 feet to the water. On Building 14 it is 300 feet this way to the water and about 200 feet the other way to the water and those slopes range from about 5% to 15%; those are some of the flattest slopes on the whole project. As a matter of fact, the building sites here are much like the ones in Lands End. We don't see these as particularly more environmentally sensitive than any of the other lots. As a matter of fact less slope impact the less erosion impact and they have shown they have shown they can build that road down there without variance to the ECO zone. The neighborhood agreement is in place. They did take out the sewer treatment system; they felt like that would cloud the issue on the subdivision itself; they may come back later and it would be a plat amendment, but at this time they have taken that out and are proposing to use mound septic systems on all of the lots and they have all those letters in the file. He passed out a memo containing the contents of his presentation.

Mike Carmin spoke, also representing the petitioner, with regard to **agreement with the neighborhood** and what it consists of, saying it boils down to two issues; the private road which Zody identified in his presentation regarding use and maintenance of that because it will primarily affect the people of Lands End because they use that existing road. Part of the agreement works out the maintenance terms on what would be the private portion of that road. The other principle issue in that agreement deals with some adjacent area that we've referred to as the peninsula and talked about before that is not part of this petition but it does restrict residential development of that to no more than **one** on that entire 35 acre piece. He said when they act tonight, Conditions 1 and 2 regarding removal of Lot 20, and Lots 13 and 14 are not acceptable conditions to the petitioner. They would ask them to vote on the petition without those conditions because they are not acceptable. He said he believes the petitioner is entitled to action one way or the other on the petition as submitted, not as modified. Smith has addressed the issues that really affect those three lots. As he read the Staff Report and listened to Zody's presentation tonight, the objection to Lot 20 is not a technical objection; if there is anything in Lot 20 that does not meet the ordinance, it is a preference issue. They thought it might be difficult to put a home in there and Smith has attempted to address that issue stating that

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perfectly acceptable homes can go on that site as it is. On Lots 13 and 14, the Staff's objections as they understand it both by the Staff Report and Zody's comments tonight dealt with the slope issues on the road and he believes Smith has addressed that also with the _____ issue and there will be no disturbance of the slope areas. He said Lots 13, 14 and 20 meet the requirements of the ordinance, those are part of the petition and they ask for action tonight on the petition for 20 lots as proposed.

Kiesling asked if they were still considering the petition without alterations. Cowell said with the exception of the noted change regarding the adjustments in 16, 17 and 18 to accommodate the one acre contiguous; otherwise everything else is the same as submitted and also with the removal of the consideration of the common waste water system.

BOARD DISCUSSION:

Martin asked Staff how we treat a guest home in an area like this; is it a separate home. There is a plan to keep the existing log home as a guest home.

Zody said they are permitted in Forest Reserve zoning district. A typical guest home is defined as "a seasonal occupation of the home by non-paying guests." He said Staff emphasizes that to the public; it is not a second principle use.

Martin said his question is does it require its own septic system.

Zody said that issue has not come up. He would say it depends on the distance from the house and how the existing septic is designed.

Martin said he believes the permits they have are good up to four bedrooms; the question is on the lot on which this is going to be put if it actually has two homes on it, the number of bedrooms will certainly exceed four, is there available space on that particular lot for the size system that would be necessary for both homes, or does the Health Department require separate septic for that other structure since it is a free standing home.

Cowell asked Martin if he is referring to that lot where they are proposing to keep the cabin. Martin said they haven't to leaving that home on that lot; he thinks the statement was they are going to reuse the building but not leave it where it was positioned. They are going to move it some place. On some of these lots they could put it quite a ways from the home. He asked how they deal with that; is that another septic that is required?

Cowell said he doesn't know the answer to that. He said if he had to guess, he would say they would be required to have a separate system for each home. We don't deal with guest houses that often and if we do they are part of a guest suite in a house where they are treated like another bedroom. His guess is if it is a separate structure, it would require its own system.

Martin asked if they could make that a condition of approval that if the guest house is going to remain that it have its own septic.

Cowell said yes, and they may commit to removing that option as a guest house. If there is

going to be a guest house you can add conditions to the regulation of that guest house.

Smith said there will be no guest homes except that one existing cabin on that lot. In terms of condition of approval he thinks the only condition required is they have to meet whatever the health ordinances would be on that.

Cowell said what would happen is if they wanted to put a second home and one of those would become a guest house, we would require at that time that they have the approval of the Health Department to do so. If for some reason they were unable to secure what the Health Department would require then the cabin would become the only home allowed on that property or they would have to demolish the cabin and put another home on there. That would be true regardless of where it is located; he just can't give the specific requirement of what the Health Department requirement would be in that instance, whether it would be a larger system or a separate system.

Schilling said his recollection is in the past when we have had multiple use of a single septic system that it required state approval but that may have been because there were different owners. He doesn't think they have come across that in the context of a guest home. He said he believes in the past when we found multiple homes on a single lot we have required them to have separate septic.

Martin referred to a note on page 45 of the minutes from their previous meeting regarding whether they were going to have a common system or individual septic systems. He said the statement said they would need an extra quarter lot of clearing for on-site septic systems in addition to the half acre that had been committed for the clearing for the building sites. The guidance they have from the Drainage Board reflected in Condition Number 7 would limit this to a half acre per lot of clearing. There is plenty of room on most of these lots without doing any clearing at all. He asked on those where they do have to do some clearing if a half acre is sufficient for the home plus the on-site mound system. The only guidance he has is the one which is a home and a mound system on Rush Ridge Road as you're coming up to this where the mound system sits between the road and the house and it appeared to him they made it on half an acre but that puts the mound system essentially right next to the house.

Cowell said he thinks it is going to vary lot by lot as to whether or not that half acre is going to be sufficient. He thinks, in previous discussions the applicant has indicated it is their belief that on at least some of these lots a half acre will not be enough and they would need more than a half acre in some of the cases.

Smith said they wanted a half acre plus the area for the septic field and that is what they applied with and that is what they took to the Drainage Board. The Drainage Board didn't discuss that particular issue; they only discussed the half acre, so the motion was made for just the half acre, so they stuck with the half acre. He said he went back to the Drainage Board last month, they reviewed it and even though they had requested both it didn't come up in conversation so the motion was made for half acre. That was their recommendation and that is the Staff condition. A half acre is about 100 by 200 feet and it would take about 30 by 100 for a mound septic, so they would still have 170 by 100 which is plenty of room. He said they wanted more but they can live with a half, given that was the position of the Drainage Board and they hadn't addressed it. To go back to them would have required getting it on the agenda and probably going in

September so they settled for the half acre.

Martin said if they are satisfied with it, okay. Martin regarding Lot 20, looking at this plat, the septic system which is designated for Lot 20 is more than 300 feet away from wherever you can build a house on Lot 20 other than where the septic system is. He asked if the permit for that from the State Board of Health indicate they have given them a waiver of their 300 foot rule.

Smith's response was inaudible. Said it is just a standard letter.....

Martin said their assumption was that the house was not going to go out on the peninsula; it was going to go proximate to the septic system.

Smith said at this point in the preliminary plat all you get is a letter that says the site is suitable for septic; you don't actually get a permit. When they go back for a permit they would have to address that. If they don't give them more than 300 then the 300 would be the control on the house location.

Martin said he needed to understand where the dots on the map are assigned to different lots.

Smith said on the full sized map there are circles that show where the septic permits are and he didn't know if they show up on there or not. He said there are little circles where the soils test was taken. He said that is the area that is guaranteed because they need some assurances for the Plan Commission that they have systems though often times when it comes time to place the house and the septic that might be moved a little bit.

Martin said in this case it makes a great deal of difference as to where that house is going to be positioned on that lot. If it is positioned within 300 feet of the existing designation of that septic system, then it is not out in this contiguous area on that peninsula; it is more than 300 feet away.

Smith said the regulation says they can't pump more than 300 feet. Often times what they have done is for example this is the high spot, the house could be here and gravity down to the low spot and then pump over to the field. He said they do that on a regular basis. The intent of that regulation was that the septic wouldn't be over the hill hidden someplace where it would be out of site, out of mind. In this case, the septic is right up on the flat and the best area for a septic, very open and easy to see; if there is a problem with it, they are going to know it. If they ask for a waiver they would probably get it because of the intent of that regulation. It is the distance of pumping; they gravity to a low spot and pump over. They haven't designed it so he can't give specifics.

Martin said so we can't use that as any kind of indication about how a home would go on a lot because it doesn't constrain them.

Enright said they had a work session regarding this last Wednesday and after three hours of listening about slopes and ways of calculating he went out in the alley and asked what could be worse than this and this brick fell on his head and he heard a voice saying "Kevin, just use the tools that are given you." So he took this brick and he had this string along with a bubble level and went out to test this new high tech system for computing slopes. The ordinance states 12%

is to be measured in a 50 foot horizontal contour so you take your six foot pole and take this out to 50 foot and if it's level and over his head that is greater than 12%; if he runs into it when it is level, it is less than 12%. He thinks it is pretty straight forward with this system to go out and calculate the 12% slopes. He said people would generally agree and he was impressed with how close you could get that on the ground. This is determining with what he calls "ground **truthing.**" In order to run the calculations and verify we are all in agreement, those points need to be staked out into the field where you can see them and then verify them. He thanked Martin for pointing that out; our ordinance does not state points and we definitely go from point to point to define this conservation easement. This second component in this calculation has to do with the elevations for the county. This is work that is being done by the Indiana Geological Survey and he has gone this week to collect this data. This is a high resolution digital elevation model based on the city and the county contours. It gets into a brief discussion and he wants to keep it quick but wanted it entered into the record because it might become a factor later on and he thinks we need a solid baseline for determining slopes for everybody within the county and he thinks this is the most up to date scientific way we have. That was determined by the two foot contours. It is so beautiful when it all flushes out but this demonstrates the difference between the two basic models in GIS; you have your raster model set which is the digital elevation mode and your contours which is a vector model set. What they teach you in the school is the thing that vectors are more corrector. The raster is faster, but the vector is more corrector; you get more exact information. Then there is the third data model set for gauging slopes which is the tin which is the triangulated irregular network. This takes this and makes the new model set for calculating slopes and aspects and he thinks that is where we need to go for calculating this for every parcel within the county. He said he thinks the two systems go hand in hand. One is having a system to be able to go out and field-check what's been done in the field, having stakes on the ground where they can check it. Two is just having a scientific way of calculating this so the public, the staff and anyone can have answers up front so that they don't go over a year having these discussions.

Newmann asked regarding the statement that the Health Department has issued letters of approval for the septic permits how the Health Department determines this. He said we have heard that these septic systems when they were under the IU Foundation historically failed. He said they have asked this question in the past of the Health Department of how they determine when a septic system will perform when we have got the historical knowledge that they have not performed on this very same site. He said he can't get an answer from the Health Department on how they really determine that type of soil in a particular location will support a septic field.

Smith said it is a multi-step process; it starts with a soil scientist, certified by the state of Indiana to go out and determine the characteristics of the soil. Permeability, type of soil, water table, rock, hard pan and all these things are looked at as they take samples. Often times they will actually dig a hole or take a probe and that data is then put into a report that goes back to the Health Department. On a larger project like this they will hire a certified soil scientist to do that and turn those reports in to the Health Department. On a smaller project, one or two lots, they actually apply to the Health Department and they go out themselves and take those soil samples. It is more scientific than it was back when the IU Alumni Camp was put in, but in the alumni camp he thinks that was more a problem of a large septic system which used normal septic technology without the knowledge we have today. That kind of system wouldn't be put in today; it would be dramatically different. What happened there 30 years ago wasn't so much a function

of the soil; it was a function of the system they put in wasn't right for the soils.

Newmann said it seems obvious if the old system failed on this soil and the soil hasn't changed, he cannot see how a new system will work there.

Smith said it has a lot to do with the loading rate. One of the things they determine is how much it can be loaded, what the loading rate is, so many gallons per day per square foot which is all based on this soil report. There is a lot of data which is looked at very conservatively now. This used to be done based on perk tests, even for a big system like this, but now it is based on pretty sophisticated information about how much loading a particular soil will take. **Then there is a big factor of safety put in it to insure it works.** There will be mound systems so theoretically the sewage is pretty well treated before it gets to the ground anyway because it goes through the sand filter and the gravel filter before it gets to the ground.

Newmann said there still is no guarantee that the systems will perform.

Smith said there is no guarantee but he thinks they have a pretty good record. He said the mound performance in the county is very high.

Cowell said they have given a presentation to the Plan Commission about surveys they are doing to look at failing systems that were built within the last five years and the failure rates were low.

Zody said it was 3 % to 5%. Smith said a benefit of the mound is you can scrape it away and build it back as opposed to a septic field which pretty much spoils the ground. When a septic field fails you have to have a new place to go but you can rebuild a mound.

Newmann asked if the developer is anticipating the Southern Indiana Sewer District monitoring and maintaining these systems.

Smith said no, they are submitting this with septic systems like any other rural subdivision you have seen this year.

Newmann said he thinks that would help and that is one of the things the League of Women Voters is suggesting.

Smith said if at some point that system is set up, they would be glad to participate but right now there is no such system. There were a lot of questions and controversy about the treatment system so they just took it out. He said they think the treatment system is better but it really confused the issue so they took it out and may come back to it later but he understands from Cowell it would take an amendment and they would have to come back to the Plan Commission to put it back it. They are trying to keep the issue tonight 20 lots on this land; there are enough other issues with slope, etc. and they want to use the septic letters that have been issued.

Newmann said he would like that to be considered as one of the conditions that the Southern Indiana Sewer District be required to maintain the septic systems in this subdivision.

Kiesling said she did not know if they do that or not; they do systems but she doesn't think they

do individual ones. She said she thinks they will be on GPS which they do now for any individual septic that is being put in now so they can track them and have more frequent review of each one.

Baugh said that is correct and what they said at the Health Department.

Newmann said that will locate the system but will not monitor nor maintain it

Pittsford said it is being discussed about having some public body take care of these systems but he thinks we are a long way from that in the county.

Kiesling said she thinks they will be discussing that at a meeting next week.

Enright said concerning Lot 20 is something they need to look at with additional impacts. He said we see this when we get piecemeal development because there is the other parcel further on into the peninsula, 16.92 acre that comes off Lot 20 and we are going to have to deal with access issues through there. To the north of Lot 20 is another 18.5 acres so we are looking at 35 acres more of development that is going to be developed we must assume at some point. It is not part of this petition but it doesn't mean we don't look at that and consider the future impact. He said he just wanted to point out that we are being asked to ignore these two parcels as not being part of this petition.

Kiesling said she doesn't think so; that is one of the items that was discussed earlier that there would be no development on the peninsula.

Enright said there is going to be road access and improvements that would have to go through this area on steep slopes and perhaps the best access would be on this flat area that is being called the buildable lot for Lot 20. He said he thinks there is support of evidence of the Staff's condition.

Smith said there is a road in place now that has been there for many years that follows this property line and goes all the way out to the point that shows up on the preliminary plat and that is the 35 acre piece. He said all of this is the 35 acre piece that Mike owns that has been the subject of discussion with the neighbors but we have agreed with them that we won't seek any more than one house, that it would be one house on the existing parcel of record. The road is already there, you can drive it and it is not the part of the lot that would be built on. There is a separate parcel that is in separate ownership; that one is not owned by Mike but by a third party. He said they did not know the status of it; it is all on the steep hillside. There is some question as to whether we have easement across them or they have easement across us. If that could have a house on it, there could be two houses there though there is no place for a septic field on that lot.

Martin made a statement about the slopes thing. Though Smith reported they discussed it, he thinks the conclusion of that discussion was not correct. There is still a great deal of difference between some members of the Board and this petitioner and many other petitioners regarding how slopes are being calculated. There is a statement that the way we are doing it now is the way it has been done historically; it is not necessarily the way it is called for in the ordinance. There is a method of calculation that is developed over some period of time. It is his impression

that it was not the method that was used back in 1992 when the ordinance was passed and at some time in the intervening years the methodology has changed and he suspects it has changed to benefit the people who are petitioners rather than providing maximum protection for the watershed. He said he will not support any petition that comes before him which does not calculate 12% slopes correctly, and by correctly he means that the language of the ordinance must be adhered to and that language is fairly specific about what constitutes a slope greater than 12%. He said it is pretty simple to him how it is done. He believes that what is being done now clearly does not protect the slopes that are the intent of the ordinance and he believes they can demonstrate that on any site that has been developed in the last five years where we've had a concern about how you deal with undisturbed areas in these ECO slope areas. This is going to be an open issue and it is going to continue to go. He applauds Enright for trying to make some progress on this. He thinks we are very close to providing the mechanism where the county can make slope determinations for every parcel within the county based upon the mapping which the state is doing now. He will encourage the county to proceed as fast as they can on establishing such maps so they are available for everybody and establish them in such a way that they maximize the protection that is given to our water resources rather than minimize it.

Kiesling said she is not in favor of having these lots; she supports what the Staff is recommending to remove 13, 14 and 20. She said she wanted to thank Mrs. Barbara Russell who worked very hard through the whole study of Bill Jones to come up with some short comments considering she gave her a whole packet of information. She thanked Libby Frye who has also given her a packet of information over time and opposed the alumni camp in the very beginning. She said some of them were there and also opposed it at the time. She is very concerned that we continue to develop in the most fragile areas of the lake watershed. One of the recommendations has been, and we have talked about this before and the commissioners are talking about it again, is to look at how we can put together some kind of Monroe Reservoir Watershed committee. She said she thinks it is time we go back to that. They have met with other commissioners of adjacent counties to talk about that; it's been dormant for a couple of years and they have been having some discussions about trying to do that again and she would like to see that they do this because we are not the only users here and the only people who impact on the lake; it is mostly the people who are outside of our own jurisdiction who have the biggest impact on the lake. She said she thinks we need to work with our comrades in arms who are in the total drainage area of this lake so we can look at the future so they also get protection; they will be interested also in the water from this lake. She said she can see this being a much more regional resource rather than what we have today.

Kiesling moved and Enright seconded to approve petition 0505-SPP-08 taking out Lots 13, 14 and 20 with conditions as described in the July 19th packet. Martin amended the motion that a condition be added for clarification on the issue of whether the cabin needs a separate septic permit needs to be resolved prior to final plat so it can be shown on the plat.

Enright said he is uncomfortable with this motion and that he is more inclined to favor the Staff's recommendations with the relocation of 13, 14 and 20. Kiesling said she took the extreme which is to remove the lots. Enright said he is more inclined to favor Staff's recommendation to remove or relocate these lots; he thinks that with removal of the common mound system there opens up ample area for reconfiguration of the lots to allow for a development there and he thinks the petitioner, by the ordinance, has a right to pursue that option.

Newmann said by leaving that Lot 7 large that leaves the opportunity for the developer to possibly go in with the central system that they were considering and they might still consider.

Enright said that would be an option also but we would leave it open with them, giving the possibility to relocate those other three lots in this place. That would be their decision/choice.

Newmann said if we relocate it that takes the option of the central system off the table.

Enright said they still have that option. Kiesling said what Enright is saying is if they have the option to either remove a couple of those lots or relocate them that the fact that they have an option to take one of those lots, they could take that facility and still use it as a central system; make Lot 7 into a system for **central sewer system**.

Martin said the variance they were granted allowed them to create the road under the condition that there be a central system put back there, but it also added an option to put lots back there on that road as well. It could not be done without the central system but it could be done with the central system and up to four lots was the language we used because we considered it like any other driveway that could have four lots off of the driveway. They do have an option to put both a treatment system and some lots back there should they choose to put the treatment system in.

Cowell said just for clarification when the variance was granted by the BZA there were no conditions attached to that variance so he is not certain that actually is the decision of the BZA. The applicant came in and requested the variance to be able to encroach upon the slopes and it was for the purpose of constructing the plant. The Staff also recommended that there be up to four homes allowed on it. He doesn't know that the BZA ever stated that it was only four homes if the sewer plant is there; there was not a condition attached that said that. He doesn't know if that is what the BZA intended when they approved it or not, but there isn't a condition that says you only get those four homes if the treatment is in that location. Certainly the applicant was asking at the time for the variance for the treatment plant. There is no question it was the Staff's recommendation it also be allowed to put homes back there, that those four home sites were permitted and it was specifically for this purpose. Staff wanted to be able to have a location to relocate lots that might have other problems on the property.

Martin said they will need to go back and check details on the record because his recollection is they were bound together although it could be that when they actually stated it we did not state it that way.

Pittsford asked Kiesling if she is saying her motion is contingent upon the removal of Lot 20 and what her reason is for that.

Kiesling said she thinks it is an area that is fragile enough that it should not be developed.

Pittsford asked if objection was not for the sufficiency of being able to build a home to the residential standards of the neighborhood.

Kiesling said she is taking advice from the Staff on this one and 13 and 14 is the access.

Pittsford said Staff thought the site was not suitable for building the home consistent with the neighborhood.

Zody said his whole point was the width was one of the concerns and they are fairly close to the karst feature and just south of the site, very close to the edge of this one acre contiguous area, are some significant slopes going right down to the lake.

Pittsford said he was eluding to the fact that it is simply on design standards when you get into the possibility of future subdivisions that have smaller lots and setbacks that would dictate a specific size house we would use that as a precedent if the Plan Commission decided they did not like the specific size of the house that would be allowable on that lot that could cause the whole plan to be tossed out.

Kiesling said she does not know what size house goes on there; she just thinks it is unsuitable for a lot for a house development.

Cowell said he doesn't think the Staff's recommendation is based on trying to get a certain type of home placed on this property; the recommendation is based on the fact that we believe this lot is unnecessarily irregular and will cause problems in securing building permits. Obviously the applicant has presented information to refute that but they continue to believe there will be problems with this.

Pittsford said the discussion of the design was brought up at the work session and he wanted to be sure that wasn't what she was saying because if it was construed that way it could conceivably be a problem for future development.

Cowell said that is a good point and he wants to make it clear that that is not something they are attempting to do in this case or in any other subdivision where we would say we want lot sizes to be this certain size or arranged in a certain way in order to encourage or stimulate a certain type of house. That is not our intent.

Dodds asked about design criteria in terms of what they feel is appropriate for the size of that lot, even though it meets the standard.

Cowell said it depends on what the standard is; it meets the lot size and appears to meet the one acre although there is an argument about whether it is contiguous the way it is described in the ordinance. It is a linear strip of one acre, whether that rises to contiguous or not. This is one of those instances that in Staff's opinion that the concrete standard in this case is not as concrete as it is being presented: That we've got a lot that is five acres in size, therefore we meet the standard. You're not limited to just looking at it is five acres in size; you're also empowered within the ordinance to look at the configuration of the lot and the expectation that it can reasonably accommodate a home on the property. That is where our concern comes in. You have been presented evidence by the applicant that he believes refutes that and that he can demonstrate that it is not unnecessarily irregular and homes can be placed on this property. He said we still have concerns regarding that. This is one of those instances where the standard is not as black and white as perhaps is being portrayed. Plan Commission has discretion in where lots are placed and in the configuration of those lots. You certainly have to consider those

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standards that are fixed, like five acres or two and one half acres, or setbacks but there is also a bit of discretion in those instances.

Dodds asked if Schilling concurred in that. Schilling said yes. Dodds asked in what part of the ordinance does it give us that discretion. Schilling said there is provision in the ordinance to talk about lot size and determining that there is a suitable space for building. You might be able to put a building on there but you might want to do it in a fashion when you construct it so you are not disturbing sensitive areas, etc. There is state law that says as a condition of primary approval you can specify the number of lots. There are other provisions in the ordinance that say if you find it would be injurious to health, safety and welfare that you can deny a particular division. There are all kinds of language in there that supports what Cowell says. But as always, it has to be justified; your decision has to be rationally related and justified by record evidence.

Cowell said one of the things we were looking at when we were asked this question was the section of the Indiana code that Schilling pointed out that deals with what he just mentioned which is “as a condition of preliminary (primary) approval of a plat, the commission may specify and there is a number of things they have the discretion to specify and one of those is for the lot size, the lot number and the lot location; that is what we are focusing on is both that section of our ordinance which brings into question configuration of lots and the ability to build on them and the section of Indiana code that enables the Plan Commission to look at that as one of their considerations. He said that is what we are deriving our recommendation from.

Martin asked if we should approve this motion which removes Lots 20 and 13 and 14, are we not required to place all of the land in lots with any approval so if we would approve this motion do we have to allocate the land which is in Lot 20 and the land which is in Lots 13 and 14 to some other lots on the plat.

Cowell said it obviously has to be allocated at some point into something; it could be allocated into lots, common open space; it could also be done at any of the next stages in the review process. It could be done at the construction plan stage. Based off their recommendation they would submit a plat with construction plans that demonstrate compliance and then it could also be done at the final plat stage. It has to be accounted for at some point.

Martin asked if we are in effect saying they cannot build on certain parts of this, because given that this is now a private road the lot lines don't have to be on the road, those could be easements so they could draw these lots quite a bit different than they have them now with the exception of the public roadway part where they are going to have to have lots along that public part of it. They could reconfigure this significantly. Is what we're doing saying if we adopt this you get 17 lots and you can't build on this peninsula and you can't build down there on that bottom; is that what we are doing?

Cowell said that would be at their discretion as to what it is you are actually stating by removing those lots. You could come in and say you want to remove Lots 13 and 14 and that area shall be incorporated into the next lot adjacent to it; likewise with Lot 20 that it will be incorporated into Lot 19. We would still have to deal with some of these other issues. The logging road is there; we still do not believe that the logging road can be built on in compliance with the ordinance; we think we can still deal with that issue even if there is an effort to build out there, even if it was

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part of an adjoining lot that it was combined into. The other thing you can do is indicate that those lots would be stricken from the preliminary plat approval and it would be at their discretion as to how they would then deal with the rest of the property, how they would allocate that into those lots. One other item they have at their discretion is by ordinance final plats are sent through administrative staff level approval unless directed otherwise by the Plan Commission. So one of the other options is you can give an approval with certain guidance and that check would be when the final plat comes in for review from the Plan Commission. Up until four years ago all final plats came before the Plan Commission and we did a text amendment to remove that and that was the escape clause that the Plan Commission at this time requested be in there is that they have the discretion to bring something back so they can verify that some conditions they had applied were adhered to. He doesn't think they have used that in the last four years but that is another way that they can verify what they are attempting to accomplish as being achieved. Staff still believes that at least two, and perhaps all three, of those lots can be located elsewhere on this property, not impacting the lot count but addressing the issues we are concerned about.

Enright said he would like to mention that our ordinance does strongly encourage that in Chapter 856-43, Preservation of Natural Features. It is saying that "the design of subdivisions, the preservation of existing features which add value to the type of intended development or to the county as a whole such as trees, water courses, falls, beaches, historic spots and similar irreplaceable assets shall be encouraged." He said Lake Monroe is obviously one of those irreplaceable assets. Preservation of the view shed of Lake Monroe was incorporated into the 825 Chapter and he thinks 13, 14 and 20 are the most intrusive of those in the design that is presented to them. He said he thinks the relocation of those is supported by our ordinance and they are totally within the parameters of their discretion to make that condition.

Martin offered an amendment to the motion that the final plat for this petition come back before the Plan Commission for final approval. Kiesling and Enright agreed with Martin's amendment. Martin wanted to make clear they are removing three lots, not relocating them, with this motion. Cowell said under the motion that was made this would be to approve the preliminary plat with the conditions as recommended by the Staff except those would be modified so that condition #1 and condition #2 would remove the option of relocation and instead be strictly removal of Lots 20, 13 and 14; that clarification of the septic issues regarding the cabin being used as a guest house be resolved prior to the final plat. **The other additional condition being that the final plat is forwarded to the Plan Commission for a final approval.**

The motion failed with a tie vote of 4 to 4 (Yays: Baugh, Dodds, Kiesling, Pittsford; Nays: Enright, Martin, Newmann, Travis).

Cowell said at their discretion if there is an additional motion on the floor they can conduct another vote.

Enright moved and Dodds seconded in case 0505-SPP-08 the same as the previous one except for the removal or relocation of Lots 13 and 14 and for the removal or relocation of Lot 20 and with the two added conditions from Martin regarding the cabin and the final plat.

Cowell clarified the motion would be for the subdivision based on the recommendations recommended in the Staff Report as written with the additional conditions that the final plat be forwarded to the Plan Commission for final approval and clarification of the septic issue regarding the cabin to be used as a guest house be resolved prior to the final plat.

The motion failed with a tie vote of 4 to 4 (Yays: Baugh, Dodds, Enright, Pittsford; Nays: Kiesling, Martin, Newmann, Travis).

Cowell said they have the option for other motions and if they fail to arrive at a decision this item will be continued until their next meeting.

Dodds moved that this petition be tabled since not all members of the Plan Commission are present; if they made another motion it would probably be to deny it and it may not be fair to the petitioner. Cowell said it will appear on next month's agenda. Martin said it wouldn't appear on the agenda unless they brought it back by some action of the board. If they continue it, it would be there automatically. Cowell said he doesn't believe the Plan Commission can table an item indefinitely; they have to take action. **(Inaudible) Schilling said you need to table it if you are going to need additional information (away from microphone....hard to hear). You need to table it until you can obtain that information. If you think you can get the _____ number of votes next meeting you just continue it to that meeting. If you say the date you are continuing it to it won't have to be re-advertised. If you are tabling it generally and taking it off the table then you would have to re-advertise to bring it back. His recommendation would be if you want this to be heard at the next meeting at the least expense to the petitioner, continue it to the next meeting.**

Dodds asked if that gives them the opportunity to address items 1 and 2 of conditions

Schilling said that is up to them if they want to allow them to discuss it.

Dodds said his preference would be to continue it; he wants it heard and wants this to be resolved. He said he thinks the issue is still going to be on conditions 1 and 2. If there is any soul searching on what can be done on those two conditions it gives them an opportunity to address that before the next meeting. He would make the motion for whatever it takes to get that accomplished; continuation with the option that they can come back and give us a revision; if they don't want to give us a revision maybe we will have everyone present and see how the vote turns out then.

Dodds moved and Martin seconded for continuation of 0505-SPP-08 to the September meeting.

Newmann added that he would like to have the petitioners check in with the Southern Indiana Regional Sewer District to see if it is possible and if they are willing to take over the supervision and the operation maintenance of these mound septic systems because this is such a sensitive area that is so close to the water supply. That would be something else we could do in the interim month.

Scott Wells asked if that meant there would be no public comment next time. He said he thought

they would have public comment noticing all the changes that were made here. Kiesling said they took public comment at the last meeting. Speaker said as controversial as this issue is you would think we would be allowed to be able to speak on this issue; we have been truncated on that one. When he was on the Plan Commission something as controversial as this would never have shut off public comment and he thinks next time they should have public comment.

Kiesling said, "Scott, they had a full public hearing last time and we made it clear at that time unless there was new information we would not have public comment this time because we wanted to have clear discussion on it and we tried to make it very clear that the only thing we did last time was going to hear the public. Scott said he is sorry he wasn't able to attend last time. He said he can't understand why an issue as important as this they would ever cut off public comment. He asked if they want to speak about the issue they need to show up at the end of the meeting and speak.

Martin said they have that option and they can also submit information to them in writing.

Enright said he may recommend that there would be a public comment period Friday at the Commissioner's Meeting; you would get three minutes.

Dodds said in all fairness they have received several written communication regarding this petition site, one of which was read into the record. Kiesling asked where the other one was. Wells said a lot of the key information is not written into the record if you can't speak about it.

Kiesling said the information from Mrs. Frye can be written into the record. She is very concerned about this; back in the 70's when it was Alumni Association she was involved with the group that opposed it so she is very sensitive about this and wants to limit what happens there but also understands that people can develop some of it.

Cowell said he doesn't know that they have received resolution of Newmann's proposed amendment to the motion. Dodds said it is up to the person who made the motion and he denies that motion as an amendment to the motion.

Cowell clarified that this is a motion to continue Petition 0505-SPP-08 to the September meeting with the understanding the applicant will have the opportunity if they choose to revise the plat which is subject to their approval in a way that responds to the Staff recommendations of conditions 1 and 2.

The motion carried unanimously.

Cowell said this item will appear at the next meeting, September 20, 2005.

NEW BUSINESS:

0501-SPP-01 Beavers Creek Subdivision, Preliminary Plat and Vacation of Lot

1 of John and Nina Williams Minor Subdivision, 12 lots on 47.43 acres, 8277 W. SR 45, Van Buren Township, Sections 28 & 29, zoned Agriculture/ Rural Reserve (AG/RR)

STAFF ACTION: Eakin explained the petition, its location and current zoning and gave an overview of the sink holes on the site and an idea about the natural features on the site that are going to be discussed. He went over the key conditions, stressing No. 2 which is recommending that Lot 1A which is located on the southwestern portion be combined with Lot 2A based on the presence of significant drainage easement within that property and the flooding sinkhole on adjoining property line. Staff is recommending that Lot 12A be combined with Lot 11A and that is based on the flooding concerns for the sinkhole that is present on the site. It does exceed the minimum lot size of 3.39 acres but the presence of potential flooding area there leads Staff to believe that the environmental constraints would make development on that lot limited. He referred to the additional condition, No. 15. He said the petition site has received septic permits for traditional in-ground systems for all 12 lots and had received approval at one time for 14 lots. The petition has been with the Planning Department for some time and originally filed in January. It has been subject to continuances at the petitioner's request as well as at Staff's request subject to a karst analysis which they have completed and you can see some of the findings in the packet. There is a street tree waiver request and Staff is recommending denial of that waiver request based on the presence of trees on site that can be used as preservation to meet that requirement. Those are not required to be located within the right of way or within five feet of the right of way as traditionally required for the street trees.

1. A 50' right of way dedication from the centerline of W. State Road 45 and a 50' right of way dedication for the proposed local road to the County.
2. Lot 1A be combined with Lot 2A and Lot 12A be combined with Lot 11A.
3. The petitioner shall provide proof of IDEM Rule 5 approval prior to grading or land disturbance activities; unless it is determined that Rule 5 does not apply.
4. A grading permit must be obtained from the Planning Department prior to commencement of any earthwork on site.
5. Minimum first floor elevations are required for all lots that contain a portion of the Indian Creek floodplain. The minimum first floor elevation must be specified on building plans for all houses to receive Improvement Location Permit approval.
6. In order to receive Improvement Location Permit approval, building plans for all houses constructed on lots with sinkhole conservancy areas must demonstrate that the house footprints are not located within the sinkhole conservancy areas
7. Permanent markers describing all of the sinkhole conservancy areas shall be installed.
8. Benchmarks shall be provided on all lots for which a minimum building elevation is specified.
9. As-built plans for all houses built on lots with specified minimum first floor elevations must have certified first floor elevations prior to issuance of occupancy permits.

10. Drainage easements (minimum 20 foot width) are needed for the waterways across lots 1A, 2A, 7A, 8A, and 9A. The Indian Creek floodplain on lots 7A, 8A, and 9A should also be contained within an easement.
11. A 15 inch culvert is needed near station 19+40, and a roadside swale is needed around the perimeter of the cul-de-sac.
12. A swale is needed along the entire west side of the road between station 16+00 and the cul-de-sac.
13. The swales along both sides of the road need to be directed towards the sinkholes near station 3+00, and appropriate erosion and sediment control practices are needed in these areas.
14. A detail is needed of the typical roadside ditch section showing the side slopes and depth.
15. To address the concentrated surface and subsurface flow leading to the sinkholes present on site a sediment basin be required at each point where concentrated flows are discharged into the sinkhole. Sediment basins shall be designed according to criteria set forth in the Indiana Handbook for Erosion Control in Developing Areas.

FINDINGS OF FACT - Major Subdivision

850-3 PURPOSE OF REGULATIONS

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

Findings:

- 53.5 acres into 12 lots to accommodate single-family use with the lots ranging in size from 2.54 acres to 9.0 with a average lot size of 4.17 acres (floodplain included) and 3.62 acres (floodplain excluded). All lots presently satisfy the height/bulk standards (e.g., minimum lot size) of Chapter 804, pending floodplain acreage confirmation.
- Properties immediately adjacent to the site are zoned Agriculture / Rural Reserve (AG/RR), with some Suburban Residential (SR) zoned areas located to the east and west along State Road 45.
- The Monroe County Health Department has issued in-ground septic permits for lots 1-12.
- Van Buren Water Corporation has determined that they have the capacity to provide water service.
- A driveway permit has been received from the Indiana Department of Transportation for access onto State Road 45.

- (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 zoning for the property is Agriculture / Rural Reserve (AG/RR), which requires a minimum lot size of 2.5 ac./d.u.
- The Recommended Land Use for the petition site is identified as Agriculture which states: *Protecting the opportunity to farm has been identified as an important land use policy of this Plan. Much of the rural character of Monroe County is derived from agricultural activities. Areas in the northwestern and southwestern portions of the*

County are designated as priority agricultural use areas as shown on the Plan Map (Figure 2, page 33). These areas are fairly large expanses of relatively flat land and are presently very sparsely developed. In these areas, agricultural uses shall be given priority over residential uses. Residential uses in agricultural priority zones should have a minimum lot size of 5 acres.

- The site has received conditional approvals for 12 in-ground septic systems and has received approval for water service.
- (C) To provide for the safety, comfort, and soundness of the built environment and related open spaces.

Findings:

- All lots are between 2.5 acres to 9.01 acres. All lots are equal to or greater than 200' at one location.
 - All lots presently satisfy the height/bulk standards (e.g., minimum lot size) of Chapter 804, pending floodplain acreage confirmation.
 - The lots will have to comply with other standards (e.g., maximum coverage, setbacks) when house construction begins.
 - The site is located in a karst area with 9 identified sinkholes on the property and has approximately 6.65 acres of 100-year floodplain on site as well.
- (D) To protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards.

Findings:

- The petition site bears the Agriculture / Rural Reserve zoning district designation.
- The zoning is inconsistent with the recommended land use policies of the Comprehensive Plan which designates the area as Agriculture with minimum lot size recommendations of 5 ac./d.u.
- Adjacent areas are zoned AG/RR, with some Suburban Residential (SR) zoned areas located to the east and west along State Road 45.
- Existing area land uses include large lot residential, agriculture, and rural residential. The property is bordered to the north by Brennick Estates which is a 7 lot subdivision with lots ranging in size from 2.5 to 5.23 acres. To the southwest is the Hinds Road subdivision with lots ranging from 1.89 – 4.5 acres and to the north east is the Indian Valley subdivision with lots ranging from 0.25-1 acre in size.
- The character of the area is primarily large lot residential and rural residential use immediately adjoining the petition site.
- The petition site would result in the addition of 12 single-family home sites with 12 in-ground septic systems.
- The petition site served by W. State Road 45 (Minor Arterial). The additional traffic generated by 12 new home sites would not appear to cause further degradation of the roadway at this time.

- (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:

- A driveway permit has been received from the Indiana Department of Transportation for access onto State Road 45 which is classified as a Minor Arterial.
- The site is zoned Agriculture / Rural Reserve (AG/RR) which is “*primarily intended for agriculture uses including, but not limited to, row crop or livestock production, forages, pasture, forestry, single family residential uses associated with agriculture uses and limited, very low density, rural non-farm related single family uses and not in (major) subdivisions. Its purposes are to encourage the continuation of agriculture uses, along with the associated single family residential uses, to discourage the development of residential subdivisions and non-farm-related nonresidential uses, to protect the environmentally sensitive areas, such as floodplain and steep slopes, and to maintain the character of the surrounding neighborhood.*”
- The site is primarily wooded and pasture area with a mix of young and mature trees located on a ridge top with moderate slopes throughout.
- The Subdivision Control Ordinance states that preservation of natural features shall be encouraged and presently no trees have been identified for preservation on the preliminary plat.
- The site is located in a karst area with 9 identified sinkholes on the property which have been placed within 25’ Sinkhole Conservancy Areas (SCA)
- Approximately 6.65 acres of 100-year floodplain on site which has been delineated by a flood hazard area.

(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 parcels. Further, the petitioner has provided staff with a copy 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 go to record.

The Subdivision Control Ordinance shall be interpreted, administered and enforced in a manner that is consistent with the foregoing purposes.

FINDINGS OF FACT:

The petitioner is requesting a waiver from the *Improvement, Reservation and Design Standards* outlined in 856-43 (street trees). 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:

- Trees are required to be planted or preserved on each proposed lot outside of the right-of-way in a location selected by the Subdivider for this site per Chapter 856-43, Section B, Part 2 of the Subdivision Control Ordinance.
- The total amount of trees to be planted or preserved on site would be approximately 105.
- Significant portions of the site are presently wooded and could be used to meet the Tree preservation requirement for the site.

There would appear to be no significant economic injury related to the planting or preservation of trees on site. The conditions of the petition site would not directly cause such injury from the strict application of the Zoning Ordinance. Therefore the requirement would not result in significant economic injury.

Practical difficulties have not been demonstrated.

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

Findings:

- The Comprehensive Plan goals include efforts to “*maintain the beauty and integrity of the natural environment.*”
- The petition site and surrounding areas are designated Agriculture / Rural Reserve (AG/RR) which encourages the protection of environmentally sensitive areas and maintenance of the character of surrounding areas.
- Trees are required to be planted or preserved on each proposed lot outside of the right-of-way in a location selected by the Subdivider for this site per Chapter 856-43, Section B, Part 2 of the Subdivision Control Ordinance.

The requested waiver would contravene the recommendations by the Comprehensive Plan and Zoning Ordinance.

- 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 presence of trees does not have a relationship to the delivery of governmental services (e.g. water, fire protection, etc.) to facilitate the new building sites.
- Significant portions of the site are presently wooded and could be used to meet the Tree preservation requirement for the site.

Approval would not be detrimental to the public health, safety, or welfare to the extent that tree preservation or planting does not have a direct relationship to the delivery of governmental services.

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

Findings:

- There petition site is currently located in a rural residential and agricultural area with primarily large lots throughout the area with open pasture and wooded areas.
- The preservation or planting of trees could potentially result in a positive impact for the nearby properties by providing buffering for adjacent properties and some water quality protection and filtration.

Waiver approval could alter the character of the neighborhood.

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

Findings:

- See Findings under (#1)

The conditions of the parcel are not unique to the parcel and are the requirements that would be generally applicable to other nearby properties under current regulations.

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

Findings: Waiver approval would contravene the policies and purposes of these regulations. (See findings under #2 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:

- Trees are required to be planted or preserved on each proposed lot outside of the right-of-way in a location selected by the Subdivider for this site per Chapter 856-43, Section B, Part 2 of the Subdivision Control Ordinance.
- The total amount of trees to be planted or preserved on site would be approximately 105.
- Significant portions of the site are presently wooded and could be used to meet the Tree preservation requirement for the site.

The preservation or planting of trees is consistent with the policies and purposes of all relevant regulations and no practical difficulties have been identified.

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

Findings: (See findings under #7 above).

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

Findings:

- Trees are required to be planted or preserved on each proposed lot outside of the right-of-way in a location selected by the Subdivider for this site per Chapter 856-43, Section B, Part 2 of the Subdivision Control Ordinance.
- The total amount of trees to be planted or preserved on site would be approximately 105.
- Significant portions of the site are presently wooded and could be used to meet the tree preservation requirement for the site.
- (See also findings under #1 and #7 above)

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

BOARD DISCUSSION:

Kiesling asked if these are mature trees of this area and not scrub trees. Cowell said yes, the Plan Commission amended the ordinance a couple years ago which if you are not interested in placing the trees along the street then you have created an option where trees elsewhere on the property can be designated as being preserved to the equivalent degree and that option is still here. This waiver recommendation doesn't impact that in any way

Kiesling said she is asking if the trees are of such nature that it makes sense to keep them and not take them out.

Cowell said that is why that text amendment was done, to try to further encourage tree preservation.

Kiesling asked which way the sink holes drained. Eakin said there is a direction of flow shown on the preliminary plat. He explained where the sinkholes would drain. Kiesling said she would be interested in seeing where it eventually goes because we have so many different drainage ways in Monroe County. Eakin said on the aerial you can see some of the drainage as it would occur.

Martin asked about the home being built there now; the permit says they have the foundation in. He said he got a little concerned about this drainage because the drive which comes off of **Hines** Road and goes back to this large lot at the end which is south of this. The two lots that are immediately south of the property has the new house being built on the second one and there is an existing home on the third one. Under that driveway essentially runs right through that drainage; there appears to be either an 8 or 12 inch culvert underneath that. The home has a permit so he is assuming they didn't build in a floodway.

Eakin said they did not. The floodway as you see it on this portion of the petition site just extends straight down.

Martin said no, it is the floodway that is going to be caused because all that water has got to go through a 12 inch pipe. His question is why if we need two 15 inch pipes to drain off that overflow from that one karst feature north of the road; **are we assuming that this drainage which is now being _____ sought by a driveway and the 12 inch culvert going to be able to handle the flow that we are putting into that.** He knows this is an off site issue but we seem to be by the plan for this pushing more water into that drainage than that drainage has historically had and certainly more than it is capable of handling given that what it has got is a 12 inch pipe right there.

Eakin said they may have to refer it to a Drainage Engineer but the sinkhole area located on the north side of the road will actually act somewhat as detention and in the event that it would reach the overflow it would run into the 15 inch pipes that would feed into the other sinkhole and once it rose to its flood elevation would run out the drainage easement.

Martin said it is an accumulating effect; if it overflows the first one it is going to overflow the second because they are both 100 year events because it is just water going through two 15 inch pipes, running out of the second one, running down the drainage to a 12 inch pipe.

Kiesling said they have several conditions of approval from the drainage person and maybe Todd Stevenson can clarify some of this.

Stevenson said he doesn't know if he can specifically address the question. He knows what they are saying; we are proposing two pipes under the road and there is one pipe under an existing driveway that he is not familiar with and they are concerned that this development is going to increase the discharges downstream and his assessment of that would be that first of all those pipes have been placed under the road as an emergency overflow in case that sinkhole doesn't drain. He has no reason to believe that it wouldn't drain. They required pipes under the roadway

in case it was clogged up for some reason as an emergency or hypothetical situation.

Martin said hypothetically if it would be clogged now it currently is getting that water going down that drainage away and asked if that is correct.

Stevenson said that is correct. Martin said that answers the question; they weren't told where this drainage was going to go until they decided to put it through these culverts which drained it that way.

Stevenson said a lot of people think that when they put culverts in the roads they are somehow creating water or discharge but it is not true; they are just providing for existing drainage that may exist already.

Newmann said on the septic systems, closer into town on Highway 45 on the west side this is all on top of the most expensive sinkhole system we have in the county. When he drove through the Sunset addition he saw they are currently putting the sewer pipes in there that he believes the county paid around \$12,000 a lot to put in there. He said he has to ask the question, how in the world when there has been historical documentation that the septic systems have failed out in that area can the Health Department approve septic systems in this area? This is a traditional in-ground system.

Cowell said all they can do is make sure they get a permit. He does know having talked with the Health Department in the area he is referring to (Westmont and Sunrise Estates) the soil conditions out there apparently are horrible and maintain a very high water table in that particular area which is what is causing the failing of the septic systems out there. He can only assume, setting aside the karst issues, that the soil here is better than the soil over there. His understanding it that it is a fairly isolated, almost unique, situation where that particular area is. Fundamentally all we do is make sure the Health Department has done what they are required to do to issue those permits and they have done that. He understands the question, it is just the permits have been issued.

Newmann said here are two instances tonight where we have documented failures and we are putting septic systems right back on top of them again.

PETITIONER:

Mike Carmin spoke representing the petitioner and said Kevin Potter, Project Engineer, is also there. He said several conditions were cited and petitioner has no objection to those with one exception, No. 2, combining Lots 1A with 2A and 12A with 11A. As you read through the Staff Report you don't find any findings that specifically addresses why that has to be done; the context of it is some unspecified concern as to what could be done, where it could be developed, given the drainage way, the sinkhole and the drainage easement area that needs to be shown there. What Kevin Potter has done with that in mind is just plot the footprint of the house and the septic fields. As you know you have to have the two-field system. On Lot 1A you could very easily put a suitable sized home, plot both the septic fields on the lot and you are still well outside the sinkhole, the setback and that drainage way. There is more than adequate land on Lot 1A without combining that with Lot 2. This would be Lots 12A and 1A home sites with the

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septic fields to show they are located well outside the drainage area, the sinkhole conservancy area and the access to get to those. **Inaudible; moved away from the microphone.** He said he finds nothing in the Staff Report that would say that the lots as proposed, 1A, 12A, 11A and 2A do not meet the requirements of the ordinance. This phrase is a preference; he would say that this is not zoning by "I think it is a good idea." That is the height of arbitrating capriciousness to deal with petition after petition that if we come back in six months and we have different members on here we should not have a different standard to adhere to. That is Martin's complaint with the slope calculation. That is what we are dealing with when we get Staff Reports that want to put a condition in mainly because they don't think it is a good idea but they can't find anything that it violates in the ordinance. It meets the requirements of the ordinance; the space is there, the _____ is there, the condition that it meets the lot line adjustments will be satisfied as part of the final plat. As to 1A, 2A, 11A and 12A, they meet the requirements of the ordinance. He said we tried to show as a practical matter that they work and stay out of the flood zone areas, even this heightened standard we have of assuming a plugged sinkhole which in fact is what Kevin has to plot on the drainage is you have to assume the sinkhole doesn't drain and still stay out of that area. He has done that and it works and he would ask them to approve the petition subject to all the conditions as recommended by the Staff except condition No. 2; they are asking to have that one removed, and the street trees waiver is a non-issue; if you grant it fine and if you don't the petitioner is going to comply with whatever you do on that. He said Kevin Potter is here and can handle some of the technical issues.

Kevin Potter, Civil Engineer, spoke saying he wanted to make a comment on this septic system. He met with Randy Raines in the Health Department. The approval is based on having a primary 50 by 100 foot septic area and also the secondary 50 by 100 foot area available in case a problem occurs with the first system. The other thing that is different with this site compared with the Sunrise Estates is all of these fields, at least with four bedroom homes (all of these lots were approved for up to a four bedroom home, though some of them might not have four bedrooms) they will have to have a pump installed which would provide a **dosed** system to each field. In the Sunrise Estates, at the age of that subdivision, those don't have pumps which traditionally don't work nearly as well as dosed systems that have the pumps.

BOARD DISCUSSION:

Enright said with regard to the section corner this development straddles Sections 28 and 29, set by Steve Ramsey monumenting that, and he doesn't see how this is tied into the public land survey system. He said he had this as a condition before that this monument be referenced and wanted the petitioner to speak to that issue.

Potter said the owners had previously hired Lee Utt, Land Surveyor, to do the boundary for this development so he could not speak directly to that particular issue.

Enright said okay, he had made it a condition in the past that this section corner is referenced. All these lots are going to have legal descriptions and you need a point of beginning for that and it seems logical that they would want to utilize the section corner.

Potter asked if that corner has been set. Enright said by Steve Ramsey but it has not been adopted by the Survey Review Board.

Kiesling asked if they have reviewed it or discussed it or has it just not be presented yet.

Enright said he thinks they have reviewed it but it was over four years ago.

Newmann asked Staff regarding their report on page 61 at the top they are saying that a letter referenced a map which was not submitted with the petition file and information is being requested from the DNR, since we are referring to that 1998 letter and you have to have to map to refer to that letter, have we received that map.

Eakin said they received the map from the petitioner not DNR. They were supposed to send it to us but he has a copy of it. The revised preliminary plat that is on the large copy indicates the flood way fringe which is the information we wanted clarified.

Newmann asked Bill Williams from the Highway Department, saying when he was out there looking at it he pulled out of a concrete driveway and he assumes it is the one that goes back to that house and he assumes that is the driveway they are showing on here. He said he was almost killed again on Highway 45; two cars had to swerve around him. He said he sees where the state has approved a driveway permit but he doesn't see any passing blister here at all, anything to ease people out onto that high speed state highway.

Williams said more than likely they will not require a passing blister due to the low left turn volume going into this subdivision; that is what dictates that passing blister.

Newmann said he was making a right turn out of there and almost got run over. Williams said it is a busy road. He thinks what they have shown on the plan are acceleration and deceleration lanes. He has not seen the exact permit that the Indiana Department of Transportation has issued, however it is on the construction plan. It should be on their drawing.

Martin asked what he considers an acceleration lane. Williams said basically the taper coming out of it; he thinks he had a 75 foot taper going back in towards the town after a 25 foot radius. **Martin said he thinks it is there.**

Martin asked where the drive was with respect to the curve on 45.

Williams said looking at their plat it looks like it immediately north and northeast of it.

Martin asked where Hines Road is with respect to this piece of property. Williams said not too far south of there. Eakin said Hines Road almost splits off at the southwest corner of the property and heads south.

Martin said so State Road 45 is not curving at this driveway. He said he sees the difficulty out there. He was coming from Hines Road trying to figure how to get onto 45 because you can't see very well the traffic that is coming in that direction; they are coming up a hill right there. You can't see them very well from this driveway and he is sure that is the problem Newmann had too. He said it is a very dangerous place and asked if there is a way for them to get this entrance so it is configured more safely. We've got a dangerous intersection with Hines Road,
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we've got a state highway which is heavily traveled, curving and without visibility to the west; is there another place they can put this roadway so we get safer ingress / egress to this subdivision. He is absolutely certain somebody is going to get hurt there. He said maybe he doesn't understand the requirements we have on visibility versus traffic and speed versus curvatures of road.

Williams said he didn't issue the permit and he has not been to this site to check site distance. When the Indiana Department of Transportation owns the facility he is not going to sit there and buck their recommendation.

Kiesling said the question for Mr. Potter is could that drive be moved up a bit so there would be a little more site distance.

Potter said he thinks their question is the safety of the entrance off State Road 45. He took the drawing that was approved by INDOT and the approved driveway entrance has a 100 foot taper accel and decel on both coming in and going out; there is not a passing blister on the far side because of traffic count but he thinks the big difference between what they are experiencing out there now and what will be there after the improvement is you will have that 100 foot lane to either slow down gradually or build up speed rather than just pulling out without being able to accelerate or decelerate.

Martin said the big one is pulling out into 45 and then having to accelerate very quickly once you are out there because you are in the lane once you pull out there. Potter said there is no extra room there to build up speed. The proposed drive would have that 100 foot taper where you could build up some speed before getting out onto the through lane on 45.

Martin said in their packet there are various widths of the internal roadway mentioned going from 24 feet to 22 feet to 18 feet. When he looks on the plat it doesn't tell which of those is actually being shown on the computer on the plat and asked for clarification.

Potter said all of those different road widths have been proposed at different times but Bill Williams has verbally agreed to allow an 18 foot wide paved road which is what we are proposing along with two foot shoulders on each side; asphalt pavement with no curbs.

Martin asked Williams to explain the criteria since we have to go 28 sometimes and 22 other times and then we can go 18.

Williams said the criteria are based on the trips generated by the development. If a subdivision had 20 or less we can go down to an 18 foot pavement providing they are large lots and we know we aren't going to have parking along the roadway and things along that line. In the more dense development, we have 35 foot section that allows for parking along both sides of the roadway and two clear through lanes. He said 18 are fine.

Newmann said he saw in the write up where this was a re-subdivision of Lot 1 of the Williams Minor Subdivision and that his understanding is that this land has already been divided up and this was one lot of that and we are doing this piece meal again.

Eakin said this property has actually been a party to multiple subdivisions; there have been at least two Administrative Subdivisions involving this property, one Minor Subdivision which created four minor lots and two subsequent amendments to the Minor Subdivision. What is before them now is the vacation of the remaining Lot 1 of the Minor Subdivision to put in the 12 lot Major Subdivision.

Newmann said so we have been “nickel and dimed” again; we’ve got excess cuts on the state highway.

Eakin said the other lots involved were accessed off Hines Road; this will be the only driveway cut onto State Road 45.

Newmann asked if their only way of preventing that is to allow the Administrative Subdivision so all the land developers have a good idea of how they can abuse the system - they can do the Administrative Subdivision and for the Plan Commission where we need to change this then they can come in and do a Minor Subdivision and then another Minor Subdivision and they finally have to evolve toward a Major Subdivision.

Cowell said the ordinance requires now that you step up from subdivision, so if you do a Type A Administrative where you create five acre lots you can do an Administrative Subdivision and if you want to subdivide that property further you have to step up to at least a Minor Subdivision and if you want to subdivide that further you have to step up to a Major Subdivision, which is what they have done in this case. When they did their first Administrative Subdivision in 1997 that wasn’t the standard; you could do multiple administrative. They have followed the ordinance as necessary to move up in subdivisions as you move forward.

Newmann asked Eakin if he heard him say there was an earlier Minor Subdivision of the same plat of ground.

Eakin said there was an early administrative which as Cowell stated was prior to the ordinance, then there was an administrative, a Minor Subdivision, then there was an amendment to the Minor Subdivision which was an interior lot line adjustment and there was one final amendment to the Minor Subdivision which adjusted to create Lot 1 as it sits now and that is the one that is being vacated.

Cowell said those Minor Subdivisions didn’t result in additional lots created.

Kiesling said this is a lot or a part of another whole, bigger subdivision. Cowell said it is part of a subdivision; one of the lots of a Minor Subdivision and in order to further subdivide a lot in a Minor Subdivision, you have to go through the Major Subdivision process which is where they are right now.

Newmann said he thought everything said it was a Minor. He asked on our procedures, aren’t we required to have a notification to the public on a Major Subdivision.

Eakin said yes, notification went out. Newmann asked if there was a sign out there on 45. Eakin said this wasn’t subject to that; this was filed well before that change.

PUBLIC COMMENT:

John Williams spoke saying he is one of the petitioners about the access onto State Road 45 and how dangerous it is. It is not pleasant and he is all in favor of 69 because he hopes it will take some of the pressure off State Road 45 which is another issue. He said he goes on and off State Road 45 every day going to work and he makes a left turn out of that driveway which is a lot worse than making a right turn. It is not pleasant or always easy, it takes patience but it is not particularly dangerous. He said they are located 200 or 300 feet from where 45 makes a turn there (the turn begins at Hines Road) and there is pretty good visibility to allow him to safely cross the road. He is more at danger crossing the road to get his mail. As to the issue of septic, his septic field has been there for a long time and they have never had any flooding or backing up with the soil they have in that area. He can't answer that the soil is identical to the soil where his septic field is but there is more reason to believe it is more identical to the soil where his septic field is than some other location. Mr. Williams said he lives on Lot 2 where the existing structure is.

BOARD DISCUSSION:

Martin said that Cowell had indicated that there was some question about buildable area on some of these lots and he doesn't see any calculations of buildable area on the drawings.

Cowell said he thinks that was in reference to the lots that are constrained by the flood plain. He said their ordinance requires, and the applicant has indicated, that they can accomplish what the ordinance will require. The ordinance requires that outside of the flood fringe you have at least the minimum lot area required, which is the two and one half acres in this case. Right now the way it is shown a couple of those lots don't meet that standard, however it appears it will be easily remedied and that they will meet those standards. Essentially one the one lot is there is almost six acres which is outside the flood plain area and that lot will have to get smaller as the other two or three lots will have to get larger. The lot lines will shift to accomplish that.

Martin asked if they have a minimum distance they have to front on the road.

Cowell said it has to be 200 feet at the building line which is where they place the house so he doesn't think they should run into any problem.

Martin said he is going to have trouble figuring how they are going to do this because they are going to have to shift lot lines around and they are going to be shifting into the other lines. If they have to have 200 feet they are going to have to shift a lot of lines north and then they are running into that large conservancy area. He wants to see how all this is going to be done.

Eakin said on Lot 9A, outside the flood plain, minus the corrections that are going to need to occur, there are about five acres to allow for a lot line shift. He thinks there is going to be adequate acreage; they are going to try and meet the minimum lot size for 7A and 8A and meet the minimum lot width at a given location on that lot.

Martin said at final plat they are going to have to meet that standard irrespectively.

Cowell said that is correct and actually it will be checked at the construction plans; it won't even proceed to the final plat until that is resolved. The 200 foot is not road frontage, it is where the home location could be has to be at least 200 foot. Sometimes we will see applicants who will propose deeper setbacks than are required in order to meet that standard so we feel comfortable that can be met.

Enright said he has questions because of the severity of the sink holes on this site, having walked over it, and a concern that everything is checked and double checked with this. Referring to the earlier graphic, he said he has questions about the determination of these boundaries. What we have here to the north with Brennick Estates is a good example of non-compliance or questionable compliance. He referenced Brennick Court up to the north parcel major subdivision with sink holes. This is a sink hole, from the USGS they have the hypsographic thing where you are able to lift the contour lines so these sink holes are those come directly off the USGS map. This sink hole in that mapping appears much larger than what we see here. Up here we see the development and encroachment into the sink hole areas where sink hole conservancy areas were established but they are not identified and ignored in construction activity encroaches into the sink hole areas. He would like to make sure that doesn't happen here again. There is an option within this to take the platted map subdivision and do an overlay onto this so you can see more clearly how their data aligns with other data. He said he hasn't done that; he is uncomfortable approving or disapproving it but he thinks there is this question about combining the lots due to environmental constraints that this site imposes on development and he thinks we need supporting evidence in supporting those conditions. He said he thinks we get examples near by that show that there is a need for this scrutiny with major subdivisions going into farm land with large amounts of sink holes.

Newmann said he was thinking the same thing when Eakin first showed that colored drawing of the sink holes up there and he was trying to envision that plat over the top of that and like all the rest of the plats in their packet, he can't read that. He asked if it is possible to superimpose the plats over the top of the sink holes; is that something that GIS can do.

Eakin said we are getting there; we are working towards that but are not there yet where the proposed preliminary plat can be incorporated.

Kiesling said there is a sink on quite a few of the lots but that is the nature of that area of our county.

Martin asked if Cowell would refresh on what it means when we set aside a sink hole conservancy in practical terms.

Cowell said the practical impact on the property is that it can't be disturbed or developed on. Unlike flood plain areas it is not automatically removed from the lot area. It doesn't mean there aren't times when that is necessary because of the severity of the feature but generally it is incorporated into the lot area; it can't just be disturbed or built upon. There is occasionally an exception to that, although there wouldn't be any in this instance, dealing with road locations, not necessarily private driveways but road locations.

Martin said so it has to be fenced, per this plat drawing, throughout the entire construction.

Part of their submittal at the construction plan stage is where their erosion control measures will go in place and they have done a little of that already. In many of these instances it will be necessary to do some sort of protection around the sink holes to prevent siltation from getting into it; in other cases of the sink hole is upland from the grading they won't have to do that. Many of these will have to be protected during construction.

Martin said his concern is that, and he thinks Newmann's experience is, that we see areas which we have passed as sink hole conservancy areas into which we find silt fences running through them rather than around them, we find piles of dirt sitting in them, we find that the slopes have been graded on the outside of them, there is water running into them from that grading. He asked if those are all activities that are permitted.

Cowell said some are. In one of the instances that Newmann has referenced the sink hole conservancy area doesn't mimic the sink hole, in other words it may be less than the outside last closed contour because the ordinance allows the 100 year flood measure to be used. He said he thinks most of these incorporate all of the closed contours as well but there are instances where if you went out to a site and you stood in a sink hole that not all of that sink hole would be included in the sink hole conservancy area because the flood limits are further inside. In the McAffey Woods Subdivision which Newmann mentioned that is exactly the case. There is grading activity going on inside the rim of the sink hole but outside of the sink hole conservancy area. That is also why you might see silt fences running inside the sink hole because it may actually be outside the sink hole conservancy area but inside the closed contours. Occasionally you can get into those sink holes, just not the FCA's.

Martin asked are the sink hole conservancy areas that are designated on this plat the rims as are indicated in Exhibit 6 or are they some other calculation based upon 100 Year Flood, etc. These have a rim elevation indicated and they have a rim area indicated. He asked if these are in fact the rim areas that are located on this drawing.

Cowell said the question he assumes is do the sink hole conservancy areas incorporate the entirety of the closed contours or are there areas that are inside closed contours but excluded. **Eakin** said all of them are outside.

Martin said most of the sink holes have a 100 Year Flood elevation which is apparently below the rim.

Cowell said it appears that in this case all the sink hole conservancy areas are measured from the rim out, that all of the closed contours are included within the sink hole conservancy area. He asked Enright to confirm that is accurate which he did.

Martin said is it true that the sink hole conservancy areas here are measured from the rim of the sink hole without buffer coming out from that rim, 25 feet outside the rim of that sinkhole.

Newmann said he understands when they talked about Gramercy Park they are needing a karst analysis there and asked if they have received a karst analysis like this prior.

Cowell said on this one there has been. Newmann asked if this is the first one they have seen recently. Cowell said no, it is sort of a discretionary call as to when we require karst analysis but certainly on a site that is this constrained by karst features you will see that in every instance. If this were a site that had two or three sink holes on it, we wouldn't be seeing it. One of their other items which was continued which was Admiral Estates for example has a karst analysis that is accompanying it as well. Ison Road had an extensive one. It is a fairly common occurrence that we get these reports because so many of our subdivisions contain so many karst features that it is necessary to find out more information about them.

Newmann asked if it is mostly the Drainage Board that takes this karst analysis into consideration more so than the Plan Commission.

Cowell said no, it is really more the Plan Commission and the Staff that review, along with Todd, not necessarily the Drainage Board itself. He said what we are looking for is primarily their ordinance is geared, when it comes to karst, to protecting property owners and the public from damage. What we are trying to figure out is where does the flooding occur, in what direction does it go, and how do we make sure homes stay away from that and other parts of their lots and roads stay away from it. There is a second component to it that deals with water quality which looks at things like are there roads directly adjoining sink holes and Jason has a condition in here that relates to that. Regarding whether there are concentrated discharges from storm water management that go directly into a karst feature and some of that aspect the Drainage Board would get involved in but not necessarily because it is karst, but because it is a storm water feature that they would look at under normal circumstances anyway. Usually the karst analysis is for your use and our use, not necessarily Drainage Board's use. They have access to it but they don't typically utilize it. They did on the Ison Road subdivision because it was such a large component of that.

Newmann said one drainage area for that one sink hole is 115 acres. Kiesling said it should be 1.15 acres. Newmann said it seemed like it was out of the norm from the other ones. **Potter spoke but was away from the microphone.**

Martin said this is in the Indian Creek drainage and we have fairly significant development here in terms of lots going all the way up to the Harmony Road area and asked if there is any likelihood that this is going to be sewered at some distant point in time and we should make sure we have an easement along this creek bottom for sewerage at some point. He said he would suspect that since it is in the floodway we can get the easement without any trouble.

Cowell said he doesn't know if the applicant cares or not. He would be very surprised if we get sewer out here any time soon. He is not saying it is an impossibility but even getting it out to an area that was as insignificantly failing as the Sunrise area was extremely difficult.

Martin said he was thinking more of a new regional plant that would be on Indian Creek that would serve this area which is developing and has a lot of small lot development to the northeast of this. There are other small lot developments in that watershed; we are up several hundred lots now and he would suspect that by the time somebody wants to do anything out there for a sewer it would be up in the thousands.

Cowell said there are no current plans to do so.

Martin asked if the petitioner would object; it is just an easement that may be used on those lots 50 or 100 years from now, along the creek in the bottom area. He said we would just do it in the set back.

Carmin asked if the area Martin is talking about would be the flood fringe area. Martin said in what is now that flood hazard area, a 50 foot easement across there in case they wanted to do it. They can't develop it. **Carmin** said he doesn't see a problem with that. Whatever happens, it is going to take a lot to change it. Martin said it will be a long time and we're all going to be long gone but at least we know getting easements is the biggest impediment to sewerage systems in rural areas.

Newmann said on this preliminary plat regarding the note that silt fence to be erected around sink hole conservation area during construction and asked if that is part of the grading plan.

Eakin said yes. Newmann said so each one of these sink holes will have a continuous silt fence going around the sink hole conservation area. Eakin said unless it is not necessary; if the sink hole is above the grading area it wouldn't be necessary to put silt fence in during the construction phase. Newmann asked if they are noting this on the plat does it mean there will be a silt fence around each one of those. Eakin said yes, that is what they are proposing.

Cowell said yes, where it is necessary. There is no sense ringing it where there is no grading going on near it. Newmann asked even though they have it noted on the map.

Cowell said he thinks that notation is saying where it is necessary, why else would they ring it; if there is no grading going on around it you would actually do more disturbance by putting in the silt fences because you have to trench for silt fences than if you didn't put them there.

Newmann said what he is seeing is each one of these sink holes has that note on it and asked if that is just when it is required even though it is noted on each sink hole. Cowell said that is correct. Newmann said he is still trying to understand what our grading requirements are.

Cowell said when they submit their preliminary plat they also have to submit an erosion control plan. The erosion control plan will lay out generally how they plan on controlling erosion and sedimentation on the property and then when they turn in their construction plans which include more detailed grading information that is where they are identifying specifically where they are going to put different features and that is where they will identify specifically where the silt fences will go on those. But if there is not grading activity going on in the area they won't be required to put silt fences up because there would be no purpose to have those there.

Newmann said so there is another drawing that defines the grading requirements other than this preliminary plat. Cowell said yes, there will actually be a couple of them; there is one that is referred to as the Storm water Pollution Prevention Plan which you will also hear us refer to as the Rule 5 Plan and that is the erosion control plan. You will also have a grading plan which comes with the construction plan which has a little more detail in it. So there are actually two

other maps; one which accompanies this filing and the other which will come after preliminary plat approval.

Newmann asked if the grading requirements are created by the consulting engineers and not by the Staff. Cowell said regarding the proposed erosion control the owner or their engineer will propose what measures they will use but those measures have to comply with standards that the state has established and they have incorporated into their Zoning Ordinance as well. They propose them but they are checked by the Staff; they used to be checked by the state as well but they are no longer checked by the state. The Staff will check to verify that those measures are meeting the standards identified within the state manual for those types of features.

Newmann said he is thinking about Mahaffey Woods again; it is a concern to him. There is a silt fence out there where the majority of the fill goes into that sink hole but then the rest of the way around it where you have a road graded all the way around that sink hole there is not a bit of silt fence. He said Eakin told him that is based upon the erosion control plan as submitted by the engineers.

Cowell said in that case that erosion control plan was approved by the state; that was when the state was doing those plans as well. He is assuming they have constructed it in accordance with the plans that were approved and without looking at that plan he doesn't know why they didn't propose erosion control. There may be a reason why but he doesn't know why.

Kiesling said she has a number of conditions of approval, some of which were in the packet and some of which were in supplements from the engineers and went over them so they have them correctly. Eakin said some of them are Drainage Board conditions of approval. She said she is not sure they have read them all but Rule 5 will have to be complied with according to IDEM's rules so that is one of their concerns. She said some of the conditions were mentioned but she felt they should be specific so the public understands what some of the requirements are which are which are significant in terms of what can be done in the area.

Cowell said he thinks it has been mentioned by the Plan Commission that the section corner Enright referenced be required to be referenced and that a 50 foot utility easement be located within the regulatory flood way.

Martin said in Mr. Williams' report there is a recommendation that the street stubs in accordance with Section 856-13 and 21 shall be provided to the adjacent boundaries where practical or extensions may be made in the future. On the plat it shows an easement for the stub but not the stub itself; it ends in a cul de sac. He asked if that is satisfactory in this location.

Williams said that is definitely satisfactory since they have obtained the flood elevation locations it is definitely out of the question.

Martin said so they don't have to deal with No. 3, they can take what is on the plat. Williams said yes.

Martin moved and Pittsford seconded that in case 0501-SPP-01 they approve the preliminary plat as submitted based upon the findings of fact with the following conditions:

Conditions 1 through 5 in the report of Mr. Williams of the Monroe County Highway Department with the exception of condition No. 3 regarding street stubs which we strike, the conditions from the Monroe County Drainage Engineer which are in a submittal from the Drainage Engineer and consist of items 1 through 13 and the conditions as stated by Staff numbering 1 through 15 without Condition No. 2 recommended by Staff (he doesn't want to second guess what is going on with those lots and what the drainage is and doesn't think we have enough information to know exactly) with the addition of Condition No. 16 To reconfigure Lots 7A, 8A and 9A to add developable area to 7A and 8A which is a result of the change in the flood way area, and with the addition of item No. 17 to add the section corner for Van Buren I-19 in reference to the plat and No. 18 to add a 50 foot underground utility easement along the east boundary for future use. He said it is essentially everything Staff did with the removing item which was objected to by the petitioner.

DISCUSSION:

Newman asked if the Staff had enough opportunity to explain their rationale for combining those lots. He heard the petitioner's objection to it but what was the Staff's rationale for combining them.

Eakin said it has more to do with the fact that those two lots incorporate the flooding sink holes which, as mentioned before, whether they become clogged or what their given flood elevation is, could potentially impact the developable area on the lot. There is significant drainage easement included on Lot 2A which leaves very little by way of building area outside of drainage easement and sink hole conservancy area.

Martin said he didn't say he liked the way the ordinance was written; he just said that is the way it is written. We have much more dense development in this area already. That is his motion and Pittsford seconded it.

Kiesling said she tends to not support a lot of things with sink holes on them although this is a subdivision which is a little different. She thinks the petitioner has made a significant effort to try to meet our standards and if we need to do some more combining or something like that because they can't do what they would like to do she thinks they need to look at that. Really you can't control those sink holes on those lots they were talking about; she can see there could be problems just by virtue of the way the landscape is. She said she thinks they ought to go forward with the motion that was made.

The motion carried 7 to 1 (Enright)

0505-PUO-02 Shaw Development PUD Zone Change and Outline Plan Approval, 1 lot on approx. 25.96 acres at Nelson Lane between North Smith Pike and SR46 in Richland Township, Section 24, zoned Agriculture/Rural Reserve (AG/RR).

BOARD ACTION: Martin read the petition.

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STAFF ACTION: Cowell said even though they have not seen this particular request they will be very familiar with the area and somewhat with the subject property. He said it is located on a private road referred to as Nelson Lane with its current access coming off of Smith Pike. He pointed out the location saying North Park surrounds this property on three sides. He showed a current view of the property and the zoning. He said most of the property that is zoned AG/RR is currently being used for residential activities. He said there is additional information in their binders not included in the slides that explains some of the other features in more detail. The request is to extend the North Park development up into this property; the applicants have committed and we have made as a condition that they be held to the same standards as that particular section of North Park. In addition the applicant has also committed to preserving 25% of the site as it exists. This does not show up in their packets as it is additional information that came later and they will want to incorporate into some sort of condition. The applicant has committed to the 25% open space requirement being met by no disturb areas. He said they are recommending the 50 foot buffer along 46 which will remain undisturbed except for what is necessary to install a single identification sign for the property. The Shaws have also committed to a 50 foot from center line for a total of 100 foot undisturbed riparian buffer along the drainage way that goes through this property as well except where necessary to cross with the road. The reason that one is necessary is because if you recall from the North Park project there is a frontage road which is proposed to connect these two areas of North Park coming through which will run through the Shaw property and will provide its primary means of access for this development. The Nelson Lane access cannot be used for this development because of the narrow width of both the driveway and the existing easement. He passed around another document the applicant has provided, saying she will expand on this but she is trying to create an environment that is obviously complimentary to North park but also a bit distinct and to that end they want to take advantage of how heavily wooded the site currently is. He passed around the book which is a number of images the applicant has taken from the research Triangle area in Raleigh, North Carolina area where it demonstrates buildings which are office uses which can be in a more campus type environment and be set more into the existing environment rather than mass graded and then landscaped. They have incorporated into their recommendations that these images that are being provided be incorporated as commitments to the type of development that will be proposed and that way when a project comes forward in the development plan stage, they will have the opportunity to evaluate that project against those promises. He has included a couple of images that come from that book to give them a sense of the type of development that this particular applicant is hoping will occur in this property. They do not intend to develop this property; they are not developers; they are the landowners, but these are the guidelines they are committing to and would be incorporated into any sort of approval and would be verified with the development plan as it comes forward. He said they have six conditions of approval which are included in the Staff Report. He would request if there is a motion to approve, it incorporate a condition that deals with the 25% open space being met with an undisturbed area and the 100 foot undisturbed riparian buffer be provided except where necessary to cross the road. He said Bill also has a number of items in his letter that they want to make sure get incorporated. He said Staff is recommending approval; they believe it is consistent both with the Comprehensive Plan which designates this area for employment as well as consistent with the TIF designation for the area and consistent with the adjoining development going on at North Park.

1. The proposed development shall be subject to the commitments offered by the applicant

in the petitioner's statement and offered in the public hearing before the Plan Commission.

2. The proposed development shall be subject to the applicable development standards contained within the North Park PUD Ordinance for Use District B, Use Area Office SR46 (O46), with the exception that the required tree buffer adjacent to SR46 may be broken only to the extent necessary to place a development identification sign not to exceed fifty (50) square feet in size.
3. The proposed development shall be subject to the use table (Table 5) contained in the North Park PUD for the Office SR46 (O46) uses with the addition of legal services under Business Personal Services and with the deletion of Perfume, Cosmetics, and Toiletries Manufacture under Manufacturing. The permitted uses shall also incorporate the public and semi-public facilities approved for Use District B of the North Park PUD Ordinance and accessory uses shall be limited to those identified in Section 5 of the North Park PUD Ordinance.
4. The proposed development shall be subject to the applicable sections of the North Park PUD Ordinance including but not limited to "General Requirements", "Street and Alternative Transportation Guidelines", "Changes and Alterations", "Fees", and "Site Plan Review and Improvement Location Permits".
5. The proposed development shall be subject to the findings and recommendations of the traffic study submitted with the application.
6. A development plan shall be submitted and approved prior to any construction or land disturbing activities on the subject property.

FINDINGS OF FACT

REZONE TO PUD

831-3. Standards for Amendments

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

- A. The Comprehensive Plan;

Findings

- The proposed PUD is located in an area planned for employment activities according to the Monroe County Comprehensive Long Range Plan.
- The site is located within a Tax Increment Financing District intended to promote employment activities.

- B. Current conditions and the character of current structures and uses in each district;

Findings

- The site is currently heavily wooded with a single home site.
- The site contains a small portion of floodplain and a ravine that is located in the upper

portions of the Stouts Creek watershed.

- The site is located adjacent to SR46.
- The site is adjacent to the approved North Park PUD.
- The site is adjacent to low density residential uses.

C. The most desirable use for which the land in each district is adapted;

Finding

- The proposed PUD is located in an area planned for employment activities according to the Monroe County Comprehensive Long Range Plan.
- The site is located within a Tax Increment Financing District intended to promote employment activities.
- The site is located adjacent to SR46.
- The site is adjacent to the approved North Park PUD.
- The site can be served by public wastewater and drinking water.

D. The conservation of property values throughout out the jurisdictions; and

Finding

- The proposed PUD is located in an area planned for similar land use activities.

E. Responsible development and growth.

Findings

- The proposed PUD is located in an area planned for employment activities according to the Monroe County Comprehensive Long Range Plan.
- The site is located within a Tax Increment Financing District intended to promote employment activities.
- The site is located adjacent to SR46.
- The site is adjacent to the approved North Park PUD.
- The site is adjacent to low density residential uses.

PETITIONER:

Amanda Shaw who is one of the petitioners spoke saying they envision a business or office park that will take advantage of the beautiful natural features of this property. They are looking for a developer with a project which will fit into the naturally landscaped campus like setting. Their photo exhibits illustrate the variety of possibilities for such a development on similarly sloping wooded sites along a state highway in North Carolina near the Research Triangle. At each of the three sites architects came up with different solutions but each building design, whether glass, wood, stone or concrete is compatible with its woodland surroundings. The placement of access roads and parking lots take advantage of the lands natural contours and protect the environmental integrity of the site and provide suitable design solutions to the specific environment constraints of the site. She said though they propose to adopt the standards already approved for District B of the North Park development, their approach to development may differ. Since it is becoming increasingly clear that cheap oil is becoming a thing of the past, they believe that the practice of

cutting down all the trees on a site and then leveling it before building may also soon become a thing of the past. Many mature trees which were preserved by a developer on this site will provide significant summer shade which will translate into significant energy cost savings. For this reason they are betting that features like mature woodlands and large south facing slopes, like the one on this property, will soon be seen as valuable energy saving resources. She said the May issue of INC Magazine ranked Bloomington as the 19th best place to do business in America; they believe that a developer seeking to attract companies with skilled workers will be considering what kind of work environment would attract well paid, well educated workers. They are also betting that they, like most of us, would prefer a hotel room or an office looking out over a park rather than one looking out over a parking lot. For this reason they believe it is the specifics of this site, its contours, woods and creek, that will make it most attractive to businesses or organizations looking for a new home. And it is precisely this, that it looks like beautiful Southern Indiana, not Anywhere, USA, that they believe will make people want to locate here and work here.

BOARD DISCUSSION:

Kiesling asked if petitioner had seen all the requirements that Bill Williams had put forth. Petitioner said she hadn't seen them but she has spoken with him about them.

SUPPORTERS/REMONSTRATORS: None

Travis asked if they could entertain a motion soon as she has to leave early.

Kiesling said she thinks they need to hear from any Supporters or Remonstrators.

Martin said it appears to him that because they can't use Nelson Lane as ingress and egress that they are going to be dependent upon either the North Park portion to the north of them to connect up with the 46 stub so they can do any development or the North Park portion south of them to develop or they can take effective action to develop this property. He asked if this is correct.

Cowell said that is essentially correct and there is one other option which would be to secure the appropriate easement from an adjoining property owner to the west to tie in to Smith Pike which is still an option. The North Park project identifies a connection from somewhere in North Park over towards Smith Pike and that certainly could be accommodated here as well if they could secure the right of way to accomplish that. One of those three options would have to be in place before a development plan could be approved. He said they also have two options regarding sewer service; one of which is the packaged treatment plant that the Redevelopment Commission is building currently within North Park as well they have commitment from Eastern Richland Sewer Corporation to serve this property. There is a sewer line nearby on Smith Pike that could be brought to this property should they not be able to get to the redevelopment treatment plant in a timely manner.

Martin asked if there is any down side to the Eastern Richland Corporation not wanting to take over responsibility for the lines; would that be different than the North Park option for sewage. The letter they have in the packet from Eastern Richland indicates they will take the flow but they won't take ownership or responsibility for any of the infrastructure providing that flow. Is

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that a different scenario than we would have in North Park where they would be taking the flow and be responsible for the infrastructure.

Cowell said he thinks that what the letter is indicating is they will be responsible for maintaining it but not constructing it and that is what they meant by not being responsible for the infrastructure. In effect they are saying the developers are responsible for building it and then we will take it over. In the case of North Park so far the Redevelopment Commission is actually building those facilities; that are an option here as well because it is within the TIF district. When it is all said and done, the whole system will be publicly maintained.

Martin asked if he was satisfied that the commitment we have from the petitioner at this point plus the photos indicating the type will in fact insure us the tree cover and open space and the same standards we are expecting from North Park.

Cowell said yes, at least the same standards and he thinks they can insure it will be beyond that. He hopes they will be able to insure it will end up being exactly as shown in the photographs. It is a little tricky where in North Park the higher standards were associated with the buildings and it was easier to write the ordinance with architectural standards versus these site standards which will be a little bit more challenging until we have an actual site proposal with a development plan. He is confident we will have at least the level of protection we have in North Park.

Baugh asked what the little triangular piece of land was right above that and what it was proposed for.

Cowell said that is a piece that is also owned by the North Park developer. It originally came in as a designation for a public school or a fire station; eventually that was relocated toward the town center area and that is an office designation in that area.

Martin moved and Enright seconded in case 0505-PUO-02 to forward with a positive recommendation to the Commissioners the rezoning as outlined in the petitioner's statement with the findings of fact from the Staff, with the conditions stated by Mr. Williams in his memo of August 11, 2005, the six conditions stated in the Staff Report, a 7th condition which is the commitment on the part of the petitioner to a 25% open space with no disturbance of that open space area, 8) that the demonstration images they have provided as part their submittal will be used to indicate the type of development to which they commit and 9) that there will be a 100 foot undisturbed riparian buffer along the creek except for where the crossing roadway needs to be constructed.

The motion carried unanimously.

Cowell clarified this is a recommendation to the County Commissioners and that it will be forwarded to them for a vote within the next 90 days.

Travis mentioned that was a very good presentation and a very good case by the petitioner. Newmann added it may also be a model for other developers to look at.

0506-REZ-12 Ross and Russell Thackery Rezone from CR to HI, 1 Lot on approximately 1.4 acres at 3417 Knightridge Road in Salt Creek Township, Section 18, zoned Conservation Residential (CR).

BOARD ACTION: Martin read the petition.

STAFF ACTION: Lepke went over the petition and said based on the findings of fact Staff is giving a negative recommendation subject to the County Highway and Drainage Engineers' Reports. If approved by the Plan Commission, Staff would recommend the following conditions:

1. Knightridge Road is classified as local, requiring a 25 foot Right-of-Way dedication from the center of the road
2. A Site plan shall be filed in accordance with Chapter 815 prior to any construction or land disturbance

Lepke said in order to expand the current small business that is on site the petitioners are submitting for approval a request to rezone approximately 1.4 acres from Conservation Residential to Heavy Industrial. In light of what is in the area, which is Conservation Residential in red and Forest Reserve in yellow, the IT is where East Monroe Water is. The reason they have requested a Heavy Industrial in such an area is because the business involves glass blowing and under our ordinance the only zoning classification which supports such a business is Heavy Industrial. The rezoning is also necessary because this is a pre-existing, non-conforming use of the structure and they are now wishing to expand that. He said the petition was heard by the Plan Review Committee on August 4, 2005 where it was forwarded to the Plan Commission with no recommendations due to the 2 to 1, a tie and one abstention. The Comp Plan designates the area as Conservation Residential and the category recommends "limitations on development within the environmentally sensitive watersheds; it is established to provide a residential option while protecting the lakes and the water supply resources of the county. Development at higher densities would require a significant investment in roadways, water, sewer and other public services. Most of these areas are heavily forested and have rugged topography making development at higher densities difficult and potentially expensive and environmentally damaging. Where development occurs it should be for large lot residential uses with a minimum lot size of five acres." He said the site is located predominately within residential lots, East Monroe Water is at the bottom and to the southeast across the road the adjacent zoning is again Conservation Residential and Forest Reserve. The petition site is relatively clear and flat; there are some trees along the rear property line; the site does not appear to be located in the 100 Year FEMA Flood Plain nor does it appear to exhibit karst features. He pointed out the existing structure, its location and surroundings and the proposed expansion of property. He touched on some of the findings. Based on the findings of fact, Staff does not feel it meets the standards in this case for the rezone due to the fact the site is located in an area designated for rural residences as dictated by the Comp Plan although there are some pre-existing businesses and zoning for such to the southeast of the property about one-fifth of a mile down the road on Knight Ridge. The pre-existing zoning classification is clear in the ordinance that it is not intended to spawn further PB's as well as something related to that. He said at the time the new ordinance was established it probably should have been zoned PB. There are other instances of this in the

county. That is why they are here requesting a rezone.

Mike Carmin spoke representing the petitioner saying he is not there to say this is a by-right petition; they recognize this is a discretionary action at this point for you and a recommendation ultimately going to the County Commissioners. The previous use there has indicated that the statement submitted was Bruce's Welding which ultimately located elsewhere in the community as it grew a little bit. As to what happened in 1997 he talked to Mr. Glasgow, Sr. and his understanding from him is they were unaware of the comprehensive re-zoning that was done in 1997 and we know that has happened on some other properties. Had they been aware and spoken up it may have been a PB zoning at the time; he knows the plan and the efforts by the county at the time was to try and identify those existing businesses. This is Bruce's Welding Shop is basically an interior use and he wouldn't be surprised with somebody driving down the road and looking might not have recognized the business that was there, housed inside what was basically is a pole barn style building. It is entirely possible it was simply overlooked. It was not until after the fact when they were getting to sell the property that they realized the zoning that was then on it and that became an issue in their ability to sell the property. That was clarified in terms of selling it to the present owner; when they went in there they knew it was not zoned for Heavy Industrial use. They also knew that it was permitted continuation of that use and that's when they bought the property. What has happened since then is, fortunately, the business has grown a little bit and they are just squeezed in what they have there. They are that unfortunate place of being in between being able to continue with any kind of growth, which we all hope a small business is able to do, and add a few employees and not be in the position of growing enough where they can justify going out and buying a new property and building a new building. They live in the area, they have got their existing property there; they're trying to make use of it. It is a fraction of the cost to add a building and **extend** a building on the existing site than it is to buy a new property and build a new building elsewhere even in terms of a rental arrangement for adequate space. It really does become a policy issue ultimately for the County Commissioners but first with their recommendation on that on whether and how we are going to promote small business growth in the area, where we are going to allow it to happen. It is unfortunate the only zoning classification which use would be allowed is the Heavy Industrial because by its very connotation it carries concerns as to what else might else might happen there because we all know that if rezoning happens and gets approved that some day this business may not be there and when it is not, what else could be there. These are legitimate concerns. That is where the recordable commitments come in. There are only so many things we can do through a recordable commitment that stop short of defining what amounts to a **defacto** new zoning classification which he believes to be improper. We shouldn't do that, we have zones. So it tries to go through and identify what other types of things that could be done that **restrict** subsequent use of the property that might deal with those concerns of what else could come in there. It proposes several things. The total square footage in terms of improvements is set not to exceed 5,000; that is taking what is there now, the planned building and a couple hundred feet on because he didn't want to get into a hassle trying to define these concrete pads and patios you see outside this existing building; do they count or not. Assuming they would count, the 5,000 square feet would allow for that, the planned expansion and the desired expansion and the existing. He said basically what this gets into is when that is done that becomes a fixed site plan that has to be done in a way that would be recorded so it is there and is noted on the private records for deed reference for any subsequent buyer that there is a recorded site plan of what this property has to look like. Any changes to that would have to come back for approval so a buyer

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coming in would be forewarned that this all that you are going to be able to do there within the existing building, no outside storage, no new driveway cut; use what is there and you have to stay within that. Your table of uses, as he knows they have debated on some other petitions, lists uses in all M or H, low, medium or high intensity type use; the glass blowing is rated as a low intensity use; that primarily is a traffic generation issue but it is rated as a low intensity use. One of the commitments is that no use will be permitted on the property that would be rated higher than that. That automatically excludes the vast majority of the Heavy Industrial uses; there aren't too many of them that are rated at the low intensity use so as a great practical matter that takes a great many of those out and what he believes to be the largely objectionable ones. So the intent of the recordable commitments is to subject the property to a fixed site plan that limits the way it could be developed, recordable with any attempts to change that in the future having to come back through the public meeting process for their decision as opposed to the property owner being able to do that; not even at Staff level. It goes on down to a couple of other things that when that site plan is prepared the trees that were mentioned by Lepke in his report will be identified so they can be preserved. The septic field for the property is just to the north and slightly east of the existing building outside of the tree line so the trees can be preserved and they don't see any reason why that would be a problem but it would be identified on the site plan for that purpose in recordable form. He said he would ask for their positive recommendation to the County Commissioners.

BOARD DISCUSSION:

Martin said he still doesn't know how this is classified. He said we still have to put it into one of the uses that is in the table and ask which use they have designated.

Carmin said they are putting it in glassware, manufacturing of glass. He said after consultation with Staff that is the closest they could come.

Lepke said that is the best they could do; obviously the list is fairly exhaustive and in this case Staff felt that was the closest match.

Martin asked what they actually make.

Carmin said they make a variety of glass; some of it is blown. It is a craft but it is manufactured for wholesale and limited retail sale.

Martin asked if these are objects of art.

Carmin said he wouldn't call them objects of art. One of the neighbors is going to speak here soon regarding the petition bought some mugs that were made there; it is not plate ware, it is not windows or that type of glass, it is glass objects. He would put them more in the crafts area but that doesn't really fit either; it is more intense than just hand crafts.

Kiesling asked if they were for medical purposes also. Carmin said he did not know; he didn't ask.

Pittsford asked for an explanation of Carmin's letter to the Planning Department where there is a

notation saying “it was not until March of 2000 at the time of the selling of the property to the present owners, the petitioners, that the change to CR and zoning was discovered. Petitioners purchased the property after clarification with Monroe County.”

Carmin said the then owners, the Glasgow’s who had Bruce’s Welding, realized when they were trying to sell the property the zoning change. They didn’t realize it had been changed to CR back in 1997. Before the Thackery’s bought the property it was clarified through a previous Planning Staff they would be able to continue with the Industrial use. According to Mr. Glasgow when he learned of the zoning to CR he went in to see the impact on that and to see what a user could do and it was clarified that he would be able to continue with industrial use (**spoke too fast, could not understand all words**). He said that is not the issue; it is the adding a building, expanding that to another portion of the lot is what can’t be done without the rezone. It is not the continuation of the present use it is expanding it by adding another building to the property to be able to do that. They could continue with what they are doing now but they are confined to that one building only which is becoming the problem. The growth is both the good and the bad thing.

Pittsford said the only reason he is bringing that up is that it very clearly states that the Heavy Industrial use was grandfathered and that was not the case.

Cowell said the use for the present business is as is. Cowell said it is a non-conforming use but there are restrictions on what you can do with that. The problem came in when they wanted to expand it.

Dodds said he is not familiar with the table or even the requirements; 5,000 square feet does not seem like a very large building for any kind of Heavy Industrial application. He asked if the square footage of the building actually impacts the amount of usage that would be looking at this building in the event that the glass blowing business would go away or does it have no impact at all.

Lepke said he thinks part of it is whether or not and how we accept if chosen the commitments offered by the petitioners as given by Mr. Carmin because 5,000 square feet doesn’t seem like a whole lot but he thinks it hinges on the commitments and how those are accepted or if it is their pleasure to modify those in any way. The Heavy Industrial versus Light Industrial was a conundrum for Staff in terms of what could go on there but he thinks that is where the commitments come into play and how the commission feels it will use those as they are offered, or if you alter them much like a motion in a sense to best fit this if they choose to give a positive recommendation so that it can find not only within the building but for the future and what could theoretically come in.

Dodds said excluding getting down to the point as Mr. Carmin says this is a Heavy Industrial glass blowing use only and if any body else wants to come in and use it for that purpose then that’s fine. It seems to him that not only with the restriction of the intensity but also a commitment of square footage would also weed out a number of Heavy Industrial uses even within the low intensity category. He asked if that would be Lepke’s opinion also.

Lepke said he thinks so just because at that size you aren’t going to be erecting big smoke stacks.

(next comment not understood.) He said he thinks that is an additional deterrent and they are imposing it on themselves so perhaps that is an enticement as well.

Enright said he thinks it is a question of interpretation if we have opportunities to look at the table and see if there are other categories within which this may fit because Heavy Industrial there in the watershed in that area Conservation Residential doesn't fit. If you were to call this handicrafts under retail and wholesale, it sounds like it could fit. It would be permitted in a Limited Business. It seems that this is a property that has been used as a Limited Business in the past. We have recognized it has had that use and if we were to accept that it doesn't fit within this category he thinks they are not in that bind of having to rezone it to Heavy Industrial. He asked Staff if this is off the wall or not.

Lepke said he does not view it as off the wall. He thinks it is a good creative way to try to be accommodating.

Dodds asked if the kind of glass being produced have an effect on it because if you are talking about stemware that would seem to be along the handicraft line but if you are talking about industrial beakers and all that stuff that seems like it would be more industrial.

Carmin said as much as he likes what Enright is talking about he is afraid we are stretching to get there.

Cowell said yes, and the definition for handicrafts is "places of business that sell articles fashioned by those engaged in handicrafts."

FINDINGS OF FACT - REZONE

831-3 Standards for Amendments

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

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

Findings

- The site contains a 40' x 60' structure for the small business
- The site has been used for industrial purposes since the 1970s
- The site features some trees along the rear property line but would otherwise require little to no clearing of existing stock
- The site is zoned CR
- The area is low density residential and forested in nature with some pre-existing business zoning along Knightridge Road to the southeast
- Adjacent zoning is predominantly CR and FR
- The minimum lot size is 2.5 acres/d.u. in both CR and ECO Area 3 zoning classes
- The site does not have sewer service
- The site has frontage on Knightridge Road

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

Findings

- The site is zoned CR
- Adjacent zoning districts include CR and FR
- Surrounding development is limited to residential development and forested areas with some pre-existing business zones to the southeast along Knightridge
- The site has frontage on Knightridge Road

(C) The Comprehensive Plan's recommendation for area growth and development

Findings

- The site is zoned CR
- CR zoning is intended to protect environmentally sensitive watersheds and provide a residential option
- The plan calls for large lot residential uses with a minimum lot size of five acres in the CR district

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

Findings

- The area is low density residential and forested in nature with some pre-existing business zoning along Knightridge Road to the southeast
- The existing land use on the parcel is a small business building of industrial nature dating to the 1970s
- The petitioners are proposing to expand their existing glassblowing business by adding a 40' x 60' addition to the existing building of the same size

(E) Responsible development and growth.

Findings.

- The petitioner is seeking to rezone a 1.40 acre parcel
- The Recommended land use map suggests rural residential development in this area
- Surrounding land uses include low density residential densities and forested areas as well as with some pre-existing business zones to the southeast along Knightridge

PUBLIC COMMENT:

SUPPORTERS: None

REMONSTRATORS:

Don Kent said Mr. Enright had a very positive idea outside of approving it as Heavy Industrial. He went back to one of the overhead that shows the property that adjoins this. He said Mr. Carmin elaborated on many things but there are several things he did not share with them. He said this is the Lake Monroe watershed; it has been an existing business several years ago. Bruce Glasgow is a cousin of his. He spoke to Bruce in detail about this numerous times and he

doesn't know that all of Mr. Carmin's facts are exactly right of what he has just told the Plan Commission. He pointed out his property **and became inaudible when he moved away from the microphone**....he has two parcels that butt up to the existing business. He is there not only representing himself but his mother, Patricia Kent, who Mr. Carmin has represented in the past, also his son, Bryce Kent, who is in hopes of building a new home on a parcel which he identified, and also his twin daughters and his wife. He said they have owned this property since the 1970's and that his grandfather originally owned all this property and they strongly oppose the rezone of this property from Conservation Residential to Heavy Industrial. This is in the Lake Monroe watershed, there is a large lake**inaudible**...referenced area that drains into the lake. Based on the following factors that will not only negatively impact not only his property but his neighbor's property and also his family's quality of life. Currently he mows the property which would be to the west of the petitioner's property. There are currently three semis a day that come in and out of this business either loading or unloading raw glass or finished product that is shipped out. There are also two to three UPS or FED Ex trucks that come in and out every day. Knightridge Road is a tight winding road; it is heavily wooded. There have been numerous times when they trying to go across the road to get our mail or paper that either his wife or his children literally have to dodge these semis that they used to not have until Mr. Thackery put his business in here. The old welding shop was nothing like this; they didn't have a high density where there was traffic of semis coming in and out of Knightridge Road. He said if you open this up to a Heavy Industrial, even though Mr. Carmin and his petitioner want it to be called Light, the Plan Commission and the Commissioners are opening themselves up for a new person to come in down the road and ask for another type that would fall into this Heavy Industrial. That is why they are so adamant against this. He said he thoroughly likes the idea of Kevin Enright about the small business and a limited use on that rather than going into a Heavy Industrial use that while it is limited right now, the new property owner could come right back in and go before them and ask for a new situation by hiring someone like Mr. Carmin down the road. It is not before them right now but it could be down the road. Also an expansion of the current building to twice the size, there are nice houses all around this area and in his estimation the architectural area would be damaged, his property would be damaged, and also the value of the piece of ground that they just purchased a year ago for his son to build a house would be negatively impacted down the road. He thanked them for their time and said he hopes he has shed some light on this situation that they did not know.

Martin asked Mr. Kent how this driveway is used that is adjoining their property and his.

Kent's response inaudible.

Martin said to the east of that there is a driveway that comes through that property and goes back along his property. **Kent's response somewhat inaudible**.....said it is alongside his property and actually goes back to another home with an easement right through Thackery's property. He said there is another home on farther back. **Rest of Ken'ts comments inaudible.**

Andreas Ciccarelli spoke saying basically he agrees with what Mr. Kent said but he also wanted to say he understands Mr. Thacker's wishes to enlarge his business; if this were possible without the rezoning to Heavy Industrial he wouldn't haven't have any opposition. He said the driveway is an easement to his property which is down the road; that pond (small lake) is at the end of the ravine. They are very concerned environmentally. They moved there two years ago because it

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was zoned Conservation Residential and he would have never moved from Hoosier Acres to a Heavy Industrial zone. He said he knows in 1996 some mistakes were made but to right a wrong they shouldn't cause other wrongs. He said their major concerns have to do with the environment and safety but also with the future. He said the request is Heavy Industrial, Low Intensity. In this type of zoning there are basically factory types of jobs and these are not the types of business any of them would like to have near a Residential Conservation area and he wonders how they could want it near a state forest which is about 300 yards from the site. This is what he doesn't understand as a citizen of Bloomington. If this is converted to Heavy Industrial, it could be sold in the future. He likes Mr. Thackery and thinks he is running a clean business, Mr. Thackery may want to change his business or sell it and one of the other types of businesses will come there and make noise and cause pollution and safety problems.

Kiesling asked if his driveway goes across his driveway. Ciccarelli said the driveway at the beginning belongs to Mr. Thackery and he has an easement to his property **as do the other four houses after his property**. Kiesling said Martin was asking about the other drive and she thought they should be clarifying what else is there. Martin asked if there are four houses. Ciccarelli said three of them are on the same property and one is built before his property. Ciccarelli said his concern isn't so much with the driveway but with the implications if they rezone they open the door to upgrading in the future and they have to come there again and said they don't want the medium rather than low intensity there.

Bill Hayden spoke saying he would like to rise in support of the neighbors who are trying to protect their quality of life in their neighborhood and he thinks it is essential that they be able to depend on the present residential zoning. It looks like it was reasonable for the previous existing use to have been allowed to continue the welding shop, what we seem to have now is a great escalation from that without any reviews. Now they are being asked to approve a change in zoning from what was originally a Mom and Pop welding shop to a fairly large industrial operation and on top of that being asked to put it into a heavy industry category that would allow many other obviously incompatible uses as well. He urged them to reject this petition. It seems to him that this is not an area that is appropriate for this type of industry, given it is in the Lake Monroe watershed as well as in a neighborhood residential area.

Baugh asked how many employees he has right now. Carmin said he believes he has four and is talking about adding four to six; it should be in the petitioner's statement. Carmin said for twenty years he has done these and listened to people concerned about preserving the property values and never means to belittle that as there is a major investment by most people. In twenty years he has never seen an adverse property result take place; in fact on everyone he has gone back and looked at later all the neighboring property values have increased as property developed. He said Mr. Ciccarelli's comments make sense and are legitimate concerns as he has concerns with his house up there but it is significant to note that he bought out there with this as an existing use with this existing pole barn style building already there. It apparently did not discourage him from buying and investing out there then. We are talking about expanding and there would be more of coverage on the lot but basically we are talking about something he did not find to be a deterrent to keep him from making that decision from Hoosier Acres into that area. He finds this similar to doing cell tower petitions; people complain about the compact and you ask what about the water tank that is across the road from them. He mentioned a cell tower erection and said they didn't even know there was a tower at Century Village or a Blue City

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Water Tank across the road from them. These things become part of the landscape and the back drop and ignored. He would submit that is exactly what happens to this building and that they thought anything about that building back there when they bought there; it wasn't a factor. In terms of truck traffic, it is interesting how far we have come on our standards. This is a highway that was supposed to be designed to handle truck traffic at one time and our standards apparently have changed so much that now we don't find it to be suitable to handle any level of truck traffic. This was designed and used for truck traffic at one time as a primary road. He said it becomes a matter of perspective and the same battle you face on almost all of these. There are a variety of businesses up and down the road and they believe the commitments to make this work and fit in with those concerns; they don't yet accept that. He said they are asking for their support.

Martin said they just heard this easement through here is serving perhaps four homes back there plus this commercial use. This doesn't seem to him to add up to what they permit now and asked if they are going to have to change that if they do something here.

Cowell said he doesn't think so since everything is existing. It is being expanded, but the use is currently on this property. The ordinance references, probably because you don't normally anticipate these kinds of uses being on some sort of private drive, more than four dwelling units. It doesn't consider what if one of those is a business. He doesn't think they will have any impact with the zone change on requirements associated with the road. The site improvements on this site itself, if approved, will be impacted as far as what types of pavement are required, landscaping and those kind of things.

Martin asked if they could require a separation of that easement from the drive area for the commercial aspects of this property.

Cowell said there is a provision within the site plan section of the ordinance that talks about trying to avoid conflicts between residential and commercial traffic. He thinks that is something that could be accommodated in the site plan review and wouldn't compromise their ability to do what they are asking or alter significantly the access for the neighbors.

Lepke referenced a grass island and thinks it separates what is there from the folks who live back driving in with no obstructions or anybody parking in their way. He said requesting an expansion of that in a site plan to delineate might be an option.

Enright said he concurred with him that it seems like a bunch of trees were done as a buffering on that island and if that were expanded it would help define the ingress, egress easement.

Dodds said the problem he has with this is it seems the error was made when the property was purchased and the error may have been in our Plan Commission; at some point in time they told him yes, you can use this but nothing was actually made in writing at that point.

Cowell said that is what we assume was done based on the information Carmin has provided.

Dodds said the problem he has with that is they bought that with that expectation and they have done whatever it is they do there for this period of time. The problem is that adjoining property owners have some right to expect that if they have purchased there that their rights are also

looked after. The same type of situation came up a while back where this board sent forth a negative recommendation which doesn't mean a whole lot because it is going to go to the Commissioners and they will do whatever they want to with it. He said he has a problem with taking property in a rural area like this having people that live around it with some expectation of privacy and rural type development and turning this into Heavy Industrial application. He said he thinks the petitioner has a valid concern but if they want to expand their business, they really need to find a better suited location. He feels sorry for the people who want to expand their business, but that is just not the area to do it.

Martin moved and Newmann seconded in case 0506-REZ-12 that they forward to the County Commissioners with a negative recommendation for this petition based upon the findings of fact and also forward to them a statement that indicated should they decide that this is an appropriate rezoning that they would include the two conditions in the Staff Report plus a third condition which would require a separation of the easement for the residences from the commercial drive and that they would accept the commitment concerning the use and development of real estate which has been prepared by the petitioner which was submitted this evening. He added another condition which is Condition No. 1 from the County Highway Engineers that a large commercial driveway application shall be submitted for approval. Newmann accepted the addition part of the motion.

Enright referenced his idea about the change in the petition and said although the petitioner has stated they are not at all interested in that as an option, he wondered if there is an opportunity to change the petition at any point or would they have to withdraw it and resubmit it for Limited Business.

Cowell said if they found a use, which he doesn't think they are going to, that fit into the Limited Business they would in effect have to start all over with the process.

Enright said he would just like it to be in the record that they feel there are other options besides the Heavy Industrial.

Lepke said it should be noted the reason why we don't allow people to change mid-stream is because Planning Staff invests a certain amount of time researching that particular option and there are folks who come in who aren't exactly sure right away and over the course of time that is why they do pre-designed conferences and things of this nature so they can come to a use before they pay their money and file so they don't lose their money if they discover something else would be a better option, rather than coming with one thing and then finding out it really should be another. It is really a safeguard for people and he doesn't want it to sound like they are just being inflexible and not willing to change.

Pittsford wanted to make note that the Remonstrators said they are not opposed to this guy continuing doing what he is doing; we are necessarily opposed to him getting a little larger, what we are opposed to is the fact that if he decides to leave you have opened a tremendously large window in a very sensitive area that would be detrimental to us. He thought it was extremely generous of the neighbors to approach it in such an even handed manner and he thinks that should be noted as well.

Cowell reminded the Commissioners that in this case a “yes” vote is for recommending denial.

The motion carried unanimously for denial of the petition.

Cowell reminded them that this item will go before the Commissioners and will be scheduled within the next 90 days. He said those interested in the case should contact the Planning Department not earlier than the next 30 days for the date it has been scheduled.

Martin said although the meeting adjournment time has passed there are still three cases and a text amendment to consider. We can continue these cases if the Commission so desires; he believes there are people there for each of these petitions.

Cowell said their options if they don't do anything, these items will automatically be continued to their September meeting. The other option is with a three-fourths vote of those members remaining they can extend the meeting or they can schedule a special meeting just for these items and would have to schedule that date tonight.

Martin asked what the meeting for next month looked like; Cowell said they wouldn't get through that meeting either especially since Shawnee Bluffs has been continued over.

2nd Tape: Cowell spoke about the Text Amendment saying there was a lack of a quorum of necessary members to hear it and he wanted to get Schilling's opinion on this since this is a Text Amendment which has been forwarded by the County Commissioners, the Plan Commission is obligated to conduct a public hearing within a certain period of time and he wanted to find out from Schilling how that would be impacted if that hearing is not conducted this evening since they are past the meeting time.

Schilling's response was inaudible; he was not by the microphone.

Martin asked when the 60 days began. Cowell said with 60 days you have just enough time from the time they find out about it to get it scheduled to a Plan Review Committee to then get it scheduled on Plan Commission. You basically have to have Plan Review Committee act, which they didn't and then get it to the Plan Commission which is why it is here now.

Martin moved and Pittsford seconded that they extend the meeting to consider the remainder of the agenda.

The motion carried unanimously.

0506-PUO-03 Eagle Pointe PUD Rezone and Outline Plan Amendment, 1 lot on approximately .55 acres at 8002 LaSalle Drive in Clear Creek Township, Section 22, zoned Agriculture/Rural Reserve (AG/RR)

STAFF ACTION: Lepke went over the petition saying the Staff has a positive recommendation based on the findings of fact subject to the County Highway and Drainage Engineer's Reports.

If approved by the Plan Commission, Staff also recommends that an Improvement Location Permit (ILP) and an Occupancy Permit be applied for with the Planning Department by the petitioner before the actual occupancy of the structure. He went over the rest of the petition and said the petition was heard at the Plan Review Committee on August 4th and forwarded to the Plan Commission positively by a 5 to 0 vote. He said this renovation should enhance adjoining properties.

1. An Improvement Location Permit and Occupancy Permit shall be applied for with the Planning Department by the petitioner before occupancy of the structure

FINDINGS OF FACT

AMENDMENTS TO THE ZONING MAP AND TEXT

831-3. Standards for Amendments

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

- A. The Comprehensive Plan;

Findings

- The petition site is located within a Shoreline Protection Zone
- This site complies with the ECO Area 1 limitation on slope constraints
- ECO Area 1 calls for a density of one unit per five acres
- Two units on 0.55 acres is consistent with the pattern of development within the PUD

- B. Current conditions and the character of current structures and uses in each district;

Findings

- The site is currently occupied by an existing structure dating to the late 1800s which was formerly used as an office space
- Adjacent zoning is Planned Unit Development (PUD) for the Pointe development
- Adjacent uses to the petition site include residences, open space, a swimming pool, tennis courts, and a golf course
- The redevelopment of the property will not change the character of the area

- C. The most desirable use for which the land in each district is adapted;

Findings

- Renovating this property would preserve the existing site layout without expanding the building footprint in an ECO area

- D. The conservation of property values throughout out the jurisdictions; and

Findings

- The addition of this development should not cause a decline in adjacent property values
- Renovation should enhance the adjoining properties in this respect

F. Responsible development and growth.

Findings

- Renovation of this site is an infill redevelopment within the Pointe
- The project requires no additional infrastructure improvements to the site
- The overall density is approximately 4 dwelling units/acre

PUD OUTLINE PLAN

Chapter 811-6 (A) of the Monroe County Comprehensive Plan states: “The Plan Commission in its recommendation, 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 PUD is located in the Shoreline Protection Zone near Lake Monroe
 - The proposed renovation would expand upon the existing Pointe development pattern
- (2) The extent to which the proposed plan meets requirements, standards, and stated purpose of the Planned Unit Development regulations

The Comprehensive Plan reads thusly on the purpose of PUD regulations:

811-1. Purpose

The purpose of the planned unit development is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities and city services; to preserve the natural environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions. It is anticipated that Planned Unit Developments will offer one or more of the following advantages:

- A. Reflect the policies of the Comprehensive Plan specific to the neighborhood in which the PUD is to be located;
- B. Provide substantial buffers and transitions between areas of different land use and development densities;
- C. Enhance the appearance of neighborhoods by conserving areas of natural beauty, and natural green spaces;
- D. Counteract urban monotony and congestion on streets;
- E. Promote architecture that is compatible with the surroundings;
- F. Buffer differing types of land use and intensities of development from each other so as to minimize any adverse impact which new development may have on existing or zoned development;
- G. Promote and protect the environmental integrity of the site and its surroundings and provide suitable design responses to the specific environmental constraints

- of the site and surrounding area; and
- H. Effectuate implementation of the Comprehensive Plan.

Findings

- The PUD was established for the development of the Pointe golf resort
 - The petition site would contain a renovated structure which would be converted from a former office space to two (2) condominium units
 - The project would require no additional parking or other infrastructure improvements
- (3) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property

Findings

- The ECO Area 1 calls for a density of one unit per five acres
 - This redevelopment, with two units on 0.55 acres, is consistent with the pattern of development within the PUD
- (4) The proposal will not be injurious to the public health, safety, and general welfare

Finding

- The development does not appear to present any damaging effects concerning the public's health, safety, and general welfare
- (5) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods

Finding

- The petition site is located within the Pointe PUD and its use coincides with the resort
 - The remodeling of this structure should not cause a decline in adjacent property values
 - The project does not appear to pose any interference with the use of adjacent properties
- (6) The physical design of the Planned Unit Development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation and visual enjoyment

Findings

- The structure utilizes the same utilities and infrastructure as the surrounding development
 - The renovation requires no additional infrastructure improvements
 - The proposed layout of buildings and infrastructure preserves over half of the site's open space
- (7) The desirability of the proposed plan to the County's physical development, tax base and economic well-being

Finding

- The condominium units are likely to be rented to resort visitors, perhaps increasing the potential for visitors to the County

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

Findings

- The development will not require any additional parking facilities or other traffic-related improvements to the area
- Existing utilities will serve the site

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

Findings

- The renovation would not require any additional building expansion
- There are no apparent historical or architectural resources present at this location

PETITIONER: Ray Podesta represented the petition. He stated that they were renovating the barn to use for condominium space.

REMONSTRATORS; None.

BOARD DISCUSSION; None

MOTION;

Martin moved, Enright seconded to approve 0506-PUD-03, based on the findings of fact and with the following condition:

- 1. An Improvement Location Permit and Occupancy Permit shall be applied for with the Planning Department by the petitioner before occupancy of the structure**

The motion was unanimously approved with a 7-0 vote.

0506-SVA-09 Bellevista Subdivision, Preliminary Plat Amendment for alternative sidewalk plan, 50 lots on approximately 85 acres in Clear Creek Township, Sections 15 and 16, zoned ER.

STAFF ACTION: Eakin read the staff report and recommended motion to approve based on the findings.

1. Sidewalks be extended to at least one side of each proposed cul-de-sac road and the Anne Avenue stub.
2. Sidewalks be shifted to the west side of Anne Avenue in order to connect directly to sidewalk recommended for Caroline Court.
3. The cost of the sidewalk construction be included with the financial guarantee for the overall public improvements of the subdivision.

PETITIONER: Steve Peters (with Bynum Fanyo & Associates) represented the petitioner. He stated that the main concern was regarding run off and impervious surfaces which was resolved. The petitioner would be building sidewalks and planting street trees as lots were sold. The petitioner was placing a condition in the covenants and restrictions (recorded on the plat) that occupancy cannot be maintained until the sidewalk was constructed along the given frontage. The petitioner was requesting to have the bond waived for the sidewalks because of the condition recorded on the plat regarding sidewalk construction.

FINDINGS OF FACT:

The petitioner is requesting a waiver from the *Improvement, Reservation and Design Standards* outlined in 856-40 (sidewalks). Section 850-12 of the Monroe County Subdivision Control Ordinance states: “The Commission may authorize and approve modifications from the requirements and standards of these regulations (including the waiver of standards or regulations) upon finding that:

1. Practical difficulties have been demonstrated:

Findings:

- The improvement is triggered by a major subdivision, creating 50 lots with a majority of the proposed lots being less than 2.5 acres in size.
- The total length of required sidewalk is approximately 1100 linear feet along S. Strain Ridge Rd. and approximately 13,000 linear feet combined for both sides of all proposed local roads.
- All proposed local roads are within the acceptable range of minimum road grade standards (8% or less).

The construction of sidewalks is a compliance requirement under the subdivision control ordinance and no significant economic, environmental, or particular existing parcel has been identified. Practical difficulties have not been demonstrated.

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

Findings:

- The Comprehensive Plan calls for an alternative transportation system throughout the county.
- The surrounding area to the north is zoned Estate Residential (ER) requiring a minimum lot size of 1 acre, large properties to the south are designated Agriculture / Rural Reserve (AG/RR) with a minimum lot size of 2.5 acres.
- Sidewalks can alleviate safety concerns for pedestrians and promote alternative modes of transportation that are consistent with the Comprehensive Plan and the Zoning Ordinance. (See findings under # 3 below).

The requested waiver would not contravene the recommendations by the Comprehensive Plan and Zoning Ordinance.

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 presence of sidewalks does not have a relationship to the delivery of governmental services (e.g. water, fire protection, etc.) to facilitate the new building sites.
- Sidewalks can alleviate safety concerns for pedestrians and promote alternative modes of transportation.

Approval would not be detrimental to the public health, safety, or welfare to the extent that sidewalks can provide safety for pedestrians and promote alternative modes of transportation.

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

Findings:

- There are currently no sidewalks located in this area.
- Waiver approval would not alter or substantially injure the area as it would merely permit existing conditions to persist.

Approval of the waiver would not substantially alter the essential character nor result in injury to other nearby properties.

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:

- The improvement is triggered by a major subdivision, creating 50 lots with a majority of the proposed lots being less than 2.5 acres in size.
- The total length of required sidewalk is approximately 1100 linear feet along S. Strain Ridge Rd. and approximately 13,000 linear feet combined for both sides of all proposed local roads.
- All proposed local roads are within the acceptable range of minimum road grade standards (8% or less).
- Currently, there are no sidewalks located in this area.
- A condition of approval for the previously approved Section 2 of Bellevista was the acceptance of a commitment by the petitioner to provide an additional five feet on each side of all roads for a pedestrian access easement.
- The petition site would directly connect to existing sections of Bellevista subdivision, which lie within the Smithville Sanders Rural Community Plan area, which encourages the physical linkage of neighborhoods via pathways, sidewalks, and streets.

The conditions of the parcel are not unique to the parcel and are the requirements that would be generally applicable to other nearby properties under current regulations.

6. Granting the requested modifications would not contravene the policies and

purposes of these regulations;

Findings: Waiver approval would not contravene the policies and purposes of these regulations. (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 triggered by a major subdivision, creating 50 lots with a majority of the proposed lots being less than 2.5 acres in size.
- The total length of required sidewalk is approximately 1100 linear feet along S. Strain Ridge Rd. and approximately 13,000 linear feet combined for both sides of all proposed local roads.
- All proposed local roads are within the acceptable range of minimum road grade standards (8% or less).

The installation of sidewalks along the existing and proposed roadways is consistent with the policies and purposes of all relevant regulations and no practical difficulties have been identified.

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 above).

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

REMONSTRATORS:

BOARD DISCUSSION:

Pittsford requested clarification regarding sidewalk construction. He was unsure if occupancy could not be obtained for any lot until the sidewalks were constructed or if the construction was on a lot by lot basis.

Peters stated that sidewalk construction would be built on a per lot basis.

Newmann did not feel the sidewalks should be the home owner's responsibility nor did he agree with the sidewalk waiver request.

Cowell stated that staff would strongly recommend that condition (#3) apply regarding a bond for the sidewalk improvements. The ordinance requires that all improvements be bonded.

Enright stated that the ordinance requires a bond for sidewalks and this petition should not get special treatment.

Martin had general questions/concerns regarding sidewalks and drainage issues.

Williams and Peters answered Martins questions and concerns regarding sidewalks and drainage.

MOTION:

Newmann moved and Kiesling seconded to deny 0506-SVA-09 based on the findings of fact.

The motion was 3 ayes to 4 nays (Dodds, Enright, Kiesling, Pittsford) motion failed.

Martin moved, Newman seconded to continue 0506-SVA-09 the petition until the September 2005 regular meeting, Martin withdrew the motion to continue.

Dodds moved, Pittsford seconded to approve 0506-SVA-09, based on the findings of fact including the Highway and Drainage Board report and the following conditions:

1. Sidewalks be extended to at least one side of each proposed cul-de-sac road and the Anne Avenue stub.
2. Sidewalks be shifted to the west side of Anne Avenue in order to connect directly to sidewalk recommended for Caroline Court.
3. The cost of the sidewalk construction be included with the financial guarantee for the overall public improvements of the subdivision.

The motion was 5 ayes to 2 nays (Martin, Newmann) motion carried.

The Board made the motion to continue the meeting past 11:00 p.m. with a unanimously voice vote.

0505-SPP-10 Michael Shields, Preliminary Plat, 2 lots on approximately 40 acres at 8561 W. Vernal Pike in Richland Township, Section 33, zoned AG/RR.

STAFF ACTION: Zody read the staff report and recommended motion to approve the petition based on the findings of fact.

Based on the Findings of Fact, staff gives the petition a positive recommendation subject to the conditions of the Highway and Drainage Engineers' reports

FINDINGS OF FACT - Major Subdivision

850-3 PURPOSE OF REGULATIONS

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

Findings

- The site is 40 acres
- Each lot exceeds the minimum lot size of 2.5 acres per the Zoning Ordinance
- Each lot exceeds the recommended lot size of 4 acres per the Comprehensive Plan
- The private road complies with the requirements of Chapter 856
- All lots satisfy the height/bulk standards (e.g., minimum lot size) of Chapter 804
- The petition has approved septic systems for both lots
- The project will receive water service from the Van Buren Water District

(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 zoning for the property is Agriculture/Rural Reserve (AG/RR)
- The petition is for low density residential development
- The petition exceeds the Plan's recommended 4 acre lot site for each proposed lot
- The site is located in the Rural Reserve Recommended Land Use area

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

Findings

- Lot 1 is 5 acres
- Lot 2 is 35 acres
- All lots satisfy the height/bulk standards (e.g., minimum lot size) of Chapter 804
- All lots will have to comply with other standards (e.g., maximum coverage, landscaping, site plan review)
- The petition will utilize the existing road network, a private gravel drive
- The development will utilize septic systems
- Van Buren Water District will provide water service

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

Findings

- The petition site is zoned Agriculture/Rural Reserve (AG/RR)
- The petition site is located in Rural Reserve Recommended Land Use area
- Adjacent areas are zoned AG/RR
- Adjacent land use includes low-density residential

- (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

- The subdivision will derive access from an existing private road
- The site is zoned for agricultural and residential uses and is relatively free of natural constraints within the proposed development area
- The proposal is for 2 lots on 40 acres

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

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

Findings

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

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

Findings

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

(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 go to record.

PETITIONER: Michael Shields represented the petition. He gave background on the petition.

REMONSTRATORS: None.

BOARD DISCUSSION:

Martin asked how the plat could be changed to show the east west line (which is the southern boundary) going all the way across instead of turning back toward the north.

Zody stated that could be corrected now and shown on the final plat.

Enright asked that the section corners be monumented.

MOTION:

Enright moved, Dodds seconded to approve 0505-SPP-10, based on the findings of fact including the Highway and Drainage Engineers report and with the following conditions:

Based on the Findings of Fact, staff gives the petition a positive recommendation subject to the conditions of the Highway and Drainage Engineers' reports

The motion was unanimously approved with a 7-0 vote.

REPORTS:

Cowell stated that the Board would need to review the proposed text amendment and vote whether to allow a public hearing on the text amendment. Also the Review Committee needs a newly appointed Plan Commission member to assure a quorum for all their meetings. The Planning Departments budget was recommended for approval by the County Council and that includes all our requests with the exception of the address coordinator. There will be further discussions based on the fee structure that is set up for the department and the address coordinator's approval will be contingent on that fee structure. There is another televised course being offered on September 8th, 2005 and Baugh needs to know who would be interested in attending the meeting.

Monroe County Plan Commission Regular Meeting August 16, 2005

The Board appointed Dan Baugh to the Review Committee which was unanimously approved via voice vote.

Legal Department – Dave Schilling had no report.

ADJOURNMENT: 11:30 P. M.

Signed:

Attest:

President

Secretary