

DRAFT

**MONROE COUNTY PLAN COMMISSION  
Hybrid Meeting - Minutes  
November 17, 2022 - 6:00 P.M.**

**CALL TO ORDER**

**ROLL CALL**

**INTRODUCTION OF EVIDENCE**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES – None.**

**CALL TO ORDER:** Jerry Pittsford called the meeting to order at 6:30 PM.

**ROLL CALL:** Jerry Pittsford, Dee Owens, Julie Thomas, Bernie Guerrettaz, Geoff Morris, Trohn Enright-Randolph

**ABSENT:** *Geoff McKim, Margaret Clements*

**STAFF PRESENT:** Jackie Nester Jelen, Director, Anne Crecelius, Planner II, Drew Myers, Senior Planner, Daniel Brown, Planner II

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

**INTRODUCTION OF EVIDENCE:**

**Jackie Nester Jelen introduced the following items into evidence:**

The Monroe County Zoning Ordinance (as adopted and amended)

The Monroe County Comprehensive Plan (as adopted and amended)

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

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

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

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

**APPROVAL OF AGENDA**

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

**APPROVAL OF MINUTES**

**No minutes to approve at this time.**

**ADMINISTRATIVE BUSINESS:**

1. **Reminder for CDO Public Engagement December 13, 2022.**

**UNFINISHED BUSINESS:**

1. **SSS-22-8**      **Tirey-Devries Sliding Scale Subdivision Preliminary Plat  
Right of Way Width Waiver Requested.  
Final Hearing.**  
One (1) parcel on 14 +/- acres in Section 13, Bloomington Township at 4500 E Bethel LN, parcel #53-05-13-400-020.000-004.  
Owner: T7 Properties, LLC.  
**Zoned AG/RR.** Contact: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)
2. **ZOA-22-5**      **Amendment to the Monroe County Zoning Ordinance:  
Chapter 803- Pre-existing Nonconforming Uses  
Final Hearing.**  
Amendment to clarify regulated floodplain standards and mobile / modular home replacement standards.  
Contact: [tbehrman@co.monroe.in.us](mailto:tbehrman@co.monroe.in.us)

**NEW BUSINESS:**

1. **SSS-22-10**      **Bell Road Sliding Scale Subdivision Preliminary Plat  
Road Width Waiver Requested.  
Preliminary Hearing. Waiver of Final Hearing Requested.**  
One (1) parcel on 132 +/- acres in Section 8, Bloomington Township at 1300 W Bell RD, parcel #53-05-08-300-007.000-004.  
Owner: Hamilton, Jeff & Jean.  
**Zoned AG/RR.** Contact: [dmyers@co.monroe.in.us](mailto:dmyers@co.monroe.in.us)
2. **REZ-22-8**      **Starts Rezone from AG/RR to LB  
Preliminary Hearing. Waiver of Final Hearing Requested.**  
One (1) 17.29 +/- acre parcel in Clear Creek Township, Section 11 at 7955 S Fairfax RD, parcel no. 53-11-11-300-014.000-006.  
Owner: Starts Living Trust c/o Lorraine Fowler  
**Zoned AG/RR, ECO 1/2/3.** Contact: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)
3. **SSS-22-5**      **Betty Chambers Sliding Scale Subdivision Preliminary Plat  
Road Width Waiver Requested.  
Preliminary Hearing. Waiver of Final Hearing Requested.**  
One (1) parcel on 11.8 +/- acres in Section 4, Bean Blossom Township at 7300 W Wampler RD, parcel #53-03-04-100-011.000-001.  
Owner: Chambers, Betty.  
**Zoned AG/RR.** Contact: [drbrown@co.monroe.in.us](mailto:drbrown@co.monroe.in.us)

## **ADMINISTRATIVE BUSINESS**

### **1. Reminder for CDO Public Engagement December 13, 2022.**

Nester Jelen: Sure, so we will be having during our next regular session of the Plan Commission on December 13<sup>th</sup>, the meeting is going to start at 5:30, we are going to put the Public Engagement session of the meeting at the beginning. The consultants for the CDO, McBride Dale Clarion will be here to give a short presentation and then we are hoping to have an interactive session for the public to go over the draft Use Table and the draft Zoning Map. We hope that people can join us in December at 5:30 in this room, the Nat. U Hill Room, third floor of the courthouse.

Pittsford: Thank you and I would like to remind the public that this document is an important document. This process is a protracted process that requires attention in several junctures along the way. This is one such example and we hope to have as much participation as possible so that we are not hearing about it after the fact rather in the moment so we can make adjustments and know what the community is thinking.

Thomas: If I might, could you share the web link, please?

Nester Jelen: Yes. The website, [monroecdo.com](http://monroecdo.com) is a great resource for anyone that wants to go ahead and get a head start on the draft Zoning Map is located on that web page and also, we keep updates on the home page of that website. If you want to sign up for updates there is a list, there that you can go to under public input. We encourage you to always check that website. Thank you.

Pittsford: Thank you very much.

## UNFINISHED BUSINESS

### 1. SSS-22-8      **Tirey-Devries Sliding Scale Subdivision Preliminary Plat Right of Way Width Waiver Requested.**

#### **Final Hearing.**

One (1) parcel on 14 +/- acres in Section 13, Bloomington Township at 4500 E Bethel LN, parcel #53-05-13-400-020.000-004.

Owner: T7 Properties, LLC.

**Zoned AG/RR.** Contact: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)

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

#### **STAFF ACTION:**

Crecelius: Thank you. Since all Plan Commission members were present at the Preliminary Hearing I am going to go ahead and just do an update, not necessarily go through a full presentation if that is agreeable with everybody. Ok, so just as a clarification point the official name of the Sliding Scale Subdivision will be Bethel Lane Sliding Scale Preliminary Plat. At the last preliminary hearing we had discussed conditions of approval. This was a sliding scale to create one additional new lot. The conditions of approval we did have a good discussion about what the Highway Department would want the septic being located within the right of way and a portion of the house so with this having a Right of Way Width Waiver requested, we came to an agreement that the Highway Department would like to see the 40 feet of right of way that was acceptable to be dedicated to the county. That would be a 5 foot allowance to allow the existing structure to still be that would normally encroach within the required 45 feet, it would also allow the existing septic system for the proposed Lot 1 to be within the proposed dedicated right of way with the condition, with 2 conditions that they supply a draft written agreement that was reviewed and approved by the Monroe County Legal Department and that an alternative septic location is identified and approved by the Monroe County Health Department pending the eventual relocation of that septic system from the right of way. That is a stipulation of that written agreement. Both of these have been provided to us. We have a written agreement, which is in your Exhibit 6. A discussion from the last preliminary hearing, which was why would a new septic location need to be identified, the Planning Director did have that discussion with the Health Department and has a very informative email in Exhibit 5. They did go ahead and get that alternative septic location identified and you can see that, this is just an update, so it is not actually in your packet. Let me go ahead and find this so that I can share it with you. Ok. So, we did get this septic permit. It would use the existing septic tank. I did speak with the Health Department, Ryan Casper-Cushman, he had stated that the existing septic tank is located in between the house and the garage, and they did approve a new location for a new septic field for when that existing septic either fails or has to be removed based on construction and the right of way for Bethel Lane.

Pittsford: And that would be the blue area that we see on that image there, correct?

Crecelius: Yes, that would be the new septic field. That written commitment stipulates that if the septic system fails it has to be relocated. If it is damaged because of right of way work, it has to be relocated all at the cost of the property owner and not at the expense of Monroe County. Legal has reviewed that and it has a good format. I think we still had a few questions to work out, but we have no hesitation about it. That being said, the staff recommendation is approval of the Right of

Way Width Waiver and the Sliding Scale Subdivision Preliminary Plat with the following conditions of approval;

1. A written commitment is approved by Monroe County Legal Dept. and recorded with the Monroe County Recorder's Office. This written commitment would be to:
  - a. Release Monroe County from any damage or harm to Proposed Lot 1 existing septic that's located within the proposed dedicated 40' of Right of Way, and that;
  - b. Lot 1 property owner would be responsible for, and required to, relocate a new septic system outside of the dedicated Right of Way should the system fail or be damaged.
2. An alternative septic location for proposed lot 1 is approved by the Monroe County Health Dept. and on the Preliminary Plat.
3. A note is added to the plat that restricts any future development to the structures located within the front setback.
4. Comply with specifications outlined by Project Manager, Ben Ayers, within one year of final platting.
  - a. Proposed Lot #1 & Lot #2 shall share the middle existing driveway entrance.
  - b. Remove existing driveway entrance to the east and west and restore side ditch to its natural state.
  - c. Existing driveway entrance must be brought up into and meet the specifications of Chapter 755 and Chapter 3.0 of the Manual for Construction Within and Adjacent to Monroe County Right-of-Way.

#### **RECOMMENDATION TO THE PLAN COMMISSION**

Staff recommends **approval** of the Right of Way Width Waiver and the Sliding Scale Subdivision Preliminary Plat with the following conditions:

1. A written commitment is approved by Monroe County Legal Dept. and recorded with the Monroe County Recorder's Office. This written commitment would be to:
  - d. Release Monroe County from any damage or harm to Proposed Lot 1 existing septic that's located within the proposed dedicated 40' of Right of Way, and that;
  - e. Lot 1 property owner would be responsible for, and required to, relocate a new septic system outside of the dedicated Right of Way should the system fail or be damaged.
2. An alternative septic location for proposed lot 1 is approved by the Monroe County Health Dept. and on the Preliminary Plat.
3. A note is added to the plat that restricts any future development to the structures located within the front setback.
4. Comply with specifications outlined by Project Manager, Ben Ayers, within one year of final platting.
  - f. Proposed Lot #1 & Lot #2 shall share the middle existing driveway entrance.
  - g. Remove existing driveway entrance to the east and west and restore side ditch to its natural state.
  - h. Existing driveway entrance must be brought up into and meet the specifications of Chapter 755 and Chapter 3.0 of the Manual for Construction Within and Adjacent to Monroe County Right-of-Way.

**FINDINGS OF FACT - Subdivisions**

**850-3 PURPOSE OF REGULATIONS**

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

**Findings**

- Approval of the subdivision would subdivide one lot into two (2) lots which will meet all design standards;
- Lot 1, the designated Parent Parcel Remainder, shall not be further subdivided for a period of twenty-five (25) years from the date of recording of the Final Plat unless connected to a public sewage disposal system or further subdivision of the property is authorized by ordinance;
- Steep slopes are present on the proposed lots but would meet the Buildable Area design standard requirements;
- Proposed lots have an approved septic permit location;
- Proposed lots 1 and 2 have received approved with conditions driveway permits off of E Bethel LN;
- The MS4 Coordinator has reviewed the application and the petitioner has added drainage easements;
- 45' of right-of-way is required to be dedicated along E Bethel LN, a Minor Collector road;

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

**Findings**

- The Comprehensive Plan designates the site as Farm and Forest, which includes low-density single-family subdivisions;
- The site has access to utilities;
- See findings under Section A;

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

**Findings**

- See findings under (A);
- The proposed use is residential;
- Structures may not cover more than 65 percent of the lot;
- The surrounding uses are residential or agricultural;

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

**Findings**

- The property is currently zoned Agricultural Rural Reserve (AG/RR) and ECO Area 3 is used for Single Family Residential and Agriculture;

- Adjacent properties are zoned Agricultural Rural Reserve (AG/RR), Conservation Residential (CR), and Suburban Residential (SR) and are used for Single Family Residential or agriculture;
  - Approval of the subdivision would create two (2) lots that meet the design standards for the zoning designation AG/RR;
  - See findings under Sections A & C;
- (E) To guide public and private policy and action to ensure that adequate public and private facilities will be provided, in an efficient manner, in conjunction with new development, to promote an aesthetically pleasing and beneficial interrelationship between land uses, and to promote the conservation of natural resources (e.g., natural beauty, woodlands, open spaces, energy and areas subject to environmental constraints, both during and after development).

**Findings**

- See findings under Sections A & C & D;
- (F) To provide proper land boundary records, i.e.:
- (1) to provide for the survey, documentation, and permanent monumentation of land boundaries and property;

**Findings:**

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

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

**Findings:**

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

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

**Findings**

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

**FINDINGS OF FACT – WAIVER OF ROAD RIGHT OF WAY REQUIREMENT**

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

*Where a subdivision borders an existing narrow street or when the Comprehensive Plan, Official Map, Thoroughfare Plan, or zoning setback regulations indicate plans for realignment or widening of a street that would require use of some of the land in the*

*subdivision, the Applicant shall be required to improve and dedicate such streets at his own expense. Such frontage streets and other streets on which subdivision lots front shall be improved and dedicated by the Applicant at his own expense to the full width required by these subdivision regulations. Land reserved and/or used for any street purposes may not be used to satisfy the minimum yard setback or lot area requirements of the Zoning Ordinance.*

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

**1. Practical difficulties have been demonstrated:**

**Findings:**

- Without a waiver from the right of way requirement the front portion of the home on the proposed lot 1 will be located within right of way and will be non-conforming;
- Without a waiver proposed lot 1 existing septic is almost full located within the right of way;
- The site gains access from E Bethel LN;
- The site maintains frontage along E Bethel LN, designated as a Minor Collector road;
- The waiver approval will allow the subdivision to continue with a 40’ right of way dedication along the petition site frontage of E Bethel LN;
- If the waiver is denied in order to continue with the subdivision the petitioner will be required to demolish the portion of the Single Family Residence that is located within the right of way;

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

**Findings:**

- See Findings under # 1;
- The 2018 Monroe County Thoroughfare Plan shows E Bethel LN as a Minor Collector requiring 45’ of right of way dedication;

**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 petitioner has agreed to record a commitment that requires the relocation of the septic of proposed lot 1 if the septic is damage or fails;
- An alternative location for the septic has not been identified by the petition as requested;
- The lots within the administrative subdivision meet all other design standards required of the subdivision ordinance;



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

**Findings:**

- See Findings under #1, #2, #3;
- Some nearby structures may also be unable to meet the 45' right of way if triggered to be dedicated;

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

**Findings:**

- See findings under #1 above;

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

**Findings:**

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

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

**Findings:**

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

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

**Findings:**

- See findings under #1 through #7 above;

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

**Findings:**

- See findings under #1 and #4 above;

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

**QUESTIONS FOR STAFF – SSS-22-8 – Tirey-Devries**

Pittsford: Wow, that was a lot. Wasn't it Anne? Do we have any questions for staff? Trohn?

DRAFT

Enright-Randolph: Just one question and I guess with the recommendations do you think we should remove the name of Ben Ayers and just stipulate the Project Manager? I guess I am trying to state a question but ultimately, I feel that we should remove the name, so it is more defined by the position. I don't think that Ben is going anywhere but that is my question to Legal is if we make it subjected to Ben Ayers alone and he leaves employment with the County it is probably best if we just identify it by job title.

Creceilius: Sure. I think we could all do that say comply with the specifications outlined by Right of Way Activity Permit.

Enright-Randolph: Perfect. Thank you. Sorry to be a stickler.

Pittsford: You know Trohn, that is actually worth noting that anything we make reference to someone doing work we should make reference to the position that they hold. So, thank you for the reminder, Trohn. Are there any other questions for staff? We will make note of that revision so that recommendation can stand as it is written. Alright, if there are no further questions for staff, I am going to open the floor to the petitioner if there is anything that has not yet been covered, the petitioner would like to present. Is there anyone here representing the petition? No comment? Ok, thank you. If you are going to speak, you have to step up. If you are going to nod, you can nod from where you sit.

#### **PETITIONER/PETITIONER'S REPRESENTATIVE – SSS-22-8 – Tirey-Devries**

Petitioner: I just want to note that there are some, as Anne mentioned, there are some questions in the letter that as citizen I am not equipped to answer. So, before we can move forward getting it recorded with the County, we will need some assistance from the Planning Commission or from Planning Staff.

Pittsford: Does that make sense, Anne?

Creceilius: Yes, it does.

Pittsford: Ok, and you will be assisting him through the process.

Creceilius: Yes.

Pittsford: Ok. We got you covered. Thank you. Alright, if there is nothing else from the petitioner, I am going to open the public comment phase one last time. If there is anyone here who wishes to speak in support of this petition, you may come forward now. There appears to be none. If there is anyone who wishes to speak in opposition to this petition, you may come forward now. There appears to be none. With that noted we will bring it back to the Plan Commission for final action.

#### **SUPPORTERS - SSS-22-8 – Tirey-Devries: None**

#### **REMONSTRATORS – SSS-22-8 – Tirey-Devries: None**

DRAFT

**ADDITIONAL QUESTIONS FOR STAFF – SSS-22-8 – Tirey-Devries: None**

**FURTHER QUESTIONS FOR STAFF – SSS-22-8 – Tirey-Devries**

Guerrettaz: I can make a motion.

Pittsford: Thank you, sir.

Guerrettaz: **In the matter of case number SSS-22-8, this is the Bethel Lane Sliding Scale Subdivision Preliminary Plat approval. This is the final hearing. I move that we approve the Sliding Scale Subdivision, the Right of Way Width Waiver based on the findings of fact and the recommendations outlined in the report verbatim and listed with the changes to #2 being as I understand. Because there has been an approved septic site, alternative septic site on site, correct? So, #2 should read as an alternative septic location for proposed Lot 1 has been approved by the County Health Department and shall be shown on the Preliminary Plat. Number 4 change to comply with specifications outlined by the Right of Way Activity report within 1 year of final platting. All else shall remain the same.**

Owens: **Second.**

Pittsford: Thank you Dee. We have a motion and a second on petition SSS-22-8. This is a final hearing, which includes a Right of Way Width Waiver and a Sliding Scale Subdivision. Jackie, call the roll.

Nester Jelen: I am going to call the roll and I am also going to repeat the conditions just so everyone knows what they are voting on. This is a recommendation for approval on SSS-22-8, with a Right of Way Dedication Width Waiver, with the following conditions:

1. A written commitment is approved by Monroe County Legal Dept. and recorded with the Monroe County Recorder's Office. This written commitment would be to:
  - a. Release Monroe County from any damage or harm to Proposed Lot 1 existing septic that's located within the proposed dedicated 40' of Right of Way, and that;
  - b. Lot 1 property owner would be responsible for, and required to, relocate a new septic system outside of the dedicated Right of Way should the system fail or be damaged.
2. An alternative septic location for proposed lot 1 has been approved by the Monroe County Health Dept. and shall be noted on the Preliminary Plat.
3. A note is added to the plat that restricts any future development to the structures located within the front setback.
4. The petitioner comply with specifications outlined by Right of Way Activity Permit, within one year of final platting, including;
  - a. Proposed Lot #1 & Lot #2 shall share the middle existing driveway entrance.
  - b. Remove existing driveway entrance to the east and west and restore side ditch to its natural state.
  - c. Existing driveway entrance must be brought up into and meet the specifications of Chapter 755 and Chapter 3.0 of the Manual for Construction Within and Adjacent to Monroe County Right-of-Way.

A vote in favor is a vote to approve the Sliding Scale Subdivision Waiver and the conditions. Dee

DRAFT

Owens?

Owens: Yes.

Nester Jelen: Julie Thomas?

Thomas: Yes.

Nester Jelen: Bernie Guerrettaz?

Guerrettaz: Yes.

Nester Jelen: Jerry Pittsford?

Pittsford: Yes.

Nester Jelen: Geoff Morris?

Morris: Yes.

Nester Jelen: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Nester Jelen: The motion carries 6 to 0.

**Motion in case SSS-22-8, Tirey-Devries Sliding Scale Subdivision Preliminary Plat, Right of Way Width Waiver Requested, Final Hearing, in favor of approving the requests, with the conditions as stated in the motion, carried unanimously (6-0).**

## UNFINISHED BUSINESS

### 2. ZOA-22-5      **Amendment to the Monroe County Zoning Ordinance: Chapter 803- Pre-existing Nonconforming Uses Final Hearing.**

Amendment to clarify regulated floodplain standards and mobile /  
modular home replacement standards.

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

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

#### **STAFF ACTION:**

Nester Jelen: Yes, I can go ahead and present this one. This is the final hearing of this Chapter 803 text amendment. I am going to go ahead and steal the screen over here and share the text amendment on this screen.

Pittsford: While you are doing that Jackie, if you don't mind, I want state publicly that we have spent quite a bit of time looking at this most recently even at the Ordinance Review Committee we looked at this. Some of this is a result of state and federal regulations and compliance that we need to be looking to but also some of it is based on the best interest of homeowners and property owners county. So, while in some instances or some circumstances it may appear that these are overreaches of authority, they are really not always as simple as what they seem on paper. Thank you. If you would go ahead, Jackie.

Nester Jelen: I will just go ahead and go through the text amendments that we are changing and as Jerry mentioned there as a discussion at the Ordinance Review Committee regarding the second part of the changes that I will go through. The first change proposed is under 803-2, which is nonconforming parcels and/or structures, under subsection (D), which just specifies that however, if the legal, pre-existing nonconforming structure is within a Special Flood Hazard Area as specified in Chapter 808 then compliance with Chapter 808 applies and that is for pre-existing nonconforming structures damaged by flood. If those are located in Special Flood Hazard Area, we are legally required to make sure that they comply with Chapter 808, which is an ordinance that is given to us by the Department of Natural Resources so that we can maintain our flood insurance for the county. Under (I), we are proposing to strike the first part of the sentence which is saying that for areas outside of the former City of Bloomington planning and zoning jurisdictional area and we would like this subsection to apply to the entire county jurisdiction. Under that same subsection, (2) we are asking that if a nonconforming dwelling is a mobile or manufactured home that it may be replaced by another manufactured home, and we are striking mobile and we are also striking without regard to the 25 percent increase in floor area. What that is saying is if you have a mobile home and you would like to expand it that you would need to replace it by putting in a manufactured home, which is a home that was built after 1974 and has a stamp from the Housing and Urban Development Organization. That is considered to be best practice and safer for people that are residing in those. That is something that we are asking as part of this text amendment. 2 exhibits for this text amendment included in the packet are Chapter 808 and it has highlighted portions that show the areas of that chapter that were voluntary from the state that we adopted and then the other exhibit that we have is just a memo regarding the difference

DRAFT

between a manufactured home and a mobile home. So, if there are any questions or if you would like me to go through either of those 2 exhibits I would be happy to do so.

Pittsford: I would like it if you could just scroll up to the memo.

Nester Jelen: Do you want the memo or Chapter 808 first?

Pittsford: It doesn't matter, whichever.

Nester Jelen: Ok. I will go through 808 since it is first just to show people that basically the highlighted text is already in the ordinance. The red all caps text is staff...

Pittsford: Ok, there you go.

Nester Jelen: The staff just added recommendations and we did have a conversation about this at the Ordinance Review Committee. The language that is in here that is voluntary and possibly could be amended in the CDO is the discussion about only having permeable surfacing in the Special Flood Hazard Area instead of allowing asphalt paving or other impervious. But all of the other discussions were that it is likely that DNR will require these voluntary suggestions as required suggestions under the new version that we will be getting sometime in the near future. As you go through this exhibit there are several highlighted portions that you can review. Again, these were given to us by the DNR and we were informed that they are voluntary at the time. However, we adopted the code as given because we felt that all of the language was helpful. I will go down to the memo if there are not any other questions.

Pittsford: I want to make note too while you are getting there to bring that up that Tammy Behrman is our Flood Compliance Administrator.

Nester Jelen: Flood Compliance Administrator, yes.

Pittsford: Ok. In its short form, she is our flooding expert at the Planning Office, and she does an exceptional amount of work on this and is so knowledgeable that it is actually kind of scary the encyclopedia knowledge that she has of this. She really makes sure that we stay within due balance, which is very important if you like having your insurance rating unchanged in the county.

Nester Jelen: If anyone has any questions about their properties or whether or not it is in the floodplain, we would be happy to talk to anyone that comes into our office or calls our office to give them that information. The other memo is regarding the mobile home versus the manufactured home. One of things that we wanted to discuss is that otherwise the mentioning in Chapter 803, if you look at our Chapter 802 Use Table, which is just for sites that are not pre-existing nonconforming, which is a majority of the county, we actually don't allow for new mobile home placements to occur on properties. They have to be having that stamp from 1974 or later to be able to be located on an individual property and be considered a single-family dwelling. So, the only location for a mobile home, which is before 1974 those can be located legally in a mobile home park, but we cannot locate those legally on a single-family residential site. Again, the purpose of that law is that there was a lot of damage to mobile homes specifically wind damage, tornado

damage and so that homes that were built and constructed after 1974 HUD began certifying those stating that those were safer for people to reside in. The purpose of it in our ordinance is to promote public health and safety for that.

Pittsford: So, it only took what, you know, a few generations to figure out that the structure of the mobile home was not going to withstand the weather and in case you are curious, I did actually raise the question as to whether or not pre-1974 homes could be rehabbed with all of the tiny housing craze going on right now, I was wondering is there a movement of people wanting to buy and rehab these but they don't allow that and it is not likely anybody would want to rehab a pre-1974 mobile home for any purpose whatsoever that I can see. Am I right?

Nester Jelen: We do not have many requests for that, no.

Pittsford: Right, right. I think there is a use for them, but it is no legal and it tends to end in flames.

Owens: My hand is raised.

Pittsford: I am sorry, Dee. I am not used to looking for that in these meetings. Go right ahead.

Owens: Thank you. I could not tell in the ordinance if there is anything that says you cannot move a pre-1974 mobile home from one lot to another. Is that in there and I missed it? I just want to make sure that we close all of the loopholes.

Nester Jelen: Dee, if you have a pre-existing pre-1974, so a mobile home located on a site and you move that off of that site, you no longer have the pre-existing nonconforming status on that original site and to locate it on another site would require a building permit. Both the Building and the Planning Department are unable to issue that because of these standards.

Owens: Got it. Thank you.

Pittsford: It could be placed in a mobile home park though.

Nester Jelen: That is correct.

Pittsford: Thank you. Where they would require strapping and the like.

Nester Jelen: That is a good question, but I believe so yes.

Pittsford: Alright, I think we have covered everything under the amendment to the zoning ordinance. Are there any questions from members? No.

### **QUESTIONS FOR STAFF – ZOA-22-5 – Amendments to Ch 803**

Guerrettaz: I have just got a couple of quick comments. I think we have had multiple discussions on this and staff has done an excellent job on bringing information forth. We saw it at the Planning Commission Meeting. I am on the ORC so we did see this at the ORC and then we saw it at the

Administrative Session. Is that correct? So, my points of view on this are public record and I am not going to rehash then here at all. I do think that the positives with this text amendment are we need to make sure that the sections of the ordinance mesh and are logical with other sections of the ordinance. Just like what we are trying to do is make our ordinance consistent with what the state puts out we need to have our ordinance consistent with itself. So, I think that is important and necessary. I wasn't going to use the term, but Jerry used the term overreach. You can put anything in there that you want but we do have things in the ordinance that were add-on's recommended by the state or not, it doesn't really matter to me because every location is different and through the discussions that we have had staff has indicated that we will look at some of these chapters, or, pardon me, some of these sections of 808 as we go through the CDO, which is good. Because there are some things as Jackie mentioned with the impervious surfaces that don't make sense. I think some of these things that we get from the state we just accept, and we don't fully know what they mean. That is not a comment on prior staff or existing staff, it just is what it is. I think that there are portions of the ordinance that are subjective that I think that we should work on and then again, I just think that we have to understand that different parts of our ordinance have to mesh, and we have to be consistent with the state in order to maintain our flood control program. So, I think all in all it is a positive change, but it needs some work. So, that is all that I have got to say.

Pittsford: Thank you, Bernie. Jackie, I am assuming that the consultants will do some continuity in the process of updating the zoning ordinance, continuity to our zoning ordinance where we might have contradictory language.

Nester Jelen: Yes.

Pittsford: Ok, good. I would assume that is part of a standard procedure for them. If there are no other questions or comments, I am going to open the floor for public comment on these amendments to Chapter 803 of the zoning ordinance. If you would like to speak in favor of these changes, you may come forward. If you would like to speak in opposition, you may come forward. Alright and this is the final hearing so we will entertain a motion on this item ZOA-22-5.

Nester Jelen: I don't see any commentators in the zoom either. It is all panelists.

Pittsford: Thank you. If we don't have a suggested motion on this, then we just need a plain motion?

Nester Jelen: Yes.

**SUPPORTERS - ZOA-22-5 – Amendments to Ch 803: None**

**REMONSTRATORS – ZOA-22-5 – Amendments to Ch 803: None**

**ADDITIONAL QUESTIONS FOR STAFF – ZOA-22-5 – Amendments to Ch 803: None**

**FURTHER QUESTIONS FOR STAFF – ZOA-22-5 – Amendments to Ch 803**

Enright-Randolph: I am ready to make a motion.



DRAFT

Pittsford: Ok, thank you, Trohn.

Enright-Randolph: I think this was actually at the ORC twice before it made it here. We did discuss it quite lengthily on the ORC as well. I am sorry, Commissioner Thomas, you seemed like you wanted to add something.

Thomas: There was a question that came up but it has been addressed.

Enright-Randolph: It has been addressed, ok. **In case number ZOA-22-5, Amendment to the Monroe County Zoning Ordinance, Chapter 803-Pre-Existing Nonconforming Uses, I move a favorable recommendation.**

Pittsford: Ok, we have a motion for moving this onto the Commissioners with a favorable recommendation. Do we have a second?

Owens: **Second.**

Pittsford: Ok, we have a second from Dee.

Nester Jelen: It has been moved and seconded to send a favorable recommendation for ZOA-22-5, as proposed, Chapter 803-Pre-Existing Nonconforming Uses chapter. Jerry Pittsford?

Pittsford: Yes.

Nester Jelen: Geoff Morris?

Morris: Yes.

Nester Jelen: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Nester Jelen: Dee Owens?

Owens: Yes.

Nester Jelen: Julie Thomas?

Thomas: Yes.

Nester Jelen: Bernie Guerrettaz?

Guerrettaz: Yes.

Nester Jelen: Ok, the vote passes 6 to 0.

DRAFT

**Motion in case ZOA-22-5, Amendment to the Monroe County Zoning Ordinance: Chapter 803- Pre-existing Nonconforming Uses, Final Hearing, in favor of sending a favorable recommendation to the Monroe County Commissioners, carried unanimously (6-0).**

## NEW BUSINESS

### 1. SSS-22-10

#### **Bell Road Sliding Scale Subdivision Preliminary Plat Road Width Waiver Requested.**

#### **Preliminary Hearing. Waiver of Final Hearing Requested.**

One (1) parcel on 132 +/- acres in Section 8, Bloomington Township at 1300 W Bell RD, parcel #53-05-08-300-007.000-004.

Owner: Hamilton, Jeff & Jean.

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

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

#### **STAFF ACTION:**

Myers: Thank you. As you stated this is SSS-22-10, the West Bell Road Sliding Scale Subdivision. It is a 2-Lot Sliding Scale Subdivision Preliminary Plat. It is currently 132.311 acres. It is zoned Agricultural/Rural Reserve. The Comprehensive Plan has it designated as Farm and Forest and its use is Residential, Agricultural and DNR Classified Forest. The petitioner is proposing a 2-lot sliding scale subdivision with one waiver request for road width. West Bell Road measures 16 feet in width. However, Chapter 862 of the Monroe County Zoning Ordinance for Sliding Scale Subdivisions requires roads to be 18 feet in width to provide the sliding scale subdivision option. Otherwise, the petitioner has to apply for the road width waiver. Proposed lots will be serviced by septic systems. A new septic permit was issued for proposed Lot 2 by the Monroe County Health Department while a renewal septic permit was issued for proposed Lot 1. The overall intention of this sliding scale subdivision is to partition the existing farmstead site from the larger acreage of the property. Lot 1 will be the farmstead site containing an existing single-family residence as well as a pole barn and a detached garage. Proposed Lot 2 will be the parent parcel remainder, which will enter a 25-year subdivision moratorium per the requirements of the sliding scale subdivision. I will also note that Lot 2 has a considerable amount of area designated as DNR Floodplain as well as DNR Classified Forest. Both of these areas are delineated on this subdivision plat and are away from any other areas that would otherwise be considered buildable area or suitable for development. Here we have a location map. You will see West Bell Road here on the south end of the property. That is in red and then here on the right side of the screen we have the subdivision plat itself. You will note that all of this area here along where my curser is that is all sloped area greater than 15 percent, so it is classified as non-buildable area. Immediately to the west, this large area that looks white is all designated DNR Floodplain. A lot of the area that is in the 15 percent or greater sloped area is DNR Classified Forest. This dark shaded area over here is all area that is technically buildable but is currently mostly pasture or agricultural land. Down here toward the south end of the property we see proposed Lot 1, which is the existing farmstead site with those existing structures that I spoke about. Here we have just a zoomed in version of the area of interest for Lot 1. West Bell Road measures 16 feet in width. You will note that typically we do require right of way dedication for this portion of property that has frontage along a road. However, according to Monroe County Highway County Inventory List, West Bell Road actually ends right here at the start of the property, so there was no right of way dedication required per the Highway Department's review. Overall, Lot 1 will be 2.673 acres and Lot 2, the parent parcel, will be 129.638 acres. Here we have some pictures from the petition site. This is where West Bell Road ends and the petition site begins. In this picture over here to the right is looking back on West Bell Road that extends all the way till its intersection at North Kinser Pike. Some pictures of the petition

site. This is the existing farmstead home as well as the driveway that continues back to the detached garage and pole barn structure. Here are just some pictures of the petition site. I am going to continue to scroll through these. That brings us to our final recommendation from the Planning Staff. We do recommend approval of this petition based on the findings that the proposed preliminary plat meets the Subdivision Control Ordinance, subject to the following condition;

1) The petitioner submits a capacity letter for water and electrical services with respect to the proposed subdivision. I will note that the capacity letter for water has been received by the, it was submitted by the petitioner, and I still need to see one from the electrical services provider. So, we will be looking to require that just to certify that electrical services can be provided for Lot 2, the larger one. We also recommend approval of the Road Width Waiver request, based on the findings of fact and practical difficulties being met as stated in the staff packet. I will now take any questions.

<b>RECOMMENDED MOTION</b>	Approve	<b>Planner:</b> Drew Myers
<p><b><i>Recommended Motion Conditions or Reasoning:</i></b></p> <p><b><u>Approve</u></b> based on the finding that the proposed preliminary plat meets the Subdivision Control Ordinance and subject to the following condition(s):</p> <p>1.) The petitioner submits a capacity letter for water and electrical services with respect to the proposed subdivision.</p> <p><b><u>Approve</u></b> the Road Width Waiver request based upon findings of fact and practical difficulties being met.</p> <p><b>PLAT COMMITTEE</b> – October 20, 2022 Voted 2-0 to forward to the Plan Commission with a positive recommendation with the condition of approval as listed above.</p>		

**EXHIBIT 5: FINDINGS OF FACT - Subdivisions**  
**850-3 PURPOSE OF REGULATIONS**

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

**Findings**

- The petition site consists of one parcel totaling 132.311 +/- acres;
- The petition site is not in a platted subdivision;
- The site is currently zoned Agriculture/Rural Reserve (AG/RR);
- Approval of the subdivision would result in two (2) lots that exceed the minimum lot dimension requirements for the AG/RR Zoning District;
- Approval of the subdivision would result in Lot 1 = 2.673 acres and Lot 2 = 129.638 (parent parcel);
- The proposed use in the subdivision is residential;
- Each lot will be serviced by a private septic system;

(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**

- See findings under Section (A);
- The Comprehensive Plan designates the site as Farm and Forest, which is described in this report;

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

**Findings**

- See findings under Section (A);
- The surrounding uses are primarily agricultural and residential in nature;
- A portion of the property is currently designated as DNR Classified Forest;
- The property maintains frontage along W Bell Road;
- W Bell Road is an asphalt roadway measuring 16' wide;
- The proposed subdivision is meeting the Monroe County Zoning Ordinance's Buildable Area requirement;

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

**Findings**

- See findings under Section (A) & (C);
- The adjoining properties are zoned AG/RR or Estate Residential 1 (RE1);
- W Bell Road is classified as a "Local Road" per the Monroe County Thoroughfare Plan;

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

**Findings**

- See findings under Sections (A), (C), and (D);
- A Road Width Waiver has been requested with this petition;
- There is at least one (1) visible karst feature on the property;
- The DNR Best Available Floodplain Map designates a significant portion of the property as AE/Floodway;
- The area designated AE/Floodplain is also located within a platted drainage easement of variable width;
- A significant portion of the property is designated DNR Classified Forest;
- Drainage easements were requested on the plat per recommendation from the MS4

Coordinator;

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

(4) *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.

(5) *to provide for the identification of property; and,*

**Findings:**

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

(6) *to provide public access to land boundary records.*

**Findings**

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

**FINDINGS OF FACT – WAIVER OF ROAD WIDTH REQUIREMENT**

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

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

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

**1. Practical difficulties have been demonstrated:**

**Findings:**

- Note Exhibit 4 for Petitioner Submitted Finding;
- The site gains access from W Bell Road, a designated Local Road;
- W Bell Road is currently an asphalt road;
- W Bell Road is measured by surveyor as 16 feet (+/-) wide;
- W Bell Road dead-ends into the petition site at 1300 W Bell Road;
- The construction of a cul-de-sac was not required for this petition per the review of the County Legal Department;
- W Bell Road serves multiple properties to the east of the petition site, as well as the

- proposed petition site;
- W Bell Road intersects perpendicularly with N Kinser Pike at the eastern end of W Bell Road;
- From N Kinser Pike, W Bell Road extends 0.18 miles until it dead-ends at the petition site;
- The Highway Department requests that both proposed Lot 1 and Lot 2 share a driveway entrance receiving access via W Bell Road;
- The petitioner did submit findings for the waivers (Exhibit 4);

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

**Findings:**

- See findings under Section 1;

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

**Findings:**

- See findings under Section 1;
- Result of subdivision would appear to have no substantive impact on Level of Service (LOS) for the subject road/area;
- See the findings submitted by the petitioner (Exhibit 4);

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

**Findings:**

- See findings under Section 1;

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

**Findings:**

- See findings under Section 1;
- All property owners on W Bell Road would face the same practical difficulty pertaining to road width in seeking to subdivide via the Sliding Scale Subdivision method;

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

**Findings:**

- See findings under Section 1, 2, and 3;

**7. The requested modifications are necessary to ensure that substantial justice is done**

**and represent the minimum modifications necessary to ensure that substantial justice is done;**

**Findings:**

- See findings under Section 1;

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

**Findings:**

- See findings under Section 1;
- W Bell Road is a public road in its current condition maintained by the County;
- The road was not constructed by the petitioner or as part of a prior subdivision or development;

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

**Findings:**

- See findings under Section 1;

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

**QUESTIONS FOR STAFF – SSS-22-10 – Bell Road**

Pittsford: Yes, Ms. Thomas.

Thomas: Just a quick question, a point of curiosity for me. Is this going to be a shared driveway?

Myers: Yes.

Thomas: Ok, thank you.

Pittsford: Are there any other questions? I do have one question. If the road ends where the driveway begins there, why is there a road width waiver required?

Myers: That is a good question. So, it is any road that provides access or has frontage to the property needs to be at least 18 feet in width for the sliding scale subdivision. So, since it technically does have frontage right at the end that is the reason why the road has to be 18 feet in width, hence the road width waiver.

Pittsford: Ok. Right, it makes good sense. Thank you. Alright, if there are no further questions for staff, I am going to ask if there is anyone here representing this petition, if you would like to come forward? I don't see anybody. I guess we don't have a presentation from the petitioner tonight.

Nester Jelen: We don't see anyone.



DRAFT

Thomas: I would say if there is someone on zoom call, there is somebody with a phone number. If there is someone on a zoom call, they could raise their hand.

Nester Jelen: That is Paul Satterly.

Thomas: Oh, ok. It is good that you recognized that because I was like, I don't know who that is.

Pittsford: Ok, so without a petitioner here can we really open this for public comment?

Thomas: Sure.

Nester Jelen: Yes, we can.

Pittsford: Alright, so is there anyone here who wishes to speak in favor of this petition?

Nester Jelen: On zoom if you are listening, you can raise your hand via zoom, and we will call on you to speak as well.

Pittsford: Is there anyone who wishes to speak in opposition to this petition? Ok, I see none. They have requested a waiver of final hearing so we would vote on it with the waiver, right?

Nester Jelen: Correct.

Pittsford: I just wanted to be sure. So, do we have a motion to be made including the waiver of final hearing?

**PETITIONER/PETITIONER'S REPRESENTATIVE – SSS-22-10 – Bell Road: None**

**SUPPORTERS - SSS-22-10 – Bell Road: None**

**REMONSTRATORS – SSS-22-10 – Bell Road: None**

**ADDITIONAL QUESTIONS FOR STAFF – SSS-22-10 – Bell Road: None**

**FURTHER QUESTIONS FOR STAFF – SSS-22-10 – Bell Road**

Guerrettaz: I can do that.

Pittsford: Ok.

Guerrettaz: **In the matter of petition SSS-22-10, Bell Road Sliding Scale Subdivision Preliminary Plat, including the Road Width Waiver request and the Waiver of Final Hearing request, I move that we approve the Sliding Scale Subdivision with those waiver requests, based on the findings of fact and staff reports with the following condition;**

**1) Petitioner submit a capacity letter for water and electrical services with respect to the proposed subdivision.**

DRAFT

Pittsford: Do I have a second?

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

Pittsford: Ok we have a motion and a second before the Board. Jackie, if you would please call the roll.

Nester Jelen: This is on petition SSS-22-10, Bell Road Sliding Scale Preliminary Plat with a Road Width Waiver and Waiver of Final Hearing as well as the condition as shown in staff report that the petitioner submits a capacity letter for water and electrical services with respect to the proposed subdivision. A vote in favor is a vote to approve the subdivision. Geoff Morris?

Morris: Yes.

Nester Jelen: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Nester Jelen: Dee Owens?

Owens: Yes.

Nester Jelen: Julie Thomas?

Thomas: Yes.

Nester Jelen: Bernie Guerrettaz?

Guerrettaz: Yes.

Nester Jelen: Jerry Pittsford?

Pittsford: Yes.

Nester Jelen: Motion carries 6 to 0.

**Motion in case SSS-22-10, Bell Road Sliding Scale Subdivision Preliminary Plat, Road Width Waiver Requested, Preliminary Hearing, Waiver of Final Hearing Requested, in favor of approving requests with condition as stated in motion, carried unanimously (6-0).**

## NEW BUSINESS

### 2. REZ-22-8

#### **Starts Rezone from AG/RR to LB**

#### **Preliminary Hearing. Waiver of Final Hearing Requested.**

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

Owner: Starts Living Trust c/o Lorraine Fowler

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

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

#### **STAFF ACTION:**

Crecelius: Thank you. The 17-acre property located here at Fairfax Road. So, here is just a quick location map to give you an understanding. This is located within the Environmental Constraints Overlay Area 1, Area 2 and Area 3. The property is currently zoned Agricultural/Rural Reserve. There are some adjacent properties that are some zoned Pre-Existing Business. The properties directly to the south have been rezoned to Agricultural/Rural Reserve and that was a map area and that has been corrected. All adjacent properties are Agricultural/Rural Reserve. I don't expect anybody to read this big block of text. Here are the definitions of the Agricultural/Rural Reserve and Limited Business districts. This ultimate rezone request is to rezone to the Limited Business district, and I did want to include the character statements of each district. Agricultural/Rural Reserve is generally, primarily intended for agricultural uses in addition to single family residential uses with low density rural, non-farm related single family uses and is generally not in major subdivisions. The Limited Business district is primarily intended to meet essential business needs and convenience of neighboring residents. Limited Business uses should be placed into cohesive groupings rather than individual properties along highways and access control should be emphasized. I am not going to read this whole definition, just kind of key points. It does include a statement here that its purpose is to encourage development of groups of nonresidential uses that share common highway access, provide interior cross access to discourage single family residential uses to protect environmentally sensitive areas such as floodplain, karst and steep slopes and to maintain the character or the surrounding neighborhood. Therefore, the number of uses permitted in the LB district is limited and some uses are only conditionally permitted. It also includes that some conditions are placed on these uses to ensure compatibility with adjacent residential uses. This is a pictometry photo and I have a couple of these just to kind of give a sense. The property is long and narrow. 17 acres. The majority of the buildable area is going to be on the western side of the property, so closer toward the road. The steep slopes are going to increase as you get closer in that drainage area and the ECO areas of Lake Monroe. Here is just another view looking north. Staff did do a site visit and do a few staff photos. We did not go back into the steep sloped area so just these general photos are going to be the buildable that would be available for construction. This area of the property is zoned ECO Area 3 which would have a slope restriction on slopes that are 18 percent or less. Development could only be on slopes 18 percent or less. The slopes would be protected beyond that steepness. I am going to have a site map here that will show that buildable area. This is looking north on Fairfax Road. The driveway is not necessarily evident. It is an old driveway of the property. It is currently vacant. There is one accessory residential structure on the property, a very old garage. The property did contain what has been described as a log cabin that has since been removed. This is looking south along Fairfax Road. Ok, so here is that illustration of site conditions on the property. So, we can see those steep slopes really begin towards the east

portion of the property. With frontage along Fairfax Road, it is a major collector per the 2016 Thoroughfare Plan. The property is fairly narrow. It is about 270 feet approximately in width. The Project Manager for the Highway Department has denied the existing entrance for the property. We asked them to review it as a possible commercial driveway entrance. Is sight distance safe? Could it be appropriate? The existing driveway entrance was denied but there is room, there is a location that could potentially be approved and would meet sight distance standards. So, they are working on getting that final approval. I believe the petitioner is just working on an updated map. But the Project Manager has identified that safe location. The Comprehensive Plan designates this area as Rural Residential. This is consistent with most of the properties in this area. Rural Residential is to preserve the rural lifestyle and opportunity of the area and help protect vulnerable lands. It does include that open space can serve a variety of uses including recreational opportunities for local residents, limited accessory and agricultural uses and buffering of adjoining uses. On the screen I have a screen shot of the petitioner's letter to the Planning Commission. Their intention for this rezone, they are related to the property owners, and they are also a real estate broker. They have several individuals that are interested in purchasing this land, specifically those individuals want to pursue a boat storage use. The boat storage use is permitted in the Limited Business zone. Staff is recommending forwarding a negative recommendation to the County Commissioners for this rezone request from Agricultural/Rural Reserve to Limited Business based on the findings of fact and subject to Monroe County Highway and Drainage Engineer reports.

### **RECOMMENDATION**

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

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

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

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

##### **Findings:**

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

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

##### **Findings:**

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

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

**Findings:**

- See Findings under Section A and Section B;
- The site contains some buildable area (slopes 15% and under) and some steep slopes that drains into Monroe Reservoir;
- The site is located within all the Areas (1, 2, and 3) of the Environmental Constraints Overlay zoning districts;
- The area that borders the lake is considered FEMA Floodplain;
- There are no known karst features;

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

**Findings:**

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

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

**Findings:**

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

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

Pittsford: Any questions for staff from the council? Ok, thank you. Do we have a petitioner here to speak on this? If you would please come forward. State your name for the record please.

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

Fowler: Thank you. My name is Lorraine Fowler and thank you for allowing me to speak tonight. I am the daughter of the late owners of 7955 South Fairfax Road, Arthur and Mary Starts, who passed away in 2018 and 2021. I am sharing on behalf of the Starts Trust with my eldest brother and tax attorney, Greg Starts as trustee giving me permission to do so. I also happen to be the youngest heir in the estate and a realtor who has the property currently listed for sale. A little bit of the background here, my parents bought the property in 2007. At the time of the purchase there was a log cabin on the home that basically needed to come down as it was riddled with termites. My husband who owns Fowler Tree Services and his work crew dismantled the home on site and donated the good logs. Currently what remains on the property is a simple garage. But because there was a home on the property and on the premises at one time septic and utilities are all there and have been there since 1983. My parents, specifically my mother had always been a visionary person. She bought the land with inheritance money that she received from her parents with some day that being used for good but honestly with no specific idea in mind some of the ideas that she

had thought of was a tree farm, a small log cabin for cancer patients, foster care for individuals needing support, plant nursery, a bed and breakfast, so on and so forth. Every plan that she thought of was coming from a place of leaving the property in better condition when she found it. But unfortunately, time and energy ran out and my mom was not able to implement any of those visionary plans. So, here we stand today. The owners have passed, and the land now belongs to the trust. With myself and my 3 older brothers being the heirs to that trust. The land is the last asset for us to resolve prior to settling the estate. That said, we are in no rush to settle the estate. Like I mentioned I am a realtor, who has the property currently for sale. I work at Remax Acclaimed Properties, the number one producing real estate company in Bloomington for 12 years and counting. I have been in business for just over 15 years. I am a member of the Indiana Association of Realtors, top 50 in production as well as being a Remax Platinum Award Winner and a recipient of Remax Hall of Fame Award. I share these accolades only to communicate the working knowledge of the local Bloomington real estate market as well as understanding the business reality that supply and demand drive market values. I listed the property in the middle of the summer at \$449,900. I received a full price offer. But I also had other individuals interested in the property. I had 3 parties interested in the property all at the same time. The each wanted the property for basically the same concept, which was boat storage. The market has spoken, and it is saying the invest use of the property is for boat storage. But not only boat storage, excuse me, enclosed boat storage and in looking at the boat storage current options in Monroe County I see none of them have boat storage that has been proposed by the current buyers interested in this property. I would like to show slides, please, at this time. This shows the current, here is the property right here and here is a road frontage. That is the road frontage that leads down to the Four Winds. The current boat storage options that we have in Monroe County at this time, although they are acceptable, they are nice business, they do not have enclosed storage. So, if we could just see a few of those pictures, Anne. These are the facilities that now have boat storage. You can your boat shrink wrapped or for outside storage. That is not what these 2 buyers are proposing. We can go to the next one. These are the various options that are currently available. The next please. Now, this is what the buyers of the property are proposing, specifically an enclosed structure that is neat and organized and serves a purpose for the county. So, on Thursday, November 10, 2022, I attended a business outlook panel and lunch hosted by the Bloomington Rotary and the Bloomington Chamber of Commerce with the focus on the economic forecast for 2023. Specialist in the field of economics nationally at a state level and a local level all spoke and the take-away from Clark Greener, the Business Development Director of the Bloomington Economic Development Corporation was this Bloomington is doing an incredible job of bring in talent. IU's enrollment numbers are up in 2022 well over 2021 enrollment and in 2023 is expected to look even better. So, IU is doing their part to bring in wealth and talent to the area. So, the question lies as this how do we retain that wealth being kept in our community. We do it through employment, resources, recreations, and amenities. Lake Monroe is used by boat enthusiasts all over the state in the state of Indiana. However, our covenanted lake shoreline does not allow for storage and any boat owners knows easy access to and from the lake is a big consideration when purchasing a boat or deciding to keep one for recreation purposes. The buyers proposed idea allows for out-of-town boat owners to enjoy Lake Monroe, store their boat locally, thus bringing in more wealth and financial strength into our community and economy, a win/win for Bloomington and Monroe County. We feel the boat storage concept in this particular location is an incredible idea because of the road frontage and the easy access to the lake. It is on the way to the Four Winds and there are other businesses nearby. A boat storage acceptance brings in the highest dollar for the property,

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meets the need for the community and I would think would be appealing to the neighbors because everything intended is to be done well in an order that most important is enclosed. Not to mention boat storage is going to be basically conducting business 3 to 4 months out of the year. To implement the purposed use however, we need the property to be rezoned for a Limited Business use. If allowed to be rezoned boat storage of any of the other ideas my mom had could become a reality if this doesn't work. But if this is not agreed upon and seen as mutually beneficial by all because I know that is what my parents would want, we will sell the land or keep it in its current zoning state. Thank you so much for allowing me to share and thanks for enduring my nerves in doing it. Thank you.

Pittsford: You did fine. You still had 7 minutes almost remaining.

Enright-Randolph: There might be a few questions.

Pittsford: You may want to stay up here for questions. Do we have any questions on this side? Any questions up here? Alright, thank you. You may go sit down now. If your step count was short 20 steps, you are back in business. Alright, do we have anyone that wishes to speak in favor of this petition? If you would please come to the microphone. Identify yourself and sign in please. You will have 3 minutes for your comments.

#### **SUPPORTERS - REZ-22-8 - Starts**

Hanson: Ronnie Hanson. I am the property that is south of her. I have a business back behind my home and it probably impacts myself and Brad, which is in the audience too more than anyone else and a few across the road there. The first thing I want to say is I am pro property owner person, which means I don't really have any say so on what somebody wants to do on property that I don't own. The only concerns that I have, which she covered it in her presentation, if it is all enclosed that is a good thing and I want to speak in favor of that and all of the neighbors around me probably have the same concerns about does it devalue our property or make it worth more. I think that a business that is approached the way that this is going to be approached would be an asset and I also have concerns about the environmental impact in the watershed area. By this being a business such as it is there probably won't be very many restroom facilities, if there are any it would be very minimal on the septic. Yeah, I just think it would be favorable in the watershed area. I didn't know whether to get up first to be pro or I do have some concerns about the appearance of it. But as long as it is enclosed, I am sure Monroe County would encourage some softening of the edges of these buildings with some landscape and stuff. Is that?

Pittsford: Yes, there would be some landscape requirements and buffering requirements if the zoning were to be changed to Limited Business. Yes, sir.

Hanson: That is all that I have, I guess.

Pittsford: Thank you. Is there anyone else that wishes to speak in support? Is that anyone that wishes to speak in opposition? If you would please come on up and you can make a line. If you would make a line that will save us time walking back and forth. If someone else wants to speak if you would come on up. Please state your name and sign in.

**REMONSTRATORS – REZ-22-8 - Starts**

Hinshaw: My name is Mel Hinshaw. I am here with my wife; Nancy and we own the property almost directly across the street from the proposed property that we are talking about. I have two, well, one is a question, and one is a concern. One of them is traffic. During the summer months the traffic increase is just enormous from boats and trailers going back and forth because of the amount of activity at the lake along with maybe 3 ambulance runs a day coming up through there. The driveway that is proposed and I talked to the gentleman when he came out to survey that to figure out a spot for the driveway, is almost directly across from our driveway and our neighbor. So, now you are going to have if it is boat storage you are going to have RV's of all kinds going in and out of that driveway along with traffic coming both directions during the summer months, which is already dangerous to the point where during the summer my wife won't even go out to get the mail. So, that is a concern. But one of my concerns is this is being proposed for boat storage and I know they are talking about it being enclosed and so forth, which I would be less objectionable to but let's say you approve this zoning change for boat storage. The property gets bought. The developer decides you know what I don't think I want to build these buildings. I am going to do outside storage. How can we prevent that? I would ask you that question. Is there a way to prevent that? Can it be a conditional approval whereby they have upfront specific goals that they have to meet? Anybody?

Pittsford: Yes, I believe it would be a conditional approval but also what this body would do is forward a recommendation to the County Commissioners who have final say on changing the zoning.

Hinshaw: Right. What guarantee do we have that if it becomes Limited Business the down the road it doesn't become something else?

Pittsford: There is no guarantee.

Hinshaw: Ok. Economically if you look at the price of the land and look at what boat storage goes for and in fact, we already have boat storage areas in that area that aren't full and some of our neighbors have more specific information on that. It seems unlikely that there is a good return on investment, which makes me very doubtful that it ever would become boat storage. It just doesn't make sense when you look at the cost of the land to start with.

Pittsford: Thank you. Did you sign in?

Hinshaw: No.

Pittsford: If you would please do that before stepping away. Thank you, Jackie, for resetting the time. If you would please state your name and sign the register.

Burns: Faron Burns. I am directly across the street from that property. If it is going to be boat storage and enclosed, I wouldn't have a whole lot of objections to it. But there is no guarantee that is what it is going to be if you guys make it Limited Business. There is a whole possibility of things that could go in there once that can of worms is opened and that is not what necessarily we want.



It could be a good thing. It could be a bad thing. I don't know. But if you open that can of worms to make it Limited Business then it has got a whole possibility of things that it could be, and I don't think that boat storage is a feasible thing for it just because the cost to put the buildings in and everything. I don't believe you are going to, my cousin owns Fairfax Marine. He does inside storage. I know what you are in to on that. He is not quite full yet. I mean, summertime he is but wintertime he is not. So, there is inside storage available right in the area. I just can't see that you are going to put in a facility that is going to house 3 or 400 boats or more and make it profitable. I don't see how it can happen and I think what it all amounts to is getting a Limited Business zoning so that the property is worth more to be able to market it more expensive. That is what this is about, not boat storage. At least from what I see. Thank you.

Pittsford: Thank you. If you would please, I know that you have signed in, if you would please next come up and state your name for the record, please.

N. Hinshaw: My name is Nancy Hinshaw. I live in the home directly across from this piece of property you are talking about. I sit out in my front porch. I sit out on my back deck. I garden out front. I know more about that lot than any of you do. I sit and watch it. I open my front door everyday to see the beauty of that piece of land and I know that it goes back to the lake. I see a beautiful house sitting on that piece of property. If people could only afford it. What you are going to be putting up is going to be an eye sore and I have to live with it, so no, thank you. I know the traffic on that road. Like my husband said, I can't even cross that road to get the mail during the day. I have to wait till dark so I can watch this way, so I watch that way. If I watch this way coming from the lake motorcycles, boats, cars, semi's, everything comes barreling down that road at probably 60 miles per hour. I think it is a 45. But I can't even get out and I stop, and I listen, and I say, "Oh, my god. What was that?" It went by so fast I couldn't even tell what it was. I couldn't tell if it was a motorcycle. I couldn't tell if it was some 4-wheel car jacked up. They do not go slow on that road, believe me. To put another driveway where maybe they are going to plan on putting it comes right up to us and there again, we are going to have more. It is all pretty in the beginning when you build a new building there. But if you stop and look at where they put boats and then the boats fall apart. Nobody comes back for them. Nobody comes back for the RV, and it is just going to be left there to crumble and that is going ruin that beautiful piece of land across the street from me. Thank you very much.

Pittsford: Thank you. If you would please go ahead and bring the registry when you come back up. If you want to bring that with you from the back of the podium. Yes, sir. Thank you.

Blume: Hello. My name is Brad Blume and I own the property just north of there which is the Blue Family Limited Partnership. I have been there since 1987. I like her mom's idea of what she said she wanted to do with the property. None of it included boat storage. That is actually opposite of her ideas it sounded like. I have taken that land down there and I have got some commercial property that is going to rezone anything. But no one knows I have taken the front acreage and trees go back. We have pruned them back and we have gone back to exactly what the county wanted. Rural Residential on that site. We have made it so that you don't know that we are back there. We have let the Dogwoods grow. We have let the Walnuts grow. We have let the Maples grow. We are pruning it and now we bought a tractor, and we are trying to make it a nice grove. It goes totally against the neighborhood of rural agriculture with people that want to have their house

in a residential area to bring a commercial business in there. There is no site plan, which we don't know how much of the land they want to use for boat storage. They said they want to use high end boat storage up front and all of the economic benefits to Bloomington. Well, the problem is and Bloomington very well knows this is the Four Winds is running out of parking places. I am a boater. I have been on boats since 1987, boats and waiver runners. They close Four Winds down at times because there is no place to park a boat down there. There is more trailers. High-end boats can't go to the launching ramp down at the lake, the dam because there is no room to turn those boats around. People won't go to Moore's Creek because you have to drive the back roads to get there. There are businesses for sale right now for boat storage. Larry Polly has his business for sale and has 32,000 square foot under roof. The business is for sale. It is ironic that people all of a sudden want to do boat storage, but it is a very expensive piece of land for boat storage down here. Another problem it may arise, they don't know about this property, but I know this property well and the ends and outs of it, I have been an avid mushroom hunter, deer hunter, rabbit hunter on the property and we talked to the Historical Society, but part of the old Salem Road goes through this property and it cuts the property in half. It also ties back up and goes across my property and down Rudy Cassady's property, which goes down to the Deckard tomb. A lot of people didn't know it was in that area. But there is a tomb down there, an old tomb and an old quarry and also a revolutionary soldiers memorial that is buried along Fairfax there. A part of Old Salem Road goes right through the property, and I don't know what Monroe County does but that is part of the last history of Salem Road that goes through that property, which would have to be torn up to use the back side of the property. So, if they are going to do a site plan and do an evaluation, I am sure that is going to come up on that, which has not been discussed. Obviously, some of the neighbors don't want it. Once concern I would have if it is going to be for high-end boats is the pulling in and out of Fairfax. I talked to the Highway guy and I said you are going to make a recommendation here, but it is based on 40 miles an hour. The problem is most people drive up and down Fairfax doing about 60 miles per hour, and he said he is aware of that but there is no formula that they can change on that. Another problem that we have is, we talked about ambulances but when I mow across the front drinking and driving is heavy. I am amazed that I don't get off my mower, I have got to pick up how many beer bottles, how many whiskey bottles, how many small tequila bottles, how many fireball bottles I pick up along Fairfax there. You don't have normal people driving up and down that road. You have a lot, I mean, I am amazed. I have got a 100, 200 feet and I pick up 5 or 6 different bottles a week, I think. Fairfax is 4 miles long. What is going on out there? You see a lot. Ok, I am sorry.

Pittsford: Your time is up.

Blume: Thank you.

Pittsford: Thank you. Is there anyone else who wishes to speak? Ok, there do not appear to be any others who wish to speak on this petition. There is a request for waiver of final hearing so if we have a motion that includes this waiver, we can entertain a motion. Otherwise, this will carry on to our next meeting. Correct?

Nester Jelen: I think there is an opportunity for the petitioner or the representative to ...

Pittsford: Yes, ok. If the petitioner would like to come back, I haven't chaired these meetings for a while, you would have 5 minutes to respond to the public comment.

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

Fowler: First of all, I am really thankful that the neighbors did come out and to the question as far as do we have a surveyor with a site plan. No, we don't. Because right now I have 2 buyers and a potential third that are just trying to get the idea and they are all saying boat storage. Honestly, myself and my family we are ok either way if it gets rezoned or not. We are just seeing a need that is coming. The market has spoken, and the market is saying I have 2 buyers that want it for that purpose. Now, whether Bloomington has the market for that or not, that is yet to be proven. I have just got 2 people that want it. So, I am just trying to do right by the estate. I am trying to do right by my family, and I am trying to do right by the neighbors too. I do appreciate hearing the, and I do think those things should be seriously considered and we are ok to hang onto the property if we have to. I am just looking for an open or a closed door that is best for the community, that includes Monroe County but also includes our neighbors. Because you may potentially be my neighbors. Thank you so much. I appreciate it.

Pittsford: If you would stay up there, we do have one question after the remonstrance there.

Guerrettaz: Just a question and some of the neighbors hit on it. Apparently, the market is demanding boat storage.

Fowler: Yes, correct.

Guerrettaz: So, my question to you is in your field of expertise with your potential buyers who have offers on the table, is it a lack of boat storage that you are seeing or is it your impression and maybe this is something you can talk about at the next meeting, is your impression that they are wanting to relocate from one boat storage location to one that is enclosed or something that is unique about this product that they like?

Fowler: Both buyers are out of Indianapolis and have proven this concept up in Indianapolis and they are the ones that see the need in Bloomington. I am not talking about additional boat storage in Monroe County, I am talking about enclosed boat storage. So, I am in a situation where I have 2 people that want it. We are trying to wrap up the estate. This is the last thing. So, I thought you know instead of we didn't want to tie it up with one person tying it up for 6 months and then it not work out or whatever. So, I said I am just going to go through this process and keep marketing. If I have someone that wants to buy it and build a beautiful home, I am all for that. That's great and that may be where that lands. That's fine. I am just trying to use the highest invest use of the property. Did that answer your question?

Guerrettaz: Yes, I think it did.

Pittsford: Thank you. We have a question for staff.

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

Guerrettaz: Anne, you have got this petition, right? Yes. So, on the aerial map, let me back up, what is the Pre-Existing Business use immediately to the south that the gentleman owns? What is that Pre-Existing Business and maybe he can help?

Nester Jelen: Are you talking about immediately south or the one that is boat storage?

Guerrettaz: No, the one that is immediately south.

Nester Jelen: That one was recently rezoned to AG/RR in the front portion and that is actually one of the remonstrators that spoke.

Guerrettaz: What is the Pre-Existing Business use that is on that property?

Nester Jelen: The Pre-Existing Business use I believe was a landscaping business.

Guerrettaz: Ok, and then further south that is the campground?

Nester Jelen: Yes.

Guerrettaz: Ok. On the aerial where the gentleman's property is to the south where we have got the pink Pre-Existing Business can you give me an idea where the east boundary is of that Pre-Existing Business relative to the photo? Is it to the second tree line? Yeah, right there. Does it go that far, roughly? Is that approximately where the east line of those parcels go?

Crecelius: Yes.

Guerrettaz: Ok.

Thomas: Just to clarify, there is no longer a Pre-Existing Business use on that property that we were just talking about.

Nester Jelen: The one that Anne has highlighted?

Thomas: The one that Mr. Guerrettaz was talking about.

Nester Jelen: The one directly to the south there are 2 parcels. One was rezoned to AG/RR and the other one maintains the Pre-Existing Business zone.

Guerrettaz: And the east parcel maintains the Pre-Existing Business, correct? The furthest to the east?

Nester Jelen: The furthest to the east I believe that is, I will just double check.

DRAFT

Guerrettaz: Let me just ask that again. Which are the 2 parcels south of this subject tract holds the Pre-Existing Business?

Nester Jelen: The one in the middle. The lot to the, I can share my screen Anne if you don't mind.

Guerrettaz: The one closest to the road or furthest from the road?

Nester Jelen: This central lot here is where the landscaping business is.

Guerrettaz: That is what I thought. Thanks.

Pittsford: Ok, as I previously mentioned this does have a waiver of final hearing requested so we could entertain a motion if the motion were to include that waiver. Do I have such a motion? There appears to be no such motion so this will carry onto the next regular meeting of the Plan Commission.

Nester Jelen: I think there could be a vote in either support or against it.

Pittsford: I thought since it had to have another hearing that it would just automatically carry on.

Nester Jelen: It does if it has a failed motion. But I think there are some Plan Commission members that would be willing to vote one way or another.

Pittsford: Ok, but I didn't get a motion, so I didn't know where we were going with that.

Thomas: You didn't really give a lot of time.

Enright-Randolph: I did have a question. I know that we discussed some rules of procedure at the last Admin., and I wasn't here but I still have a question regarding I guess line of sight. I was just kind of doing some rough looking and at the most northern part of that and until you get to that curve on Fairfax that is about 450 plus feet and then on the southern part of that it is only like 197, so close to 200 feet. So, my question and I saw that Paul's phone is here, if he wanted to address that, I know that the speed limit kind of is baked into your analysis of line of sight, but I think with trailers, boats and all of that being considered with the potential use I would be very curious for him to weigh in.

Pittsford: Paul, do you have anything to say? Also, Jackie we have a comment or something in the chat that I don't know what it is.

Nester Jelen: Yes. It was Lisa Ridge, and she is a panelist now.

Pittsford: Ok, thank you. Alright, Paul did you have any response to Trohn's raised concern?

Nester Jelen: Tech Services is going to allow that phone number to speak.

Pittsford: Ok, Paul if you would unmute yourself. Do you have a response?

DRAFT

Satterly: Trohn, could you repeat that again?

Enright-Randolph: I know it sounds like you have had discussions but and I know the speed limit is victim to some of this analysis, but we are nearing a curve as you travel south on Fairfax and from the most northern part of this parcel it is about 450 and from the southern part of this parcel it is about 200 feet. With the proposed use of enclosed boat storage and hauling the boats in and using kind of large rigs even maybe, who knows, they might bring in a flatbed to move a boat, do you have any comments of safety concerns? I am not sure if we will continue this or not but if you feel like you need a little time to really look at that, that is fine but if you have any initial comments that would be great.

Satterly: Sorry. Can you hear me now?

Pittsford: Yes.

Satterly: Ok. Yes, I know that Ben took a look at the parcel and the proposed driveway locations and made a recommendation and his recommended locations based on the 40 miles per hour speed limit and the sight distances available and it references our design standards as well but it takes in many different types of vehicles, cars, trucks and so forth so it doesn't just do automobiles but it considers a wide range of vehicles that would have to maneuver out of that driveway safely to get onto Fairfax.

Pittsford: Ok, thank you Paul. If you have further concerns to taking a second look at that we may have an opportunity to hear this petition again. Now, I would come back to the Plan Commission.

Morris: I am willing to make a motion, Mr. Pittsford.

Pittsford: Ok, go ahead.

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

**Morris: In the case of REZ-22-8, Start Living Trust, I move that we forward a negative recommendation for the rezone request from Agricultural Rural Reserve to Limited Business.**

Owens: **Second.**

Nester Jelen: Ok, it has been moved and seconded to send a negative recommendation to the County Commissioners for REZ-22-8. A vote in favor is a vote to send a negative recommendation to the Commissioners for the rezone from AG/RR to LB. Trohn Enright-Randolph?

Enright-Randolph: Yes.

Nester Jelen: Dee Owens?

Owens: Yes.

DRAFT

Nester Jelen: Julie Thomas?

Thomas: Yes.

Nester Jelen: Bernie Guerrettaz?

Guerrettaz: No.

Nester Jelen: Jerry Pittsford?

Pittsford: To be clear this does not include a motion for the waiver of the final hearing, correct?

Nester Jelen: Would that **include a waiver of final hearing**?

Morris: I guess my assumption was if it was a negative recommendation then this would be the end, so **yes**.

Nester Jelen: Ok. **Friendly amendment of those who have voted this is final**. Ok, I think that is fair to assume, yes.

Owens: **I accept the friendly amendment as the seconder**.

Pittsford: No.

Nester Jelen: No, ok. Geoff Morris?

Morris: Yes.

Nester Jelen: Ok, **the motion does fail 4 to 2**. So, this does go forward to...

Enright-Randolph: I will go with another motion.

Thomas: May I say something. I have been waiting to say something.

Enright-Randolph: Go ahead.

Thomas: We haven't had a chance, I have heard questions and commentary and my concern here is that as the neighbors pointed out very astutely, is that, I know line of sight doesn't matter to me because changing this to Limited Business opens the door for a large number of business opportunities that I don't think anybody in that neighborhood wants whether it is conditional or permitted and so I think looking at that list is very important for folks to understand that. I wanted to point that out before we have another vote. Thank you.

Pittsford: May I have the motion?

Enright-Randolph: I agree with Commissioner Thomas that evaluating the use table and even I

DRAFT

think some other conversations are great. I don't know if we want to have them at this last moment, but I am curious why didn't a conditional use be sought if its only meant for boat storage.

Pittsford: I think we are starting to rehear this petition and I don't want to do that.

Enright-Randolph: I am not going to make a motion.

Pittsford: There is a provision for it to be reheard on second hearing. So, if there are concerns that were not raised here now, motion failed we can hear it again at the next meeting. Correct?

Nester Jelen: That is correct.

Pittsford: The next regular meeting.

Nester Jelen: Yes.

Pittsford: If there are items that staff would like to address, they can be put on the Administrative Meeting for the next Administrative Meeting.

Nester Jelen: Yes.

Pittsford: Because this will be heard that the next regular meeting of the Plan Commission.

Nester Jelen: Correct.

Pittsford: Thank you.

**Motion in case REZ-22-8, Starts Rezone from AG/RR to LB, Preliminary Hearing, Waiver of Final Hearing Requested, failed due to lack of majority, case will be heard at the next regular meeting.**



**NEW BUSINESS**

**3. SSS-22-5**

**Betty Chambers Sliding Scale Subdivision Preliminary Plat  
Road Width Waiver Requested.**

**Preliminary Hearing. Waiver of Final Hearing Requested.**

One (1) parcel on 11.8 +/- acres in Section 4, Bean Blossom Township at  
7300 W Wampler RD, parcel #53-03-04-100-011.000-001.

Owner: Chambers, Betty.

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

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

**STAFF ACTION:**

Brown: Thank you. The petitioner is proposing a 2 Lot Sliding Scale Subdivision with a Road Width Waiver as been explained. Septic permits have been submitted for proposed Lot 1 and the existing Lot 2 but the actual septic have not been installed yet as far as I know. Right of Way permits are pending the outcome of this subdivision petition. Each of the proposed lots is accessed via Wampler Road. Here is a slope map showing the slope of the lot. As you can see, it is fairly flat. I believe that there...

Pittsford: We aren't seeing the slope map.

Brown: Oh, I am sorry.

Nester Jelen: You have to share your screen.

Brown: I think I may have accidentally turned that off. I apologize for that. Alright, here is the slope map. I apologize for that. As you can see the north lot that is the proposed new lot is fairly flat. Here are some images of the site itself. Roughly where these plats begin is where the new line is being proposed. Here are the details of the lots themselves. Both will be accessed by Wampler Road. There is a little bit of steep slope on both lots but I think those can easily be circumvented. The existing structures on Lot 2, which is the parent parcel, include a residence, a detached pole barn and a free-standing canopy. Here is the lot itself and the subdivision plan proposed by Eric Deckard. Here is something that I actually did forget to include with the packet. I apologize for that. It is the facts of finding from the petitioner themselves. I have printed off several copies for your review. Staff recommends approval based on the finding that the proposed preliminary plat meets the Subdivision Control Ordinance. We also recommend approval of the Road Width Waiver based on findings of fact. This petition was given a positive recommendation by a vote of 2 to 0 at the Monroe County Plat Committee Meeting on October 20, 2022. I am sorry, I want to mention what the road width is. It is currently 15 feet. As you know in the County Ordinance there standard requesting roads be at least 18 feet. I just wanted to mention that.

<b>RECOMMENDED MOTION</b>	<b>Approval</b>	<b>Planner:</b> Daniel Brown
<b><i>Recommended Motion Conditions or Reasoning:</i></b> <b><u>Approval</u></b> based on the finding that the proposed preliminary plat meets the Subdivision Control Ordinance.		

**Approval** for the Road Width Waiver based on the facts of finding

Petition was given a **positive recommendation** by a vote of 2-0 at the Monroe County Plat Committee meeting on October 20, 2022.

#### **EXHIBIT 4: FINDINGS OF FACT - Subdivisions**

### **850-3 PURPOSE OF REGULATIONS**

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

#### **Findings**

- The petition site consists of one parcel totaling 11.80 +/- acres;
- The petition site is not in a platted subdivision;
- The site is zoned Agriculture/Rural Reserve (AG/RR);
- Approval of the subdivision would result in two (2) lots that exceed the minimum lot dimension requirements for the Agriculture/Rural Reserve (AG/RR) Zoning District;
- Approval of the subdivision would result in Lot 1 = 5.41 acres, Lot 2 (parent parcel) = 6.62 acres
- Neither street trees nor sidewalks are required for this petition;
- Each lot will be serviced by a private septic system;
- Construction Stormwater General Permit (CSGP) – formally known as Rule 5 – is not required as the property owner is only selling the lots;

(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**

- See findings under Section (A);
- The Comprehensive Plan designates the property as Farm and Forest;

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

#### **Findings**

- See findings under Section (A);
- The MS4 Coordinator requested additional drainage easements that were added to the preliminary plat by the petitioner's surveyor;

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

#### **Findings**

- See findings under Sections (A) & (C);
- The adjoining properties are zoned Agriculture/Rural Reserve (AG/RR);

- The use of neighboring properties is either residential or agricultural;
- W Wampler Road is classified as a “Local” roadway per the Monroe County Thoroughfare Plan;

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

**Findings**

- See findings under Sections (A) & (C);
- There are no visible karst features on the property;
- There is no floodplain on the property;

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

(7) *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;

(8) *to provide for the identification of property; and,*

**Findings:**

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

(9) *to provide public access to land boundary records.*

**Findings**

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

**FINDINGS OF FACT – Waiver of Road Width**

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

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

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

**1. Practical difficulties have been demonstrated:**

**Findings:**

- Note Exhibit 4 for Petitioner Submitted Finding;
- The site gains access from W Wampler RD, a designated Local Road;
- W Wampler RD is measured by surveyor as 15 feet wide;
- The petition site has approximately 823’ of frontage along W Wampler RD;
- The existing road serves properties to the north and south of the petition site, as well as the proposed petition site;
- The existing and proposed driveway entrances to the petition site are to be coordinated with the Highway Department to meet safety standards;
- N Bowman RD connects to N Amos LN to the north and W Sand College RD to the south;
- The petitioner did submit findings for the waivers (Exhibit 4);

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

**Findings:**

- See findings under Section 1;
- Net density of 2 dwelling units per approximately 26+ acres is consistent with the Comprehensive Plan’s Farm and Forest designation and the Agriculture/Rural Reserve (AG/RR) Zoning District;

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

**Findings:**

- See findings under Section 1;
- Result of subdivision would appear to have no substantive impact on Level of Service (LOS) for the subject road/area;
- The Monroe County Highway Department has provided comments for the Road Width Waiver that indicate support for the waiver request;
- See the findings submitted by the petitioner (Exhibit 2);

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

**Findings:**

- See findings under Section 1;

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

**Findings:**

- See findings under Section 1;
- All property owners on W Wampler RD would face the same practical difficulty pertaining to road width in seeking to subdivide via the Sliding Scale Subdivision method;

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

**Findings:**

- See findings under Section 1, 2, and 3;

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

**Findings:**

- See findings under Section 1;

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

**Findings:**

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

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

**Findings:**

- See findings under Section 1;

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

**QUESTIONS FOR STAFF – SSS-22-5 – B. Chambers**

Pittsford: Thank you Mr. Brown. Do we have questions for staff at this time? Yes.

Thomas: Are these acreage amounts correctly listed? Because is the percentage correct or the parent parcel versus the new parcel? I am assuming the second number is buildable.

DRAFT

Brown: Yes, that is the total buildable area, and the first number is the total acreage of both proposed lots.

Nester Jelen: 55 percent of 11.8 acres.

Thomas: It is just at it, isn't it?

Nester Jelen: It is barely there.

Thomas: I always keep in my mind that it is like 60 percent, and I know that is wrong, but I always have to pause. Alright, thank you.

Pittsford: Are there any other questions for staff? I do not see representative for the petitioner here. Is there one in the zoom, Jackie?

Nester Jelen: Yes, there is. Mr. Deckard has his hand raised.

Pittsford: Ok. Mr. Deckard if you are representing the petition if you would please go.

**PETITIONER/PETITIONER'S REPRESENTATIVE – SSS-22-5 – B. Chambers**

Deckard: Yes, hello. Thank you everybody for showing up here tonight and entertaining this petition. I have got no further question on my end of things here. But if you have any questions with regards to the plat, I would be glad to answer any questions. We agreed with the recommendations of the staff.

Pittsford: Thank you, Mr. Deckard. If there is nothing else from you, I am going to ask if any of the Plan Commissioners have questions for you, so standby. Does anyone have questions?

Thomas: I have a question for Highway, and I don't know if its Mr. Satterly or Ms. Ridge. It looks like one driveway is coming off of North Amos Lane and then the other drive is going to come off of Wampler. So, you obviously looked at both of those in terms of the Road Width Waiver request?

Ridge: We did.

Thomas: Ok. Thank you. I was just verifying.

Pittsford: Any questions for the petitioner's representative down here? Are we good down there?

Enright-Randolph: I was just saying during the Plat Committee we drilled into that comment and question Commissioner Thomas was asking.

Pittsford: Ok, got you. Alright, so no further questions? Ok, we will open this to public comment. There is no one present in the room to speak on this. Is there anyone zoom? Please raise your hand.

Thomas: To speak in favor?

DRAFT

Pittsford: To speak in favor.

Nester Jelen: I don't see anyone.

Pittsford: Is there anyone to speak against this petition?

Nester Jelen: I don't see anyone. Anyone on zoom can raise their hand on the zoom screen, which should be at the bottom of your screen. I don't see anyone.

Pittsford: Ok.

Nester Jelen: Oh, I do see...

Pittsford: Betty Chambers. Betty if you would go ahead and unmute yourself.

Chambers: Ok. I got it.

Pittsford: Did you have comments for us, Betty?

Chambers: I was just wondering if it was passed or not. If you like the new driveway we will go off of Amos Lane.

Pittsford: Ok, I got that, so if you don't have any other concerns we are going to go ahead and close the public comment and bring it back to the Plan Commission.

Chambers: Thank you.

Pittsford: Thank you. Alright.

Enright-Randolph: I am ready to make a motion if there are no further comments.

Pittsford: I am going to go ahead and close the public comment phase now and bring it back to the Plan Commission for a motion if we have one ready.

**SUPPORTERS - SSS-22-5 – B. Chambers: None**

**REMONSTRATORS – SSS-22-5 – B. Chambers: None**

**ADDITIONAL QUESTIONS FOR STAFF – SSS-22-5 – B. Chambers: None**

**FURTHER QUESTIONS FOR STAFF – SSS-22-5 – B. Chambers**

Enright-Randolph: Perfect. **In case number SSS-22-5, Betty Chambers Sliding Scale Subdivision Preliminary Plat, I move for approval based on the findings that the proposed preliminary plat meets the Subdivision Control Ordinance and approval of the Road Width Waiver based on the facts of finding and the petition was given a positive recommendation**

DRAFT

**by 2 to 0 at the Monroe County Plat Committee Meeting.** I don't think that last one is a condition. I just got caught up in reading what was on the screen. So, that is my motion.

Thomas: Waiver of Final Hearing?

Enright-Randolph: And a **Waiver of Final Hearing**. Thank you.

Pittsford: Thank you. Thank you, Ms. Thomas, for getting that thrown in there. Was that your second?

Thomas: Yes, that is my **second**.

Pittsford: Ok, that way we don't have it as a friendly amendment. It is already in there. Ok, thank you very much. We have a motion and a second for the idea of moving this forward with a positive recommendation. Jackie, would you please call the roll?

Nester Jelen: Sure. This is on SSS-22-5. This would be an approval of the Sliding Scale Subdivision Preliminary Plat and Road Width Waiver as well as the Waiver of Final Hearing. A vote in favor is a vote to approve the subdivision. Julie Thomas?

Thomas: Yes.

Nester Jelen: Bernie Guerrettaz?

Guerrettaz: Yes.

Nester Jelen: Jerry Pittsford?

Pittsford: Yes.

Nester Jelen: Geoff Morris?

Morris: Yes.

Nester Jelen: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Nester Jelen: Dee Owens?

Owens: Yes.

Nester Jelen: Ok, the vote passes 6 to 0.

Pittsford: Alright. Now, you have been approved, Ms. Chambers.



DRAFT

**Motion in case SSS-22-5, Betty Chambers Sliding Scale Subdivision Preliminary Plat, Road Width Waiver Requested, Preliminary Hearing, Waiver of Final Hearing Requested, in favor of approving all requests, carried unanimously (6-0).**

DRAFT

**REPORTS:**

Pittsford: Jackie, do you have any reports from Planning?

**Planning/Nester Jelen:** I do not.

Pittsford: David?

**Legal/Schilling:** No reports.

Pittsford: Alright, with no reports if there is no further business, I would entertain a motion for adjournment.

Owens: **So moved.**

Nester Jelen: Thank you.

**The meeting adjourned at 8:10 pm.**

Sign:

Attest:

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Margaret Clements, President

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Jacqueline Nester Jelen, Secretary

DRAFT