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**MONROE COUNTY PLAN COMMISSION  
Virtual Meeting via ZOOM - Minutes  
January 18, 2022 5:30 P.M.**

**CALL TO ORDER**

**ROLL CALL**

**INTRODUCTION OF EVIDENCE**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES – None.**

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

**ROLL CALL:** Margaret Clements, Trohn Enright-Randolph, Amy Thompson, Bernie Guerrettaz, Jim Stainbrook, Jerry Pittsford, Geoff McKim

**ABSENT:** *Julie Thomas, Dee Owens*

**STAFF PRESENT:** Larry Wilson, Director, Jackie Nester Jelen, Assistant Director, Tammy Behrman, Senior Planner, Drew Myers, Planner/GIS

**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:**

**Larry Wilson introduced the following items into evidence:**

The Monroe County Zoning Ordinance (as adopted and amended)

The Monroe County Comprehensive Plan (as adopted and amended)

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

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

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

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

**APPROVAL OF AGENDA**

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

**APPROVAL OF MINUTES**

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

**ADMINISTRATIVE BUSINESS: - None.**

**UNFINISHED BUSINESS:**

- 1. PUO-21-1**      **P & G Planned Unit Outline Plan to rezone property from PB to PUD Final Hearing.**  
One (1) 4.93 +/- parcel located in Section 29, Perry Township at 5100 W Victor Pike. Parcel number: 53-08-29-200-023.000-008.  
**Zoned PB.** Contact: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)
  
- 2. ZOA-21-8**      **Amendment to the Monroe County Zoning Ordinance: Chapter 815- Site Plans (Certified Site Plans) Final Hearing.**  
Amendment to require certified site plans for development.  
Contact: [jnester@co.monroe.in.us](mailto:jnester@co.monroe.in.us)  
**\*\*\*CONTINUED BY STAFF\*\*\***
  
- 3. REZ-21-7**      **440 E Sample RD Rezone from AG/RR to GB Final Hearing.**  
One (1) 1.647 +/- acre parcel in Washington Township, Section 34 440 E Sample RD, parcel no. 53-02-34-200-006.000-017.  
Owner: Richardson, Donald M.  
**Zoned AG/RR.** Contact [dmyers@co.monroe.in.us](mailto:dmyers@co.monroe.in.us)

**NEW BUSINESS:**

- 1. ZOA-21-9**      **Amendment to the Monroe County Zoning Ordinance: Chapter 814- Permits and Certificates Preliminary Hearing. Waiver of Final Hearing Requested.**  
Amendment to Improvement Location Permit Criteria  
Amendment to allow for Conditional Land Use Certificates.  
Contact: [lwilson@co.monroe.in.us](mailto:lwilson@co.monroe.in.us)
  
- 2. ZOA-21-13**      **Amendment to the Monroe County Zoning Ordinance: Chapter 802 – Zones and Permitted Uses Preliminary Hearing. Waiver of Final Hearing Requested.**  
Amendment to add Scrap Metal Processing Facility.  
Contact: [lwilson@co.monroe.in.us](mailto:lwilson@co.monroe.in.us)
  
- 3. REZ-22-1**      **Bedford Recycling Rezone from ME to HI Preliminary Hearing. Waiver of Final Hearing Requested.**  
One (1) 30.45 +/- acre parcel in Section 32 of Perry Township at 405 E Dillman Rd, parcel #: 53-08-32-300-009.001-008.  
Owner: Bedford Recycling Inc.  
**Zoned ME.** Planner: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)

**UNFINISHED BUSINESS**

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**1. PUO-21-1 P & G Planned Unit Outline Plan to rezone property from PB to PUD Final Hearing.**

One (1) 4.93 +/- parcel located in Section 29, Perry Township at 5100 W Victor Pike. Parcel number: 53-08-29-200-023.000-008.

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

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

**STAFF ACTION:**

Nester Jelen: I am going to cover tonight for Anne, Margaret. As you stated, this is a Planned Unit Outline Plan to establish a PUD zone on the parcel at 5100 West Victor Pike. This is the final hearing of this and I am just going to through it since it has been a little bit of time since we last heard it. So, a quick summary of this petition. It is 4.9 acres. Mr. Carmin has his hand raised. I am not sure if we want to recognize him right away.

Clements: Well, it is unusual but Mr. Carmin usually has his hand raised for a purpose. So, Mr. Carmin would, could technical staff please unmute Mr. Carmin?

Carmin: Ok, can you hear me now?

Clements: Yes.

Carmin: Before Jackie got into a full presentation of what had been mentioned at the Admin. Committee I wanted to go ahead and do that now. The petitioner would ask that the Plan Commission table this petition, that we do not have a right to continue automatically. Continuance would be to a date uncertain. There is another legal issue that some of you are aware of that we are still looking at that I would like to get a final answer from that. That is historic use of the property whether they are allowed truck parking or not and we would ask the Plan Commission to consider tabling this. If you would table it, we understand that would require that at a later time if we ask to have it back on the agenda that would require formal notice to neighbors and publication just as a new petition. So, before we go any further and spend time on it I would ask you to consider tabling this petition.

Clements: Thank you, Mr. Carmin. Mr. Enright-Randolph.

Enright-Randolph: Yes. I guess it is a procedure question. If we wish to entertain that how far do we have to entertain this petition now that it was moved forward? Do we need to listen to staff report and petitioner's report and public comment or would be able to table this move immediately and move it forward?

Clements: Mr. Schilling or Larry, please?

Schilling: You could table at this point without taking any additional testimony.

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Enright-Randolph: If you would indulge me, I would like to do that exact thing and **move to table PUO-21-1, P & G Planned unit Outline Plan to rezone property at from PB to PUD, Final Hearing.**

Clements: I see Mr. Guerrettaz has his hand raised.

Guerrettaz: I would support that that Trohn said. My only question is, is there a finite time limit if we table it? Does it stay active for the petitioner to request it to be heard within 12 months, within 18 months? I just don't know the answer to that question.

Wilson: Bernie I don't, Dave can pop in on this too, I don't think there is any time limitation. It would just be a request to place it back on the agenda. Since we are not continuing it to a specific meeting we would have to re-advertise anyway.

Guerrettaz: Ok, I will **second** Trohn's motion.

Enright-Randolph: Well, if you would indulge me. Mr. Carmin, do you see a date in the near future that would be more practical that maybe we could ask to table it to?

Carmin: I can't be certain of that because it does involve a court proceeding and I control that but my best guess is ...

Enright-Randolph: We have a great Planning staff and I am sure they can work with you to get that back on the agenda. But if you had particular date in mind I was willing to amend my motion for that.

Carmin: I am sorry, I didn't mean to interrupt. If I made additional comment on that I believe Larry or Dave could confirm I believe if you table it, you as a commission, can always ask to put it back in the agenda since it is still an open petition. We have still have the duty to do notice but you could but back on if you think the time is running that you want it resolved one way or the other and we are not yet ready you can still put it on anyway.

Enright-Randolph: Ok. I am going to leave my motion as is then.

Clements: Mr. Wilson, would you please call the roll?

Wilson: Do we have a motion to table it and a second?

Clements: Yes. Trohn moved and Bernie seconded.

Wilson: Ok, the motion is continue to the P & G petition Planned Unit Development Outline Plan approval generally. A vote in favor is a vote to continue the matter generally. Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: Geoff McKim?

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McKim: Yes.

Wilson: Jim Stainbrook?

Stainbrook: Yes.

Wilson: Amy Thompson?

Thompson: Yes

Wilson: Margaret Clements?

Clements: Yes.

Wilson: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Wilson: The vote to 6 to 0 to continue the matter generally.

Clements: To the members of the public who came to testify for this particular case I would like to let you know that that when this comes before the Plan Commission again it will advertised. We are sorry for any inconvenience and we look forward to hearing your thoughts at the time when/if it comes before the Plan Commission at the next hearing. Please let the record reflect that Mr. Pittsford has arrived.

**The motion in case PUO-21-1, P & G Planned Unit Outline Plan to rezone property from PB to PUD, Final Hearing, in favor continuing the petition indefinitely, per request from petitioner's representative at tonight's meeting, carried unanimously (6-0).**

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**UNFINISHED BUSINESS**

**2. ZOA-21-8            Amendment to the Monroe County Zoning Ordinance:  
Chapter 815- Site Plans (Certified Site Plans)  
Final Hearing.**

Amendment to require certified site plans for development.

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

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

**STAFF ACTION:** Petition has been continued by staff.

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**UNFINISHED BUSINESS**

**3. REZ-21-7                    440 E Sample RD Rezone from AG/RR to GB  
Final Hearing.**

One (1) 1.647 +/- acre parcel in Washington Township, Section 34  
440 E Sample RD, parcel no. 53-02-34-200-006.000-017.

Owner: Richardson, Donald M.

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

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

**STAFF ACTION:**

Myers: Yes, I am here. Can you hear me ok?

Clements: Yes.

Myers: Ok, great. This is REZ-21-7, the 440 East Sample Road rezone. This is the final hearing. We had a preliminary hearing last month for this petition so let me get to it. We can go over some brief summary and then also look at some of the new exhibits that have come about since the last time we have heard this. Also, so just a brief summary of the petition site is 1.647 acres and the petition request is to rezone from Agricultural/Rural Reserve to General Business. The petition site is 440 East Sample Road and the use of the lot will become a Grocery Store as determined by a Use Determination and more specifically it will be for a Dollar General store. Dollar General as a Grocery Store is only permitted in the General Business zoning district. We have the definition here for Grocery Store and overall if the rezone is approved the petitioner must submit a commercial site plan for review by the Planning staff and all applicable site plan requirements including but not limited to; grading, parking, lighting and signage must be met by the proposed development. A little bit of a recap of the committee meeting here as well. The Plan Review Committee which met on November 10<sup>th</sup> voted to forward this petition to the Plan Commission with a negative recommendation and that vote was 4 to 0, citing that the petition was incompatible with the Monroe County Comprehensive Plan. Then at the last Plan Commission Meeting, the preliminary hearing, which was December 14, 2021, there was no vote on this petition during that meeting hence the meeting tonight. But there were some questions and some information requested by Plan Commission members. One of those was for Planning staff to prepare an exhibit about the location of grocery stores and convenience stores nearby to the proposed location, that is Exhibit 5 in the staff report and I also included those in this presentation. Also, there was a request by the Plan Commission for the petitioner to provide a list of proposed items to be sold in the Dollar General store and that is exhibit 6 in your staff report. It is a link. It is a rather large pdf document that has a full list of items that they expect will be sold at the Dollar General. So, if you have any questions about any of those items we can ask the petitioner or petitioner's representative this evening but I did not include it in this presentation as it is a very lengthy document and it would just be a lot of slides to get all of that material covered. So, here is a location map of Sample Road, I-69 off to the west. Some maps here. We have the current zoning map, Agricultural/Rural Reserve as we have had some communication and conversation last time we met there is this Limited Business zoning district area to the west. Many of these parcels however are owned by the state as they were taken up during the I-69 expansion and we have over here on the right side of your screen the Comprehensive Plan and it is designated as Rural Residential. Here we have some

department comments. They are basically talking about aspects of the proposed site plan that was submitted. So, we come back to these if we want but generally the item in today's conversation is for rezones specifically. Some aerial pictometry here and then some street view images of the petition site as well. Here we have the letter to the Plan Commission. It will be an approximately 10,640 square foot for commercial use as a Dollar General. But like I said before first they have to have the appropriate zoning for this use to be permitted. Here we have the submitted site plan. It might be a little hard to see so I have it zoomed in a little bit more here. If you have any questions about this I am sure we can ask the petitioner. If you have any questions about the standards to be met staff can answer those questions for you. Alright, here is the first new exhibit that was prepared. The blue icon here that is the petition site for the Dollar General and this map is basically a google map search for grocery stores. So, these are all the little places that came up from google maps when you search grocery store nearby. So, there are some places up here, a Dollar General, some Circle K's along West 46, another Dollar General over there and then just some other interesting locations that were considered grocery stores throughout this area of the county. This second exhibit was a search for convenience stores, so as you will note a little bit different items came up for this one but also some similar ones and we can come back and review these when we would like and I just got a notification that my internet is unstable, so I am going to turn off my video. Ok, so now we are at the staff recommendation. Planning staff's recommendation to the Plan Commission to the request to rezone the property from Agricultural/Rural Reserve to General Business based on the findings of fact, specifically findings A, B, C and E. The Plan Review Committee, like I stated before had also voted to forward this petition with a negative recommendation. I will now take any questions.

#### **PLANNING STAFF RECOMMENDATION**

Recommendation to the Plan Commission:

- Deny the request to rezone the property from Agriculture/Rural Reserve (AG/RR) to General Business (GB) request based on the findings of fact, specifically findings A, B, C and E.

Recommendation to the Plan Review Committee:

- Staff recommends forwarding a "negative recommendation" to the Plan Commission based on the petition's incompatibility with the Monroe County Comprehensive Plan.

#### **PLAN REVIEW COMMITTEE**

Plan Review Committee voted 4-0 to forward this petition to the Plan Commission with a negative recommendation.

#### **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, which states:

*“Generally, these areas are characterized by active or potential mineral extraction operations nearby, steep slopes, and the remaining forest and/or agricultural land where roadways and other public services are minimal or not available.”*

- The rezone request is to change the zone for the petition site from Agriculture/Rural Reserve (AG/RR) to General Business (GB);
- The current use of the petition site is a single family residence, which is a permitted use in the AG/RR zone;
- If approved the petitioner intends to submit a commercial site plan application to establish a grocery store (Dollar General) on the site;
- Conclusion: The request to rezone the property to GB is not consistent with the Rural Residential Comprehensive Plan designation.

**(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 the zoning for the entirety of the site to the General Business (GB) District, which is described by the County’s Zoning Ordinance, Chapter 802, as follows:

**General Business (GB) District.** The character of the General Business (GB) District is defined as that which is primarily intended to meet the needs for heavy retail business uses. General business uses should be placed into cohesive groupings rather than on individual properties along highways in order to take advantage of major thoroughfares for traffic dissemination. Access control should be emphasized. The purposes of the GB District are: to encourage the development of groups of nonresidential uses that share common highway access and/or provide interior cross access in order to allow traffic from one business to have access to another without having to enter the highway; to discourage single family residential uses; to protect environmentally sensitive areas, such as floodplain, karst and steep slopes; and to maintain the character of the surrounding neighborhood. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the adjacent residential uses.

- The petition site is currently zoned Agriculture/Rural Reserve (AG/RR);
- A commercial driveway permit from County Highway may be required for the purposes of the future site plan proposal;
- The majority of the site is less than 15% slope (see Slope Map);
- The petition site is not located in FEMA or DNR Floodplain;
- There are no known karst areas on the petition site;
- The petition site is currently located on a septic system;
- Conclusion: The petition site does not have access to sewer at this site and therefore does not support GB zoning.

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

**Findings:**

- See Findings under Section A and Section B;
- The adjacent parcels to the north, east, south, and west are currently zoned AG/RR;
- Parcels approximately 600' to the west are zoned LB;
- Land uses in the surrounding area are either residential or agricultural;
- There are no commercial uses directly adjacent to the subject property;
- The surrounding area includes mostly residential and agricultural uses; however, there are multiple commercial use properties located within a half-mile radius of the petition site;
- Conclusion: The request for GB zoning is not consistent with the surrounding zoning.

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

**Findings:**

- Property value tends to be subjective;
- The effect of the approval of the rezone on property values is difficult to determine;

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

**Findings:**

- See Findings under Section A, Section B, and Section C;
- The petition site is one parcel with 1.647 +/- acres;
- The purpose of the rezone is to provide the property owner the opportunity to submit a commercial site plan application for a grocery store (Dollar General);
- According to the Monroe County Thoroughfare Plan, E Sample RD is designated as a major collector;
- E Sample Road intersects with N Wayport RD to the west and continues to provide access to I-69/State Road 37;
- E Sample Road intersects with N Old State Road 37 to the southeast;
- The petition site is serviced by a septic system;
- Septic permits from County Health Dept. will be required for the purposes of the future commercial development proposal;
- Conclusion: There is no accessibility to sewer at this location and therefore GB zoning is not recommended.

**QUESTIONS FOR STAFF – REZ-21-7 – 440 E Sample Rd**

Clements: Ok, do any members of the Plan Commission have any questions for Mr. Myers? Ok. I don't see any. Is the petitioner or the petitioner's representative here and would you please be recognized and could staff unmute them?

**PETITIONER/PETITIONER'S REPRESENTATIVE – REZ-21-7 – 440 E Sample Rd**

Kraft: Yes, please for the record.

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Clements: Yes, Mr. Kraft.

Kraft: Don Kraft with the law firm of Young, Lind, Endres and Kraft, 126 West Spring Street in New Albany appearing on behalf of the petitioner. Along with me is Will McDonough. He is with Paul Primavera and Associates. He is the engineer on the project and certainly we would outline primarily those considerations that staff has outlined with regards to Indiana Code 3674603. Under those 5 considerations dealing with the Comprehensive Plan. One of those elements that I think is important to look at in this regard and even occurred in some of the discussions with the Plan Commission and likewise with the committee the Comprehensive Plan in this instance has some age to it. It doesn't take into consideration the I-69 taking. It doesn't take into consideration the appropriations by the state when it condemned those properties that previously were occupied by businesses. The Comprehensive Plan is only a guide it is not an ordinance. Certainly from the standpoint it is only a consideration under Indiana code 3674603. Without taking into consideration I-69 I think it is either one a time to look at this on its own, look at it and give consideration to the Comprehensive Plan but likewise while giving consideration to it, it should not be dispositive of it based upon the fact that it is again outdated. The second would be the current conditions and character of current structures in that district. While it indicates under the staff report see the findings after section A, once again these are separate and distinct. The General Business district is a requirement based upon a zoning determination. It is going to be a Dollar General and certainly this evening is merely the issue of use. Certainly the issue of a development plan would come back to be reviewed. My client did submit a proposed plan primarily just to give you an idea how this would sit on the property and I think when we look at the current conditions one of those conditions seems to be when the taking took place for I-69 the roadway and on your screen right now I think it is important to look at the frontage piece of that the road does not taper down until after it passes right at the end of the frontage for this parcel. So, again when looking at current conditions I believe this is given an anticipation of some use other than what it is currently used for. When we look at also under that determination there was a conclusion that there were not sewers. There is nothing in your zoning ordinance that requires sewers and I have gone from it frontward and backwards and I can't find anything that specifically addresses sewers. Mr. McDonough at a later point in time will discuss the issue of septic if the question asked but it will accommodate due to its size and due to the usage it will accommodate a septic system on site. Then we look at that most desirable use for land in each district. Again, if it weren't for the appropriation this might not be a use but when the state took what it did for the I-69 Corridor took out some of those businesses this tends to be a desirable use and again while you don't have adjacent properties immediately contiguous or adjacent to this as noted by the staff report there are commercial uses in close proximity to this property. The conservation property values once again we addressed this previously when we tried to look at the issues, it is apparent that the issue of the use is not going to have a negative effect. In fact when looking at this site, the rather sites that we are hoping in close proximity that this would be approved because they believe, other owners in close proximity believe that their property values will in fact increase based upon this particular use. The next one primarily deals with responsible development and growth. Once again, I think when we look at the fact that roadway was widened when the appropriation took place, you have a wider road almost all the way to the end of the frontage on this property and certainly perhaps and again it is just speculation on my part, perhaps that is what was intended when that roadway was taken to the extent that it is. When we look specifically at the determination and again the conclusion in that finding once again the staff points to sewers. There is nothing again

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in your ordinance that would require this to be on sewers and certainly from the standpoint from what Mr. McDonough will cover is the fact that a commercial system could adequately fit on the property for purposes of servicing that. When we look at Indiana Code 3674603 and the 5 considerations we would certainly request that the use, the zoning change if you will, be granted this evening and certainly the recommendation would go to the County Commissioners for their final determination. I will take any questions you may have of me. Mr. McDonough may follow me. I am at a different location getting for another zoning hearing in Sellersburg, Indiana. But Mr. McDonough will speak to the issues that I raised.

Clements: Do members of the Plan Commission have any questions for Mr. Kraft before we turn to Mr. McDonough? Mr. Enright-Randolph and then Mr. Pittsford.

Enright-Randolph: I guess my question is pretty self-explanatory to me but he eluded to Comprehensive Plan is outdated and a couple other things are outdated and I was wondering he wanted to kind of drill into that just a bit more for maybe the public's edification and maybe for some ideas of thoughts that maybe us as a Plan Commission have not thought through.

Kraft: Certainly. I would be more than happy to address it, Madam President.

Clements: Yes, Mr. Kraft please feel free and then we will proceed to Mr. Pittsford.

Kraft: Thank you. As I indicated the Comprehensive Plan as most of you as members of the Plan Commission are aware is merely a guide with respect to the County's plan as to development. The current plan is approximately 9 and half or 10 years old. It did not take into consideration or at least when you review it from front to back there is nothing within the body of it that address the I-69 corridor. The result of that tends to be many times Comprehensive Plans are adopted and they are adopted with foresight of what may happen and in this instance while it may have happened it is not addressed in the Comprehensive Plan. Since the Comprehensive Plan is just that it is a plan, it is not an ordinance. It is merely a guide to the county as to where growth may take place. When the I-69 corridor came through and part of the property along the I-69 was condemned or taken by way of appropriation what ultimately happened was a business not comparable to this but some of the businesses along that corridor now are owned by the State of Indiana as a result of the appropriation. The result tends to be they remove this and by removing this it changed what I would believe would be the plan perhaps even the foresight of the county to relook at the Comprehensive Plan and bring it in line with what has occurred with I-69. Again, it is merely a plan. It is not something that is carved in stone that says we have to follow it. Indiana Code 3674603 specifically indicates it is a consideration in making a decision on a rezoning and by virtue of the fact that it is only a consideration one of those considerations should be looking to the possibility of saying this is something that we need to review, that we need to look at and perhaps work upon a new Comprehensive Plan that takes into consideration I-69.

Enright-Randolph: Thank you. That really answers my question but I was curious if there was anything else that jumps out of your review of the Comprehensive Plan outside of the development of the interstate that might be significant enough to mention.

Kraft: One of the items that I think is important and it was brought up by staff in several of the

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considerations dealt with sewers aren't available so it doesn't comply with the Comprehensive Plan. I found nothing in the zoning ordinance nor within the Comprehensive Plan specifically that addressed that this would have to be on sewer and as a result of that I tend to believe that if there is going to be something examined in the Comprehensive Plan or even perhaps in an amendment to your ordinance I think we have to look at the fact that there is nothing in there that would require a commercial use such as this when the property and the size of the property can accommodate the septic system why it can't go forward in that regard. So, that maybe a consideration as well when reviewing the Comprehensive Plan as well as the zoning ordinance.

Enright-Randolph: Perfect. Thank you.

Clements: Thank you Mr. Kraft. Mr. Pittsford.

Pittsford: Thank you Madam President. I want to begin with an observation off of Mr. Kraft's last remark because I was a significant participant in the current Comprehensive Plan that we have and I would point out that his last comment was really instructive because if sewerage is really required in this area for any kind of General Business or other intense use development, it is a pretty high hurdle. There is a lot of stone. There is a lot of difference in height elevation to overcome and that is something that we actually did talk about at that time. There was a conversation with the City of Bloomington on how they were going to get there. But that is a whole another kettle of fish and I am just going to leave it right there. But he was very apt in making that observation. I also want to throw out a question to be answered later by Ms. Ridge regarding how convincing the argument of the width of the roadway posts I-69 taking should be considered. I think that is a significant question. It is one that I have had myself so how convincing of an argument is that. I think we see sometimes even with in the urban area of Monroe County much more intense use on much more narrow street. So, if we have an appropriate time later I would like to hear on that. Now to my questions to Mr. Kraft. First of all, was this property taken during the I-69 construction, this particular lot?

Kraft: No, it was not.

Pittsford: Ok. So, it has continued in private ownership.

Kraft: That is correct. Yes, sir.

Pittsford: And it was previously open ground there was no residential structure?

Kraft: I believe there is a structure on it and that is shown in one of the exhibits to the staff's report.

Pittsford: Ok. Alright, well, it has been a while since I have looked at it, so my apologies. Very small structure for the size of the property I would think. Anyway, the next question that I have, Mr. Kraft, do you think there is a negative bias against the Dollar General brand?

Kraft: That I would say that I have represented Dollar General in front of some other municipalities in other counties recently, took a case to the Indiana Court of Appeals on this very issue on Dollar General and certainly I am happy to say that we prevailed with the Indiana Court of Appeals and

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that Dollar General Store is now in Fort Knobs, Indiana. So, I think at some point in listening to the folks at that zoning meeting there may be some negative bias that relates to Dollar General. But if you have been in one but I believe that one of the members of the Plan Commission says that he has been in one. I think when you look at it overall it is a store that is much like the old general store and certainly I have seen that the one that we did in Floyd County all the folks, I shouldn't say all, excuse me, a majority of the folks that were there to opposite now they are some of the best customers.

Pittsford: Ok, two last questions that kind of go together. What is the extent to which families in that area would be able to pick-up basic groceries; milk, butter, eggs, bread, you know those, oh my gosh, I don't want to drive all the way back into town. I will just run down to Dollar General. To what extent would those items be available? What would the distance of travel be if there was not a Dollar General in this location for this families and with that I conclude my questions?

Kraft: I'm sorry. I can answer the one as it relates to the one item that Mr. Myers indicated that was not attached because of the pdf. All of those items you mentioned as to what family may be able to go and obtain at the Dollar General, all of those items are available and the list is massive as to what will be available in that store and certainly I will let Mr. McDonough address the other portion of that question of that. As it relates to distance he is the one that did the calculations on the distance of the other stores based upon what was provided by staff, based upon that I will let him address that but all those items that you have indicated would be readily available at that Dollar General.

Clements: Mr. Pittsford, do we still have you? You are muted, Mr. Pittsford.

Pittsford: I am here. No, he has answered my questions. I am content. You may move on.

Clements: Ok, thank you. I would like since you did raise a question, I would like to refer now to Mr. Satterly to answer the question about the road with inquiry that you made during your question to Mr. Kraft. Mr. Satterly, if you are here, could you please unmute yourself.

Satterly: What is the specific question about the road width?

Clements: It was the suitability of the road width for this purpose and perhaps for other purposes.

Pittsford: Also, real quickly if it was intentionally designed that way with the idea that General Business or some other commercial use may extend to that point.

Satterly: Actually that is an active project. Our Sample Road Improvement Project is going to go between I-69 and Old State Road 37 to east and that section will tie into the improved 2-lane section to the east that will have 12 foot lanes, paved shoulders and improved drainage throughout all the over to Old State Road 37.

Pittsford: That is a pretty significant distance isn't it?

Satterly: Well, I don't know, a mile and half or so, 2 miles maybe. That construction will be starting

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March of this year.

Pittsford: I would say in this area in terms of reaching residential areas that represents a significant factor. Thank you.

Clements: Thank you. Thank you Mr. Pittsford. Mr. McKim and then Mr. Wilson.

McKim: Thank you. Actually, Paul, Mr. Satterly just kind of addressed the issue that I wanted to get at. I am kind of surprised that it hadn't been mentioned that the county is actively involved in widening and improving Sample Road right now and that taper that the petitioner referred to probably won't exist by the time that this project is done and I think that is just another example of how this area probably the Comprehensive Plan probably is showing its age with respect to the Sample Road corridor. This is something that the northern most interchange on I-69 and the county is putting significant and the state significant resources improving Sample Road to be able to take advantage of that and that certainly like Jerry mentioned quite substantial just for rural residential areas.

Clements: Thank you Mr. McKim. Mr. Wilson.

Enright-Randolph: Madam President I was having audio issues and I couldn't catch the last of Paul Satterly's statement as far as which direction they were planning to improve on the infrastructure of Sample Road.

McKim: Both.

Enright-Randolph: Both. Ok, thank you. I thought that was really relevant to the discussion. Thank you. Sorry for the interruption.

Clements: Thank you Mr. Enright-Randolph.

Satterly: Sample Road is going to be improved all the way from Old State Road 37 past I-69 and all the west to Bottom Road along Simpson Chapel.

Clements: Ok, Mr. Wilson.

Wilson: I just wanted to comment to say that it is not quite accurate to say that the Comprehensive Plan did not address I-69. There is a separate Indiana 37/ I-69 Corridor Study that is very detailed and addresses all of the proposed intersections and interchanges along the proposed route. I can't give you the exact date, probably 2009, again, it is somewhat outdated now after construction but it did really go into detail and it is incorporated into the Comprehensive Plan along with all of the other studies we have done such as the Urbanizing Area Plan, the Rural Zoning Plan and so on. So, there is a fairly detailed study that set forth the guidelines for the county in regards to this corridor. Again, whether it needs to be updated or not is another question.

Clements: Thank you.

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Pittsford: Madam President, I want to interject, please.

Clements: Yes.

Pittsford: You can rule me out of order and I will shut up. I don't think that is a fair representation because there was a very clear effort to limit anything along I-69 because there were many people on the Plan Commission who resisted it and that property done on Victor Oolict Road where 37 and 69 come together is a perfect example of how many people involved with the Plan Commission at that time wanted to stymie any efforts of developments along this interstate so I don't think that is really fully clear and I don't want to get too jacked up about it. Yeah, it is in there but I think there definitely was an effort to limit that.

Wilson: I wasn't saying that. There is a plan is all that I am saying. Whether or not it is the correct plan or it needs to be updated is another question.

Pittsford: My point exactly.

Wilson: I agree that it was very against any development on the interchanges for I-69 for a number of reasons primarily, the stated reasons I recall was the lack of infrastructure and the lack of available services such as police protection and so on for some of these areas. Again, I don't want to try to paraphrase the entire report. It probably would be a great time to like to look at particularly for the area that is to the north on I-69 where we haven't done studies that we might want to do a sort of mini interchange study for that area.

Clements: Ok, Mr. Wilson. Mr. Stainbrook.

Stainbrook: Well, having listened to everyone and continuing to do so, I think that this grocery/convenience store I think that the convenience store would be just that and in line with Jerry's, Mr. Pittsford's questions and comments that were derived from that. I don't suppose I am the only to patronize Dollar General in Judah but we find it a really convenience and again thinking in the context of some of Jerry's comments someone could live along time, well, I don't want to get in trouble with the Bloomington merchants I best be careful but the convenience of this grocery convenience store, someone could live there Jerry and do quite nicely aside from procuring milk and orange juice. I am very favorably impressed with Mr. Kraft's comments and then as I listen to all of the comments I think this would be a good thing. Thank you.

Clements: Thank you Mr. Stainbrook and I would just like to make a comment because we are talking about just one of the conditions about the property and that has to do with appropriateness with consideration to the Comprehensive Plan and I think that we have an obligation to consider the most desirable use for the land in this district for which it is adapted and I see myself that Dollar General even though I like Dollar General and I go to Dollar General myself I don't see, I am not convinced of its appropriateness in this area given the surrounding properties and even with the improvements. I believe that the residents have stated very vociferously over the last several months that they would like to keep the rural, rural and this flies in the face of what the people want. So, I find that it may not be and in my opinion this is not the most desirable use for which the land in this district is adapted and I am also not convinced this is responsible growth and

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development. So, that being said I would like to turn it to Mr. McDonough if he is here to have a few minutes to speak because we have already indulged the petitioner and the petitioner's representative for some time. So, if you are here would please unmute yourself and if you have a few minutes, maybe 5 minutes, try to keep in mind that Mr. Kraft has spoken.

McDonough: Yes, hello.

Clements: Hello.

McDonough: Hello. My Name is Will McDonough and I am happy to answer your questions Madam President. I would just like to say thank you all for attending tonight and considering this site. I believe what Mr. Kraft had said really does highlight this property as a piece that could be used as commercial. When you look at the slide that Drew has added that shows convenience and grocery stores from this area, from Wayport I believe is represented there kind of in the center there of that map, the closest would be the New Ground Farm LLC, which is di-angle bottom right. That is like 5.4 miles away. Then you start to look at what is to the immediate east of this over in the Nashville area that is 12.3 miles and then even to the northwest toward Paragon, in fact I actually I represented a Dollar General in that case. That is there at I believe 12.4 miles away. So, I think this would be great for the area. I think with the addition of the septic field any and all sanity sewer questions could be answered. We have left a portion behind the building of about 6,000 square feet ready for a septic and in this instance where these stores they only generate 600 gallons per day, which typically is taken care of with a 400 square foot septic system so I don't have any reluctance of having a septic designed for this particular site for this particular use. Now, with the question of whether it meets the main residential rule. Within 300 feet of this is where the takings occurred for the INDOT project there where they added the roundabouts. That was about 5.5 acres that they have taken away that used to be commercial and now left void has an Indiana Department of Transportation property. This is right there in this corridor I feel and I understand if this were a mile down the road this could be an understanding of something that we would not want to do as far as residential properties. But in this instance I believe this is appropriate in this location.

Clements: Ok. Mr. Guerrettaz.

Guerrettaz: I just have a quick question and some other questions when we are just discussion among ourselves here. Mr. McDonough on the septic system is that a State Board of Health Permit that you go through for that?

McDonough: Yes, sir. So, typically we will have ground perk test is what they used to call it but it is a soil scientist that takes readings from the ground, we submit those to the Indiana State Department of Health. They tell us basically from the findings of the soil what the load rates would be. With that information then we will design the system to accommodate those, send it back to the state for their review, sometimes, it depends, sometimes the state will decide whether they will let the local, which would be the Monroe County Health Department to review and to approve. But most likely it would be the state that would approve. Either way it would have to go through an approval process and have an approval.

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Guerrettaz: Ok, I don't want to eat up any more time here. You have answered my question, thanks. The other question I have got, so inside the building, I am assuming outside the building you will have a hose bed that type of thing but on the inside of the building you will have men and women's restrooms and maybe some sort of utility sink or what is the plumbing in the building? You may not be able to answer it this early stage, I don't know but I am just curious if you know and if you could share that with us.

McDonough. Sure. It is very minimum. You do have a men's single unit bathroom and also a women's single unit bathroom and alongside of that of that outside of those 2 rooms you have a water fountain. Then there is one mop sink that is in the back and that is all of the water usage that portrays to the building. Now there is some sprinkler systems for irrigation but of course that doesn't go through the sewer.

Clements: Ok. Thank you. Are you finished Mr. Guerrettaz?

Guerrettaz: Yes, ma'am.

Pittsford: Hey, quick question on water. Sorry. Is there fire suppression involved in the design?

McDonough: No, sir. This building is 10,640 square feet so the state has a general rule that it has to be over 12,000 square feet so the site would just take use of any fire hydrants that are in area.

Pittsford: Thank you.

Clements: Thank you. Mr. Enright-Randolph.

Enright-Randolph: Yes and I was hoping I would be a little more prepared for this question. You eluded to the taking for I-69. Would you repeat how many acres you indicated was part of that taking?

McDonough: Yes, it was over 5.5 acres. I am just saying that the lot in particular that fits around kind of between maybe Drew can pull that back up.

Enright-Randolph: No, that's ok. I got to follow up with Drew. I have a couple of other questions. So, what I am understanding from the taking that there are 3 parcels in total. A lot of them don't really have too much descriptive of ways to describe them like an 18 digit parcel number or an address location but there are a few that have one. From what my review is there is one parcel that has the calculated acreage, which is just a calculation, it is not the legal description of 3.1 acres. Then there is another one that does have an 18 digit parcel, it is 100 East Sample Road. It is just north of the gas station. That calculated acreage was 8.12 acres and then there was a third one that is actually kind of within the right of way that is now part of state or at least one point it has a zoning designation. Let me make sure I am very clear, the way I am looking at this is the current Light Business zoning and what is now part of the State of Indiana as property. So, the third one I saw was 4.24 acres calculated. So, some really rough math here, you have got 11, 15, like 15 and some change acres that was part of the taking for I-69. So, I just wanted to really kind of make sure that we were clear. Some parcels are around 5 acres like you are eluding to but I think the

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grand scheme of things here is that about 15 acres was acquired for I-69 in the Light Business area that it is currently zoned. Now, the real question is, is it appropriate for us to think outside of the context of the Comprehensive Plan? I thought our Madam President brought up a great question is this the best use for that property and that puts the Plan Commission in a very tricky situation and I think we should speak and stand and I have a few more comments once we get past the public duration of this petition.

Clements: Thank you Mr. Enright-Randolph. Mr. Stainbrook.

Stainbrook: Thank you Madam President, Margaret. I would like to use and I will try to be succinct with an antidotal incident that my at first seem unrelated but all of you will remember I am sure when President Nixon was faced with a fuel crisis in the country the Nixon Administration lowered the speed limit to 55 every place including interstates. Now, not too many people adhered to that 55 mile per hour speed limit including law enforcement as you went down the interstate. The point here that might apply better in other instances is if you limit and regulate without enforcement there is this tendency for people to ignore extreme regulation without enforcement. I think that may have been the difficulty in different places for sympathy with our decisions. But in this case then and so help me and I may be wrong, Commissioner Thomas may call me to the office for a good spanking, I haven't had a good spanking since grade school and that has been a while back but any way, it is my contention that I came up with this keep the rural, rural and the urban, urban and that later became I think a campaign slogan. I believe Margaret admirably cited that in a much better than I can. But if we take every area and say that it is rural I think in this instance, for example, we are going to have more difficulty saying rural in other areas. With the introduction of 69 whether it has been dully considered or considered at all as one of this think and others may think it should have been given more consideration or brought to date and that is a side on my part and I shouldn't take advantage Margaret, of your recognition. I am just saying I am all of keeping rural but if you are too strict and here is another thing with this kind of thing, I don't believe Dollar General would do this, I hope no one would do it, but I have had one of our own counsels on occasions say, you know Jim, this enforcement is tough. You know Jim, if people lie it is really hard. Well, my answer to that was if a guy comes out of the bank with a gun in his hand and he tells you I didn't do it, I guess it is all over because he lied. So, I think I do agree a little bit with thought in the case of this. We have got people here with a good plan, a good product, with service. The truck stop, it wasn't a truck stop was service for anyone but some of the trucks did frequent the service station that was appropriated by the state. This is on such a smaller scale. Well, I have talked this thing but as I said before by golly, I have talked Bernie right out. He is going to leave. I am all for this. I hope we will look at this again with an open mind when we vote. Thank you. Sorry.

Clements: Thank you Mr. Stainbrook. Mr. Enright-Randolph.

Enright-Randolph: Yes, just real quick. I just want to clarify I said Light Business several times and I meant I meant Limited Business just if anyone was looking into that. I just wanted to make sure that I corrected myself.

Clements: Ok, wonderful. Thank you. We turn now to the public and if there are members of the public who would like to speak in favor of this petition would you please either raise your hand or

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press \*9 on your phone so that we know that you would like to speak? Jackie, I don't know if I can see the participants with their hands raised.

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

Clements: Ok. Are there members of the public who would like to speak in opposition to this petition? If so, would you please raise your hand or press \*9 on your telephone. Ok, there is a telephone number.

Enright-Randolph: You have a caller.

Clements: I do recognize that. If tech support could unmute the caller or does the caller press \*6?

Nester Jelen: I believe it is \*6.

Clements: If the caller with the telephone number ending in 4117 would please press \*6, I believe you will be unmuted. Ok. Would you please introduce yourself and state your name.

**SUPPORTERS – REZ-21-7 – 440 E Sample Rd: None**

**REMONSTRATORS – REZ-21-7 – 440 E Sample Rd**

Lazell: My name is Jason Lazell and I live over on Shiloh Road, which is a little ways from Sample but not too far. My only thing about that Dollar General thing that concerns me about it is my thing that concerns me about it is it is such a rural area out here that I just don't know if it, there are not enough houses that are scattered out so bad that I don't know if it would benefit having a Dollar General put right there.

Clements: Thank you. Thank you very much. Is there anyone else that would like to speak in opposition to this petition? If so, please raise your hand or press \*9 on your telephone. If you see anyone Tech Support or Jackie, please let me know.

Enright-Randolph: Madam President, this is Plan Commission Trohn Enright-Randolph and I was just booted off. Now I am back on and I wasn't able to listen to the public comment and that is unfortunate since we only had one person speak. I was really interested in what they had to say. If you could summarize.

Clements: Yes. A gentleman called in to say that he lives out there and he doesn't think that the area would benefit from a Dollar General that it is very rural and that he does not believe it would be beneficial. Did I state that correctly sir?

Lazell: Yeah, you did. My point about that is there is a Dollar General they put one of those in at Bean Blossom and they also put one in they are building a new one over toward Spencer which is coming this way too also and I just don't see with so many of them and then we have Lakeside IGA here in Unionville too which is not too far from Sample Road. I just don't see where it would be beneficial for us out in a rural area like this.

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Clements: Thank you so much sir. Thank you. Ok. Well, we come back to the members of the Plan Commission and also Mr. McDonough you have a few minutes to rebut anything that was stated and then we can have a motion and a vote.

McDonough: I am not quite sure where Shiloh Road is or where this gentleman lives in conjunction with or close proximity with this site but I will say many of the grocery stores that are represented on this block here, like I said the closest one and I am not even sure what kind of grocery store it would be would be the New Ground Farm at 5.4 miles. Everything else is 8.3, 6.8, 9.6, 10.1, 12.3 and 12.4 just to make sure we understand the proximity of these other businesses.

Clements: Thank you sir. Is there a motion from any member of the Plan Commission?

Enright-Randolph: I would like to bring this back for discussion.

Guerrettaz: Margaret.

Enright-Randolph: Sorry Bernie.

#### **ADDITIONAL QUESTIONS FOR STAFF – REZ-21-7 – 440 E Sample Rd**

Clements: Yes, Bernie, Mr. Guerrettaz.

Guerrettaz: I actually think Geoff had his hand up. I was wanting to put through some observations but I didn't want to do it before the public had a chance to go for their comments. So, Geoff go ahead.

McKim: I wanted to hear your observations too. I was going to talk about the 37 corridor plans. I would rather hear your observations first.

Guerrettaz: I stay away from the 37 corridor plan because if you, which goes right to my point if you look along this corridor up through there, there are a tremendous number of uses that don't hit the Rural Residential. The tricky thing about the rezone petition is the definition of General Business and General Business is just kind of a catch all for everything and that is where the struggle comes in I think and probably what staff is seeing. I respect that greatly. That said I think this is an area that we would want to look at a PUD for the perils and troubles that we have had with those at times. So, I think that we have multiple uses that are in this corridor that are not consistent with what the Rural Residential Plan is but they seem to work. I don't go down in, I don't go up 69 or back south without thinking of these locations that we have abominations to the public that aren't there and successful and people grow into. I think Jim's point was spot on. It took me a minute to catch it but his point if you have expectations of these areas and I think the new zoning ordinance is going to cover most of this, hopefully it will, and if you have expectations in an area then you need to be able to enforce it. I think that this area is a little bit grey right now because of the businesses that are in this area because of I-69 and I think in this case it is a neighborhood serving use that I think there are commercial uses that can be supportive to a Rural Residential environmental and that kind of where I see this fit in. My thoughts with that go along with the observations of the new format of the new store that Dollar General puts in. I have never

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been in the one when I have seen it in Bicknell or other places. I have just seen it from the outside and it was just kind of surprising. As far as the septic goes, I don't want to get hung up on the septic but sometimes commercial sites will use and have less impact on onsite sewer systems. You can look at it that fact that the State Board of Health will go and will be reviewing this along with Monroe County Health Department. I think those are 2 positives. Water usage at a commercial site typically isn't near what you have in a 3 bedroom single family residential home site. I the exit to Sample Road to me is an expectation of traffic and I think that vehicles coming off of the corridor have a destination that is already planned and having a town and neighborhood support store there would be useful. I don't have a dog in the hunt for the Dollar General store or anything else I just see this as a useful use and the other question I did have for staff and should know this. If the Executive Board of County Commissioners does a rezone on this parcel to General Business and a Dollar General store doesn't go there is there language that occupies that ordinance Larry, that pulls it away or what kind of commitment goes with the use we are talking about versus the zoning district that they are asking for? Then I will be quiet. Thanks.

Wilson: They are basically asking for a map amendment to change the zone lot to General Business. Accordingly, any use that is permitted in General Business would be allowed there unless some uses were basically there be a condition that certain uses not be allowed. That would have to be part of any motion on the part of the Plan Commission and if the Commissioners would add a condition at the time it reaches their desk and pass an ordinance with amendments it would then go back to the Plan Commission for approval with the amendments that the Plan Commission approved and with the amendments the ordinance would go into effect with those amendments. But it is a general rezone which means anything in General Business would be allowed regardless of the amount of water and sewer, regardless of the intensity of the use and so on and that's one of the situations that we get into with a rezone petition that's not just for a particular use, it changes the zone and it runs with the land.

Guerrettaz: Ok, so that answers my, that is where I thought you were going with that. So, if we end up with the motion on the table for a recommendation of approval for the Executive Board of County Commissioners then that might be something that we and we have a lot of information here, we are talking specifically about a Dollar General store so I think that we need to be cognitive of that. The General Business table is pretty expansive with the number of uses. So, I will be quiet this time. Thanks Larry.

Clements: Thank you Mr. Guerrettaz. Mr. McKim.

McKim: First of all, I am very glad that Bernie brought that up because that is extremely important for us to keep in the front of our mind. Personally I am thinking that a Dollar General as a grocery store is an excellent use for this land but do we really think that every possible General Business use would be an appropriate. That is a really good question and we need to think hard about that. Just when we are talking about the next, nearest closest grocery store that New Ground Farm is kind of a red herring. The dot that is next to it is the Lakeside Convenience Store. It used to be an IGA. It used to actually a really good grocery store. I mean with a substantial selection of fresh and packaged foods. Now it is totally under new ownership. It is has moved too much more of a convenience store with a few grocery items, much more smokes and cokes and that sort of thing, unfortunately. At one time though that was a great grocery store for the local residences. It is really

interesting just glancing over the 37 corridor study here and we should probably all familiarize ourselves with what that says because that is incorporated by reference under the Comprehensive Plan and it does basically for this area around Sample Road, it does kind of punt and say hey, at some point the county may want to make this have an Urban Area Plan for this with large PUD's but in the meantime since we don't have any kind of plan it should be zoned for Rural Residential and basically prohibit all businesses and that essentially what it says. But if you read further you see that that recommendation was predicated on claims that the state did not have any plans for frontage roads out there and a fear that due to budget issues with I-69 that frontage roads would never even be built. So, we obviously know with the benefit of hindsight that there is a substantial frontage road on both sides, there is substantial frontage roads there with capacity for business so I think what that really tells us is right for some kind of area plan. We really should move forward to that. Where does that leave us right now? That is tough. I think the grocery store is justified. But I am a little troubled by the idea that it could be anything in General Business. I will shut up.

Clements: Thank you Mr. McKim. Mr. Enright-Randolph.

Enright-Randolph: Yes, thank you. I think a lot of points are going to be very similar. It concerns me to be working outside of the context of the perimeters of the Comprehensive Plan but it is pretty evident that with the development of I-69 the Monroe County Area and even really push back on the development and that is fine. My predecessor was a big advocate against the new interstate especially going through the virgin land that is there but we knew it was coming down the pipe line and we rolled out sleeves up and we got out there and we got to work and preserved all of the section corners that we could that was going to be disturbed. That went on for years, years. If you go to the MPO we barely get an INDOT representatives because we are pretty nasty to them. We didn't work well. I went to a lot of conferences and I have a lot of people with the Seymour district talk about how well they were able to work with Morgan County. They got a lot of money infused into their community for new road projects. It took us, I think we just now really kind of are still mending that relationship but it took us a long time to get here. There were plans where we were not going to have sidewalks on the new 17<sup>th</sup> bridge and it was only going to have a pedestrian overpass on the north side of the bridge, they ended up giving us sidewalks on both. That is because we had to start looking what was real and what was on the ground and start working with what infrastructure is out there and what our county needs are and sidewalks on both sides. We even got a fence built to make sure there were more safety precautions in place. You look at the petition that is asked to be tabled today, we created a Truck Stop/Travel Plaza where there is nowhere currently in the entire county that has the perimeters to build one by right. You have to go through a rezone, do a lot adjustment. I mean, we were not wanting I-69 in this community when it was first announced. We need to look at this. Now, am I comfortable with looking outside of the perimeters that I am asked to look in? Not so much. But should we look at this and see if we should do more of an extensive evaluation of the area instead of like just a one off, I absolutely agree we do. To get to what I wanted to say and Jerry I am going to use you, so bear with me, I say we move this forward to see where our Commissioners are. I think this is a very real, practical use. I don't think just General Business is great but this particular use I think it's very well. But, you know, we forward a lot of things with a favorable recommendation that has been turned down. I think this gives the Plan Commission a sense of how many we can move forward. A new Comprehensive Plan that addresses I-69 how we could potentially look at this area as we are going through our rewrite of our zoning ordinance and zoning map but we need to start doing it now or yesterday.

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How many people are going to want to come to Monroe County and go through all of this every single time? I think it is all agreed upon that this has infrastructure for some type of use like this. We just heard from our Highway Department they are planning on doing even more infrastructure improvement over there. So, we need to get our affairs in order so we don't lose opportunities because people don't want to deal with Monroe County and I know I am being a little harsh but I think it needs to be done by now.

Clements: Thank you Mr. Enright-Randolph. Mr. Stainbrook.

Stainbrook: I appreciate Trohn's comments and I was prepared Madam President, Margaret if you were going to call, now this is a question a little speech to give but were you ready to call for a motion?

Clements: No because there are still hands raised. Your hand is raised and Amy Thompson's hand is raised.

Stainbrook: Ok, thank you because if we were at that point I was no longer prepared to move a motion to move on this. Geoff really has me thinking and I believe I ought to actually give Bernie credit for originally troubling me. I thought I had my thesis which was to encourage approval of this and then with these 2 guys presenting further information, what is it you got a thesis, antithesis and it may be out of that. I hope Julie will appreciate this having background in Russian history but anyway maybe we will have the perfect synthesis. Now, my question, Mr. Bernie and Mr. Geoff if this is changed to General, what it is that we are looking at? General Business or Limited Business, Bernie?

McKim: General.

Guerrettaz: I think the petition says General Business.

Stainbrook: Ok, then Geoff and Bernie, what area does that change encompass? In other words, as I understand you guys you are reminding me to allow the proper zoning for this particular business that we are opening up a wider area for sundry other activities.

Guerrettaz: My only point Jim was this I just wanted to bring up the topic for the other Plan Commission Members, you have got a petitioner that is not looking at marking a piece of property as General Business that the whole table is laid out there, I think in a motion because I didn't know how a motion was going to be made, my only point was that whoever would make a motion would be aware that there is a condition that they can put on it that it is a General Business for the grocery store convenience that is presented. There has been a lot of specific data that has been provided and that is what we are looking at. I respect Larry's point that this is a flat rezone that the mechanism to kick this back out and the rezone not come true if it doesn't become a Dollar General Store then the rezone doesn't follow with the property. To me that is a pretty simple condition that we can put with it. Because I do think this is a good use. It leverages the infrastructure and it is a very Rural Residential serving use in my opinion.

Stainbrook: So, if we don't make the provision to which you elude that would limit this if we just

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change the zoning it would just affect this property that Dollar General is looking at right? It is not going to change the zoning across Sample Road.

Guerrettaz: I believe that is the case.

Clements: It would affect the surrounding businesses if a more intense use were if let's say Dollar General decided not to build and we have rezoned it General Business and an intensive use goes in and the surrounding property could potentially not sustain the intensity of that use. So, that being said I will go on and recognize Ms. Thompson.

Thompson: Thanks Margaret. I just wanted to say I do think that Dollar General can make sense here especially if they are selling more than smokes and cokes as Geoff said providing some fresh produce and real staples that people can utilize. I do have the same concerns regarding the broad general business designation that they are considering and I mentioned to the petitioner many times in the past petitioner has offered off limitations uses related to petitions. But I feel in a lot of ways that this Dollar General will serve in similar ways like gas station that was there and went out business. A lot of people stopped there for milk, ice, whatever. So, I don't feel like it is that big of a change in a lot of ways. Thank you.

Clements: Thank you. Mr. McKim.

McKim: Yes and just kind of following both up on all of these comments, it seems like there are a couple of approaches here to addressing the concern about General Business. One would be to simply restrict the use to grocery store. Now, I guess that is my question to staff. Is that A, something that is possible and B, has that kind of restriction ever been used? I know we have restrained uses but to constrain it that much is that something that has been done before? That is a question to staff.

Schilling: Geoff, I don't think that has ever been done before. There have been restrictions placed on rezones generally by commitments by the landowner. But if you are going to put that drastic of a condition you would really need to justify it with some findings that distinguish with every other possible business use of that property from a land use perspective, in other words the impacts you are trying to avoid, other uses that might be able to avoid those as well. So, it would seem to be difficult to limit it to one particular business use and justify that.

McKim: Thank you. So, I guess the other track that Bernie sort of eluded to is it possible to have a zoning ordinance amendment rezone that essentially reverts if the current petition doesn't go through or something like that?

Schilling: No, the only way that you can change a zone is through the hearing process by the Plan Commission and an ordinance by the County Commissioners.

McKim: You can't have a trigger in it.

Schilling: I don't believe so.

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McKim: Thank you.

Clements: Before moving on to Mr. Enright-Randolph, I see 2 members of our staff have their hands raised and I think they would like to address some of the questions that have been raised. Ms. Nester Jelen and then Mr. Wilson.

Nester Jelen: Yes and Larry chime in here but I think I mentioned at one of the prior meetings that use or proposal here is for over 10,000 square feet of building, which is why it is kicked into the General Business. But the Limited Business would allow for there is a Convenience Store with a 3,500 square foot cap. But I don't believe that is the petitioner's intent or interest. I just wanted to bring that up with people that are more comfortable with the Limited Business district instead of a General that is a clear distinction. Larry, did you have something that you wanted to add?

Wilson: I just wanted to add that I think if you have any language limited to a Dollar General Store that I think it would be conclusive evidence that it is a spot zone for the benefit of the petitioner. I don't think that you can get around that very easily.

Nester Jelen: Also, one more thing Margaret, if this is something the Plan Commission wants more information on given the 37 plan or the statement the petitioner's representative made about how sewer is not a requirement in the ordinance, I do think that there is a very strong correlation with all of our General Business zones in that fact that they currently have access to sewer, so although it is not written in it is a consideration because we are thinking current infrastructure and ability to support a large business use or an intense business use.

Clements: Thank you very much. Mr. Enright-Randolph.

Enright-Randolph: Yes, 2 things. I guess restricting it to such a one us almost seems like would a Use Variance an avenue for this and not a rezone? That is my first question and then I have one other.

Wilson: Trohn, I will address that real quickly. We really try to discourage Use Variances because under Indiana law you are only supposed to get a Use Variance if there really is no possible use for the property other than the use you are asking. But we have granted Use Variances in the past. It is kind of up to the Board of Zoning Appeals but the state law basically says that if you can put a use on that property such as a single family residence or residential storage structure you have a use and you don't necessarily, you are not entitled to a Use Variance for some other use that you may desire.

Enright-Randolph: I guess that brings Worms Way.

Wilson: Yes.

Enright-Randolph: And the real question, Larry, sorry for me to jump in, if they move for a Use Variance would that kind of be the same consideration for spot zoning that you eluded to?

Wilson: They are basically 2 separate legal theories. One case law in regard to a variance and the

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other is case law in regard to in what is called illegal spot zoned. Again, I think it is really difficult to argue there is any occasion where a Use Variance is justified. In the case of Worms Way I believe the BZA considered the fact that there was an existing building there that had been cut off by the interstate and it would be very difficult to use that building for an AG/RR use if not impossible.

Enright-Randolph: So, there are a lot of varying factors but some of what you said is actually directly related to this petition here. Ok, thank you. I guess my follow up question with the septic. Because I do agree Jerry too that we don't want to put too many hurdles to allow a good development but also I think we really put a lot of emphasis that we want things hooked up to the sewer. With that said, I am curious if this doesn't necessarily get voted on today and we hear it again I would be very curious of how many Dollar Generals are out there that are currently on septic and maybe if we could get a bill of health. I don't know if that would be too much of a request but I would be kind of curious and you know, you wouldn't have to give a precise number or anything but a number of Dollar Generals that are hooked up to septic and you know, you could tell us that they are still in good operational use. I think that's going to be helpful for some determination on this matter.

Clements: For that Mr. Enright-Randolph it would be irrelevant because this consideration is not just for the Dollar General, it is for General Business. So, it is really kind of an irrelevant question if I might say.

Enright-Randolph: Are you sure? I think it is very relevant because they are talking about hooking up to septic and I am just generally curious and if we want to entertain General Business it still gives us an idea of how well some of these businesses can operate hooked up on septic. So, I mean it does give us insight. I do see your contrast between the 2 and that is very welcoming and thank you for that. But I do think more information gathered is only going to help us in our decision making here and if they can show us that there are successful Dollar Generals hooked up on septic I would like to know that. I would also like to know if there are some failing out there too. But I doubt they are going to scour to give us that data. Thank you.

Clements: Thank you. Those are good questions. If the petitioner can supply the information we would be most grateful. Mr. McKim.

McKim: Has there been any discussion with the petitioner or would the petitioner be open to making any volunteer restrictions on uses that otherwise would be applicable to General Business. I guess I don't know if that is a question for staff or for the petitioner or for both.

Clements: So, I will let Jackie first weight in on that.

Nester Jelen: I am not sure if we have spoken with the petitioner about specific use restrictions so I would think it would be relevant to hear from the petitioner's representatives.

Clements: If the petitioner is here and would like to address that or if you would prefer to meet in private with members of the Planning staff and then come back to the Planning Commission or Mr. McDonough if you are still there or Mr. Kraft.

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McDonough: Yes. Will McDonough. I am here still. We would be happy to grant any kind of restrictions to this property. It is kind of the catch 22. We always try to be up front with what we are presenting to staff, to the Plan Commission and also to the County Commissioners. We like to be upfront and say this is what in particular we are doing. I know there are other outfits that are maybe are more generalized but we are willing to restrict the property in what manner needs necessary be the staff or by the Commission itself and just to speak on the septic system, we just in this past year I believe we have done 5 Dollar Generals with septic systems. Over the last, I believe I have been doing this now for almost 14 years we have don't several. I can't give you an exact number right at this moment but I don't know of any that are failing. Of course, not to be bold but the system are designed by a professional engineer, stamped and then also reviewed by the Health Department's staff and their engineers if they have them. Then of course, they are placed in the site by most of the time certified it depends on the municipality or the Health Department certified installer, so I have no reservations on using septic in this instance. I hope I have answered all of the questions maybe too.

Clements: Thank you Mr. McDonough. Thank you very much. Mr. Guerrettaz.

Guerrettaz: Yeah, I am going to beat this dead horse. A couple of comments Mr. McDonough I understand where you are coming from with sharing the information as openly as you did. That is a very positive attribute in the petition because that is what got the Plan Commission to think about how this could work for the surrounding area but when you look at the General Business tables and you see the uses and that is why I wanted to bring up that question from the fellow Commissioners is just to kind of point that out is if it were something a little bit more obscure as far as the number of uses in an area it would probably zero in very quickly to a zone but since it is General Business it is just such an extensive list and I needed to ask the question to fulfill my obligations to begin the petition and the Comprehensive Plan and try to get the conversation going to discuss the what ifs, right. Geoff's question is right on. I am not on to continue petitions at all. I want to keep the moving and get them out of the way and let the staff move on to other things. But if you want to discuss with Mr. Kraft and yourself and your clients to work with staff to come up with some that would fit the area, you know, Mr. Schilling is very helpful explaining some of the yeses and no's that we are typically permitted to do as is Larry. I think that might be in order because I do think this is a good transitional use for the property and I think it serves the area well. So, if you are looking at coming up with some conditions working with staff and putting them in writing that would probably be another meeting up or down whatever but it might work in your favor.

Clements: Ok. Mr. Pittsford.

Pittsford: Yes. Thank you Madam President. As I listened to this conversation I had just a couple of really brief thoughts so I won't belabor the point. One, when we discuss General Business use I think the site conditions might be more restrictive of General Business than what we are really considering. You have to consider the physical environment when you consider the possibility of other uses. That is always a factor and I also think an even more significant factor is what the market will bear and I think when you look at this property the use being proposed here what Dollar General has in mind here probably has the market in mind. I don't think they are as successful as they are across the United States without understanding their market. They are kind

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of like McDonald's when you travel across the country I don't see a whole lot of them bordered up. But if the petitioner is willing to put restrictions on here I absolutely would be willing to hear that. Failing that I don't have any problems moving this forward bearing in mind site conditions and the market place having its role in restricting the use here, regardless what we put on it. Thank you.

Clements: Thank you. Ok, so do members of the Plan Commission have any other questions or comments if not we can entertain a motion?

Pittsford: Can we have the first page up so we can see the petition please? Madam President, if I may I would like to make a motion.

Clements: Sure Mr. Pittsford.

### **FURTHER QUESTIONS FOR STAFF – REZ-21-7 – 440 E Sample Rd**

Pittsford: Thank you. **In case number REZ-21-7, request for rezone from AG/RR to General Business, this is the Final Hearing and the property is located at 440 East Sample Road, it consists of one, 1.647 plus or minus acre parcel in Washington Township, Section 34, parcel no. 53-02-34-200-006.000-017, owner Donald Richardson, I move approval of this petition for rezone from Agricultural/Rural Reserve with any conditions appended by staff and any use restrictions petitioner is willing to offer at this time.** That is my motion.

Stainbrook: I **second** the motion.

Clements: Ok, the motion has been made and seconded. Mr. Wilson, if you would be so kind as to call the roll?

Wilson: I would like Dave to comment on the actual motion as far as whether it is precise even as far as the conditions. Because I think if the staff comes up with conditions we would need to bring them back to the Plan Commission for inclusion in the draft ordinance change. Dave?

Pittsford: That is a good question Larry because I did leave open the possibility of restrictions put forward by the petitioner.

Schilling: I would agree Larry that the Plan Commission needs to weigh in on the specific conditions.

Pittsford: Can we make a motion in this vein or do we have to continue it in order to do those things?

Schilling: Well, if you are going to include conditions I think you have to specify what those conditions would be and you would have to condition it if you don't have those available.

Pittsford: Does staff have any conditions that we could immediately cite?

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Thompson: So, sorry to interrupt but I believe there was one occasion where not that long ago where we just sort of bumped a petition to later in the agenda and the petitioner offered some commitments and we dealt with a little later in the meeting. I don't know if our petitioner in this case might be willing to do that. But one of them has their hand raised.

Clements: Mr. McDonough would you please speak to us about your intentions?

McDonough: Yes and thank you for the continued consideration. Speaking with our client, there is not apprehension with us to restrict the conditions if you want to call it a grocery store use. Our intentions are 100 percent to do a Dollar General Store. They carry a long-term lease so that is fine with us and if you want to make it as simple as just for grocery use that is fine with us as well.

Pittsford: If I may, Madam President, **I would like to rescind my motion.**

Clements: Yes, Mr. Pittsford.

Pittsford: I would like to make a new motion after **Mr. Stainbrook withdraws his second** if he so willing.

Stainbrook: **Yes.**

Clements: Ok, Mr. Pittsford, please.

Pittsford: **In case number REZ-21-7, a parcel located at 440 East Sample Road in Washington Township, Section 34, owned by Donald M. Richardson, this is a request for a rezone from Agricultural/Rural Reserve to General Business, I move approval based on the findings of fact and the petitioner's commitment to restrict the use in this General Business zone only to Grocery Store Use. Am I good there David?**

Stainbrook: Jerry?

Pittsford: Yeah, Jim.

Stainbrook: I don't want to rehash this thing about whether it is a grocery store or not but really it is as I understand it and Mr. McDonough can speak to this. But most of their space is taken up by, now this is my experience, you have had your and Bernie and all of us, maybe all of us, Will would probably like to hear that, but anyway, I would say most of the floor space is not groceries, not most of it. I am willing to go along with it in dialogue here being called a grocery but I am afraid in the motion. This is not a grocery store. If they are only going to sell groceries, well, that is for them to decide. I am sorry. Thank you.

Pittsford: Jim in the Grocery Store use there is a possibility for other items. Think about going into any other local grocery store, the entire square footage is not committed to just groceries and that is by definition a use under this category. So, I was referring to the use under the category of General Business, which is Grocery Store.

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Stainbrook: Ok, well, if that works for Margaret, it works for you, works for Bernie, works for Larry, works for Mr. Schilling, I don't want to be a stickler here.

Clements: And it works for the petitioner.

Stainbrook: Pardon me. Just a minute, ok. Most of their floor space is not taken up by groceries. Thank you Margaret and sorry.

Enright-Randolph: I would be willing to entertain the motion by **seconding** the motion.

Clements: Thank you.

Enright-Randolph: Also, I would like to just clarify maybe the best approach with having commitments offered by the petitioner. Do we need that in written form?

Clements: Ok, so Mr. Schilling can answer that but before we have Mr. McKim.

Enright-Randolph: I feel like that is really pertinent to this because if it needs to be in written form, I would even vote no on my second until we have it in written form.

McKim: Actually I was just going to ask for Mr. Schilling's interpretation of this motion or opinion on this motion too.

Thompson: I was going to as well.

Schilling: Technically, the commitments are supposed to be in writing and presented and then they are supposed to be actually recorded before a decision is made and if the decision is negative then the commitments are of no effect, the recorded commitments would be of no effect. I don't know if it would be helpful to get a written commitment for not only a Grocery Store but something that would include other uses, other business uses that fit the description of what Dollar General does. I don't know if that would be Hardware of Garden Center, I don't know everything that they sell but that is a possibility as well if you wanted to go that route but in any event the commitment should be written and recorded.

Pittsford: **I withdraw my motion.**

Enright-Randolph: **I am going to withdraw my second.**

Clements: Mr. Guerrettaz.

Guerrettaz: Ok, **in the matter of REZ-21-7, 440 East Sample Road, Rezone from AG/RR to GB, this is the final hearing, I move that we continue to the next Plan Commission regularly scheduled hearing date in order for the petitioner to craft conditions that may simplify this conversation at that time.**

Enright-Randolph: **I second.**

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Wilson: The motion is to continue REZ-21-7, 440 East Sample Road Rezone from AG/RR to GB to the next meeting which would be in February. A motion in favor is motion to continue this matter and continue the hearing until the February regular meeting of the Plan Commission. Geoff McKim?

McKim: Yes.

Wilson: Jerry Pittsford?

Pittsford: Yes.

Wilson: Jim Stainbrook?

Stainbrook: Yes.

Wilson: Amy Thompson?

Thompson: Yes.

Wilson: Margaret Clements?

Clements: Yes.

Wilson: Trohn Enright-Randolph?

Enright-Randolph: Real briefly, I would recommend to the petitioner to maybe have something that is more strenuous with kind of how the discussion is going with the more practical use but think more broadly where their true uses lie and maybe have 2 uses of commitments that the Plan Commission can entertain because we are somewhat flexible as long as it is a practical use that desirable for that area and with that, I say yes.

Wilson: Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: Motion is approved by a 7 to 0 vote.

**The motion in case REZ-21-7, 440 E Sample RD Rezone from AG/RR to GB, Final Hearing, in favor of continuing this petition to the next regular Plan Commission Meeting, carried unanimously (7-0).**

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## NEW BUSINESS

### 1. ZOA-21-9

**Amendment to the Monroe County Zoning Ordinance:  
Chapter 814- Permits and Certificates  
Preliminary Hearing. Waiver of Final Hearing Requested.**

Amendment to Improvement Location Permit Criteria  
Amendment to allow for Conditional Land Use Certificates.  
Contact: [lwilson@co.monroe.in.us](mailto:lwilson@co.monroe.in.us)

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

#### **STAFF ACTION:**

Wilson: These are basically all amendments to our Improvement Location Chapter. The first one is to add a provision that requires an Improvement Location Permit for making a change of use in any building, structure or lot. This gives up the ability to review proposed change of use to make sure it meets all of the development standards and use conditions in the ordinance and the other change is to allow to clarify that you can make an application for a Land Use Certificate in the OpenGov website and also that if requested they must include an as-built certified by an engineer, surveyor or architect. The site must include survey stakes around the retention basins, karst features as well as property boundaries applicable to the site. This gives the ability to the staff to view the plan and actual has a basis where we go out and do the final inspection of being able to review what has been built and also verify that the site was built according to plans by the staking. This basically requires us to issue a Land Use Certificate when a completed application is submitted within 5 days. The last provision is one that we have talked about quite extensively and that is to allow us to issue a Conditional Land Use Certificate when everything is complete except for final landscaping for a period of 6 months, which may be renewed for a an additional 6 month period at the Administrators discretion. This allows us if someone is finishing us a project in November/December, it is too late to put in the plantings they can still have a Land Use Certificate in OpenGov as long as they completed the plantings in 6 months. The additional period to allow for unseen circumstances such as a shortage of plantings or extremely adverse weather conditions that would prevent it for another 6 months. I think that is all that we have. Is it Jackie?

Nester Jelen: Yes.

Wilson: Again, these are just sort of technical provisional that will make Planning staff's job a little easier but also will provide a benefit for all of the individuals that are doing projects because they will be able to get a temporary Land Use Certificate and we will be able to give a quicker response to request for a Land Use Certificate once we have the additional plans that are set forth in the provisions.

Nester Jelen: I will just add Larry had mentioned we have to issue a Land Use Certificate within 5 days, we are changing that to 10 days just to give us enough time in our current OpenGov process. We are asking that Stormwater and Highway make inspections with us just so that everyone can have final signoff in this 10 day timeline gives us a little bit more breathing room to be able to sign off from all departments. So, that is the change there.

Wilson: I am sorry. I misread it. Now, I am concern I may be color blind.

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## QUESTIONS FOR STAFF – ZOA-21-9 – MC Zoning Amendments - Permits

Clements: Mr. Enright-Randolph has his hand raised.

Enright-Randolph: Yes, thanks for that clarification Jackie. I was going to ask that. But I guess my real concern is we are actually the OpenGov name in this amendment. I really think we should steer away from that. I think we should be more general with like our like electronic permitting procedure. OpenGov is an outside service provider and we don't know how long we might be within their services. We just launched that. No one get scared because people know what I do behind the scenes and I am not asking let's re-evaluate our OpenGov use but I don't think it needs to be called out by name in this. I think it just going to be more of a hindering to have it in so much detail versus more general that we could say electronic format or whatever you would wish.

Wilson: If we change to utilizing the online permitting process in the County Planning website.

Clements: That sounds good to be because it may be called OpenGov today and 2 years from now it might be called GovOpen or something like that. Online permitting process I think makes sense, don't you think so, Trohn?

Nester Jelen: I think Trohn is having some technical difficulties.

Clements: I see. Mr. McKim.

Enright-Randolph: Sorry, I am just having way too many difficulties. But I jumped on my phone. I might just stay on it for audio. It looks like Mr. McKim was supporting the idea. I am not sure where I got lost so if anyone wants me to add or if my point got across I am fine.

Clements: Mr. McKim.

McKim: Yes, I was just saying online permitting system. Would that work?

Clements: Yes. Does anyone else have any questions or anything else to contribute on this item?

Guerrettaz: Margaret my only question for staff is does this take into account language and this probably goes directly to Jackie, that we have in the site plan, plot plan language?

Nester Jelen: Bernie, this would be the later step after a site plan. This would be once they are wanting to occupy after permits have been issued and we are trying to make sure that automatically commercial sites will have commercial site plans so as-builts should be a long shot or a big ask for some of these. It will still be costly but not as costly if it's from scratch so we think that is a reasonable consideration as well as a survey stake. We were kind of bouncing back between the 815 changes and this to make sure they are consistent.

Guerrettaz: I wasn't, I am not concerned about the, it is just the language. It references site plan. I don't see any language. I just don't want, ok a single family residential house after they get done building do they require a Land Use Certificate or what is the permit that they get to allow them

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to move into their house?

Nester Jelen: As of right now we require a Land Use Certificate more certainly for commercial sites and all properties that construct new buildings need to have Certificate of Occupancy from the Building Department and a pre-requisite of getting that occupancy is a Land Use Certificate but right now we have most typically issued Land Use Certificates for commercial sites because of the additional improvements such as possibly off-site improvements, landscaping, grading, things that are required on a single family site.

Guerrettaz: Ok, my only point I was trying to look at the consistency with is I don't want a single family residential home owner who is already a petitioner who is only required to do a plot plan in order to get the permitting and get through the building process to then all of a sudden at the end of the road have to submit a full site plan for which the definitions are different. So, that is it. My concerns can be handled the way you think are necessary. Thanks Jackie.

Nester Jelen: Ok, Bernie would it be helpful between numbers 2 and 3 on the screen if we said for commercial site plans and then kind of entered in 3 and 4 that would be applicable just to commercial?

Guerrettaz: Yes, that is great.

Nester Jelen: I can make that change.

Guerrettaz: Easier than what I was thinking it would be. Great work. Thank you.

Clements: Ok. Are there are any other comments or items of discussion on this? Is there any member of the public that would like to speak to this? If so, please raise your hand or press \*9 on your telephone. Jackie if you see anyone.

Nester Jelen: I was going to say I have something in the chat but I think that it is Mr. Lazell and he is here to speak.

Clements: Ok. Mr. Lazell is that the telephone ending in 4117 if you would press \*6 on your telephone we can hear you then. Thank you.

### **PUBLIC COMMENT – ZOA-21-9 – MC Zoning Amendments - Permits**

Lazell: Yes. Hello. My only question about this is but some of the wording is, I was just reading through this right there and some of the wording is kind of funny and stuff on it. My question to you guys is, is what now you said on your residential don't have to have a permit, you said an Occupancy permit for a brand new home but what does that cover in the way of like a new residence once you build new buildings on the place? I mean do they have to do to do that? Are they having to apply for one of these permits? Is that what you are saying?

Nester Jelen: Right now for residential we do Building Permit reviews at the Planning Office and so what you are talking about is like an Accessory Structure, all structures would need a Certificate

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of Occupancy by the Building Department and if there are additional constraints or conditions put on the property by an additional process that you need to go through such as a variance there may be a need for a checkup or to look at it by Planning before that occupancy can be granted. But what we are talking about most certainly applies to commercial and we are looking at as it applies to residential in the future but right now it is typically applied to commercial.

Lazell: Ok, that is what I wanted to make sure I was right. Ok. That is fine. Thank you.

Clements: Thank you Mr. Lazell and thank you for coming tonight we really appreciate your questions. Is there any of member of the public that would like to ask a question or speak on this item? If so, please raise your hand or press \*9 on your telephone. If there is none, I bring it back to the Plan Commission for further discussion and then a motion. Mr. McKim.

### **ADDITIONAL QUESTIONS FOR STAFF – ZOA-21-9 - MC Zoning Amendments - Permits**

McKim: Ok, so just as a matter of process since we made some amendments here do we need to wait for a clean copy at a future meeting or could we move to approve with the amendments that were previously agreed to in this meeting or previously discussed in this meeting? It looked like you captured them Jackie. I saw you flip the screen and it made it look you captured what had been suggested.

Nester Jelen: Yes. I think I do but let me just read through and if Mr. Schilling wants to weigh in we are going to change 814-3 (A) to include; located on electronic permitting software website and then between numbers 2 and 3 we are going add; for commercial sites and then state that 3 and 4 are applicable only for commercial sites. So, Mr. Schilling, can we make a motion to move forward with this text amendment if I propose 2 changes to it as it is shown in the packet or do we need to continue it?

Schilling: You can do that tonight.

Nester Jelen: Ok.

Enright-Randolph: I just want to comment. Were we looking at all of the areas that actually said OpenGov website? I only see 2 but you only mentioned one.

Nester Jelen: Sure, yes. I will replace all mentioning's of OpenGov with online permitting software instead.

Clements: Thank you. So, Mr. McKim, do you wish to make a motion?

### **FURTHER QUESTIONS FOR STAFF – ZOA-21-9 - MC Zoning Amendments – Permits**

McKim: I do. **In the matter of ZOA-21-9, I move that we make the text amendments laid out in the packet to Chapter 814 Permits and Certificates with the changes made in this meeting with respect to the naming of OpenGov software and the clarification of which criteria apply only to commercial developments and waive the final hearing.**

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Enright-Randolph: **Second.**

Wilson: Ok, I will call the roll on ZOA-21-9, which is text amendments to Monroe County Zoning Ordinance Chapter 814 Permits and Certificates. The motion is to approve the amendments to the Chapter 814 including the amendments made at tonight's meeting in regard to designation of the OpenGov permitting system, the online permitting and the clarification that certain provisions only apply to commercial site plans. Again, it will be to waive the final hearing and send this on as an amendment to the Commissioners with a favorable recommendation. Jerry Pittsford?

Pittsford: Yes.

Wilson: Jim Stainbrook?

Stainbrook: Yes.

Wilson: Amy Thompson?

Thompson: Yes.

Wilson: Margaret Clements?

Clements: Yes.

Wilson: Trohn Enright-Randolph?

Enright-Randolph: Yes.

Wilson: Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: Geoff McKim?

McKim: Yes.

Wilson: The motion is approved by a 7 to 0 vote and will go on to the Commissioners for their consideration.

**The motion is case ZOA-21-9, Amendment to the Monroe County Zoning Ordinance: Chapter 814- Permits and Certificates, Preliminary Hearing, Waiver of Final Hearing Requested, to send a favorable recommendation to the County Commissioners for requested changes as well as amendments made during meeting, carried unanimously (7-0).**

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**NEW BUSINESS**

**2. ZOA-21-13**

**Amendment to the Monroe County Zoning Ordinance:  
Chapter 802 – Zones and Permitted Uses  
Preliminary Hearing. Waiver of Final Hearing Requested.**  
Amendment to add Scrap Metal Processing Facility.  
Contact: [lwilson@co.monroe.in.us](mailto:lwilson@co.monroe.in.us)

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

**STAFF ACTION:**

Nester Jelen: I think Mr. Schilling and Mr. Wilson and myself we can all kind of tag team this one a little bit.

Clements: Ok.

Nester Jelen: I will just quickly introduce. This is a text amendment to introduce Scrap Metal Processing Facility to as a permitted use in the Heavy Industrial district under Chapter 802. We have proposed that it would be under the list of Manufacturing, Mining, Construction and Industrial Uses in the Use Table and we have also proposed a definition which would be; including means an establishments having facilities for processing iron, steel, or nonferrous metal and whose principal product is scrap metal, iron, steel, or scrap for sale or remelting purposes only. Referencing the Indiana Code and then we are also referencing the Indiana code in that it does not include automotive salvage recycler, automotive scrap yard, hulk crusher, mobile home salvaging facilities, vehicles disposal facility as defined and that will reduce the concerns with vehicle disposal processing. Then there is going to be an addition of Condition 58, which does not currently exist in the table. The condition includes that it must be accessed by and served by road infrastructure sufficient to safely transport scrap metal truck bed trailer or semi-trailer and be sufficiently buffered by natural objects, plantings, fences, or other appropriate means so it is substantially screened from the main traveled way of the system. In regards to the last meeting there was a comment and so we decided to add the item in red and hopefully this addresses the comment. That the outdoor storage area shall be limited to 100,000 square feet or less and be located in an area that complies with the buildable area provision in Chapter 804-4. Dave and Larry if you want to add anything feel free.

Wilson: The only thing I would add is there is state statute in licensing process for scrap metal and one of the problems is there is also a statutory restriction that if a facility is approximate to a state highway or a federal highway that the zoning ordinance has to be industrial so you could not put a facility in a mineral extraction zone. My analysis of is this is kind of a missing portion of our zoning ordinance. These facilities serve a very useful function in recycling. This is basically what we would consider a metal recycling facility on a large scale. So, anybody that wants to get rid of scrap metal they will have an approximate location to send it, to sell it and get rid of it. So, it does encourage recycling especially with large objects. It will not include an dismantling of any auto parts which is what makes it typically what makes up what has always been called a an automobile junkyard. It is just strictly metal which is sorted and then transported to a facility such as a new car facility where it is melted down and turned to new metal product.

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**QUESTIONS FOR STAFF – ZOA-21-13 – Amendment Ch. 802 - Zones & Uses**

Clements: Ok. Do any members of the Plan Commission have any questions or comments? Mr. Guerrettaz.

Guerrettaz: I support this. My only question is with the area in red that was added on Condition 58, my math could be off but I am just wondering where the 100,000 if staff could further explain the 100,000 square feet because the way I am seeing that, that is only 2.3 acres for a footprint of less than 300 by 320 feet, which seems small. But if it's consistent with the rest of the ordinance I understand where it came from. I am just curious.

Nester Jelen: Bernie, when we looked at a proposal that is in front of us the outdoor storage area that they had proposed was a 100,000 square feet and in looking at other areas we think that a lot of uses that we have don't involve a large, significantly large outdoor storage area unless they are in HI. But certainly if that addresses comments by Plan Commission members and makes them feel a little bit more like this use is amenable we think it is a reasonable restriction and again it will accommodate something that we do have for consideration but we open to other numbers if the Plan Commission would like.

Clements: Ok. Mr. Stainbrook.

Stainbrook: It seems to me that this is a place under condition where this would work but as tandem to my comment I am going to submit a travel voucher to the County of Monroe because I have been driving all over back and forth, up and down at 405 East Empire Road and I couldn't find any place like this so I think it must be on the west side over by the water treatment plant so on and so. I finally got over there and examined the site in person but I don't know how many miles I have driven and whether there is a provision for reimbursement for Plan Commission Members. But thank you Madam President.

Clements: Thank you Mr. Stainbrook. Ok, do any other members of the Plan Commission have any other questions or further discussion? If not I open it up to members of the public and Mr. Lazell you have your hand raised and if you could press \*6 to unmute yourself, we would like to hear from you.

**PUBLIC COMMENT – ZOA-21-13 – Amendment Ch. 802 - Zones & Uses**

Lazell: Yes, hello.

Clements: Hello.

Lazell: My other question about that is how far is that going to be off the state highway? I mean, are you going to be able to see that from 69 where it goes through or where is that going to be located at?

Nester Jelen: Mr. Lazell, we do have a rezone petition that is forth coming and if you stay tuned we will be able to give you an example of a location that is hoping to utilize this use. But this at

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this moment is a text amendment proposal with some applicability to a future petition that we have on the agenda tonight. But it is just a general text amendment.

Wilson: There is some relevance to the question that the state statute I was referring to earlier is actually part of the Highway Beautification Act that imposed restrictions on states in regard to receiving federal highway money part of that restrictions was not just billboards but also scrap yards and automobile scrap yards. Part of that state statute prohibits a facility if it is visible from a state highway, so it is addressed at the state level. I think that is one of the reasons we have had added buffer provisions as well because it has to be buffered from view from a state highway or an interstate.

Clements: Does that answer your questions Mr. Lazell?

Lazell: Yes. The next question I had was you said now correct me if I am wrong but you said there is going to be no vehicle scrap yard allowed there. They are not going to scrap no vehicles or nothing like that correct?

Clements: That is correct.

Lazell: Ok, ok. So, my question is so we already have 2 other places in town that do scrap metal anyway, is it valuable enough to have another scrap metal like that without doing the cars? Is there going to be enough scrap metal going there to be valuable for that?

Clements: I can't answer that question. But I don't know if any other member of the staff can.

Wilson: I think that question will likely come up on the next petition or maybe be answered.

Clements: Yes, this is a change to the ordinance and then next we will hear a case that is specific to this ordinance.

Lazell: Ok.

Clements: Ok. Thank you. Mr. Enright-Randolph and then Mr. Stainbrook.

**ADDITIONAL QUESTIONS FOR STAFF –  
ZOA-21-13 – Amendment Ch. 802 - Zones & Uses**

Enright-Randolph: Yes, thank you. I do think that question is way more appropriate for the next petition but that is great foreshadowing for my concern. I am very concerned that an amendment and then we have a requested rezone. They kind of are one in the same and they are both on the same agenda. I just don't like the urgency, the rush of this. Also when we were looking at the trash transfer thing years back, there was a solid waste local policy where the Solid Waste Board looks at this subjectively, I don't see why we would have this type of provision in there was well. Then I think there was a great point brought up of like is there really going to be enough business generated. I think that we are not prepared quite yet to move this forward and we do have a lot of say as a Plan Commission to make sure that this is ready. So, I think we need to look at this. Are

we wanting to be a hub for all adjacent areas for their recycling? Do we want to understand the growth and the scaling of this business? I think these need to be applied here to adding this new use that this business needs to submit a business outline of what their intended growth is. I mean when I am reviewing things that kind of catch me if it doesn't quack and walk like a duck but it is eerie. It is close. It is similar and solid waste needs to weigh in this. I also think that we need to understand the growth and the scaling of this business. If we don't have these things ironed out we might be looking back and be like wow, how are they dealing with x amount of tons of recyclables? Are we becoming a hub? If we become a hub we better have best practices in place. We can lead by example across the state. Those are all questions. When I reviewed something that was similar it said geographic area. Their intended use was I don't know I can't be precise but like a ton of waste but when you look at their schematics for the layout for their facility it said one ton to x amount of tons. I think it was like 3 to 4 with this one facility could manage that type of waste. There were a lot of studies at that time and if you look that is more waste than the entire Monroe County. Now we are talking more of a trash transfer thing with those numbers and that understanding but we don't have anything, any mechanism to understand how this growth is going to occur and we are talking about adding this into our ordinance as a use and then Larry, I comment you. You shoot straight all the time even if people disagree and that is your job to kind of shoot straight how you see it and you are definitely going to have people push back. My one push back is you felt like this was a missing use in our ordinance. What about the Truck Stop/Travel Plaza when we really don't even have an area in the county to facilitate that? How is that not a missing use in our ordinance? I just wanted to boil that down a little Larry just because I think it is a lot of missing uses in our ordinances. I think pulling out one particular missing use versus laying them all out is not necessarily I think the best way to be an advocate for this if you just generally say I support this. But feel like there are a lot of missing uses in our ordinance and this does address one and like I said please shoot straight and you are not going to irritate me. I adore your opinion. You know me I just thought that was, I just wanted to push back on that a little because I think there are a lot of things in our ordinance that are missing. I am also not too comfortable with moving this forward and then having a petition right behind it. Once we move from the Plan Commission it is outside of our control. Why wasn't it even brought to our attention that we already have other local policies that deal waste, recyclables and other things and they go through our Solid Waste Board to get some kind of recommendation? Why aren't we looking at that? Because it cased and issue last time. Because those were put in place to address my concerns that I have today.

Clements: Thank you Mr. Enright-Randolph. I am sorry Mr. Stainbrook, I am going to give Mr. Wilson and Jackie, Ms. Nester Jelen....

Stainbrook: You had recognized me and I am going to accept the privilege with earlier call. I would like to speak to the gentleman's concern. He can research some of this for himself. On page B3 of the Tuesday January 4<sup>th</sup> Wall Street Journal. It has an elaborate description of Steel Dynamics, one of the largest recycling and retooling turn out steel in the nation particularly in the in the 2 or 3 state area, particularly Indiana and also North Star that is turning out steel. This product and thinking of the gentleman again and with his concern I think it needed to be addressed. Fairly, since I was recognized after his comments. This is going to be processed and taken up I-69 to Indianapolis or north of that and if you want to see the sites and where Steel Dynamics operate I can't say and I was reassured by legal and I felt confident that is one of the reasons that I made my little speech that this looks like an appropriate place and it will work but I think Trohn now also

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has gone on with the questions this gentleman has raised in the speed of which big money is being facilitated here and it is not going to be a junkyard Larry and Jackie have reassured us of that. But that doesn't mean they aren't going to bring auto part in. This is not a place where you are going to take your tea kettle and turn it in. This is big time. Big business and it makes sense to the company and corporations to have it situated on I-69. It is ideal for them. Now, Margaret I am going to apologize to you personally but I think you were mishandling the order of recognition there. Thank you anyway.

Clements: Mr. Wilson and Ms. Nester Jelen would you care to comment?

Wilson: First of all one of the problems we actually took this facility that would be located on the site that is pending on the rezone in the next agenda item, we took it through as a solid waste facility because we didn't have a more appropriate use designation in our ordinance. IDEM says this is not solid waste. It is not under our jurisdiction. The Solid Waste District says it is not solid waste and the Solid Waste Board said it is not solid waste and it is not under our jurisdiction. So, the approval as the solid waste facility doesn't fit and now we have been legally challenged in regard to the Conditional Use that was granted for it by the BZA after it was approved by the Commissioners and this is a way of addressing a use that is not in our ordinance. It is not solid waste. It is not regulated as solid waste. It is defined as solid waste at the state level. It is not a solid waste transfer station. It is a metal recycling facility. Jim is correct in that Indiana has a major steel plant including Steel Dynamics and New Core that purchase from around and it is the raw product from these industries in Indiana that create a number of high jobs and so that is why we came up with this. This is a, the definition we have is the state definition. It is regulated at the state level requiring a license for scrap metal processor and this puts it only in the Heavy Industrial category. It has to be totally screened and buffered in order to be permitted in that category. In regard to the missing uses, there well may be a number of missing uses in the ordinance and as far as the Truck Stop, if you guys want to allow a Truck Stop in AG/RR on 2 acres you can do that. The original ordinance was approved by the Plan Commission and approved by the Commissioners that limited a Truck Stop as a Conditional Use with very specific conditions to the Heavy Industrial area. That was intentional because they had no idea what the demand was going to be after the I-69 was completed and they wanted to make sure that if a Truck Stop came in it would meet requirement and not override local infrastructure, no override local streets and not create a public nuisance or a magnet for crime. Those were the reasons why those provisions were put into the ordinance in regard to a Truck Stop. It can be changed. Any provision in our zoning ordinance can be changed by a recommendation by the Plan Commission to the Commissioners that is approved. Again, if there are missing uses those are things that should be suggested to staff we will do our best to come up with a use and conditions that allow the use but also protect the surrounding land owners and ensure that the necessary infrastructure is present to support the use. But again, there is no use that you can't approve, can't recommend passage by the Commissioners. The Commissioners still have to pass it. So, that has been the response here. Again, this is a use that is missing and it is a market system and if you have 3 people buying scrap metal that may provide a better market than 1 or 3 people providing scrap metal.

Nester Jelen: I will just chime in Larry just to say that Trohn's comment about not being about to control the size or scope of a business, well, the way that we review a size and scope changes of businesses is through our site plan amendment. So, if they want to expand the facility, whether

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outdoor storage area or the actual facility itself then they would have to come back through for permits and site plan amendments so it is not that we don't check back in with businesses that are expanding because typically that means they are physically expanding but Trohn if you have other comments about how we could regulate or add conditions. I don't think a business plan is something that would be within the scope of Planning and Zoning but if you have other ideas maybe we could discuss those as well. Thanks.

Enright-Randolph: I do not and I just want to thank Larry for this clarification with the solid waste. I was not aware that this was not within the realm of consideration. I do appreciate it and I do appreciate Larry kind of giving me his own take on it. I value that very much. Thank you.

Clements: Thank you. I would just like to ask a question. The remelting, the for sale or the remelting, the remelting would not take place on site is that correct?

Wilson: That is correct. That would be at the final disposal facility because it is not designed to scrap out auto parts for example and resale the auto parts separately. Anything that comes in there has to go to melt and not for reuse.

Clements: Ok and the melting would be done elsewhere.

Wilson: Yes, it would be done at the Steel Dynamics or the New Core Facility as referenced by Jim.

Clements: Thank you very much. Are there any further questions or discussion? If not I would like to open it up to the public. If the public would like to ask questions or make a statement in favor or in opposition to this proposal, would you please raise your hand or press \*9 on your telephone? If you see anyone, let me know. If not we come back to members of the Plan Commission for a motion.

Guerrettaz: I can do that Margaret.

Clements: Thank you. Mr. Lazell has his hand raised and I don't remember if I recognized him earlier. Are we done with public comment on this? I would just like to recognize him since his hand is raised. Mr. Lazell? If you press \*6.

Lazell: Yes, hello. I am sorry. I wasn't trying to make anyone mad or I wasn't trying to. I was just trying to bring a point. I just didn't know with them not scrapping out the cars I just didn't know if there is enough metal value here for them with there being already 2 scrap yards in town.

Clements: Well, that would be under the next petition.

Lazell: That is fine.

Clements: Ok, thank you Mr. Lazell and thank you for showing up tonight. Mr. Guerrettaz, if you are ready to make a motion.

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**FURTHER QUESTIONS FOR STAFF – ZOA-21-13 – Amendment Ch. 802 - Zones & Uses**

Guerrettaz: **In the matter of ZOA-21-13, this is an Amendment to the Monroe County Zoning Ordinance, I move that we approve, that we forward this on to the Executive Board of County Commissioners with a positive recommendation with a waiver of the final hearing, based on the findings of fact.**

McKim: **Second.**

Pittsford: **Second.**

Wilson: I will call the roll on ZOA-21-13, a text amendment to the Monroe County Zoning Ordinance Chapter 802, Zones and Permitted Uses to add the new use of Scrap Metal Yard. I don't have, it is not showing on this screen, so bear with me, together with a waiver of the preliminary hearing.

Guerrettaz: Waiver of final hearing, Larry.

Wilson: Together with waiver of the final hearing. Again, this amendment adds the use of Scrap Metal Processing Facility and establishes conditions for the use through its definition. Again, a vote in favor is a vote to send a favorable recommendation on to the text amendment to the Commissioners. Jim Stainbrook?

Stainbrook: Thank you. Are we going to have discussion on this or have we moved through that at Margaret's invitation? Larry?

Wilson: I thought we were calling the roll.

Stainbrook: Ok, well, you are apparently. I have another of Trohn's concerns. I don't see why this has to be moved so quickly. This is big time stuff and I don't have a problem with it but I think there may be things, well, I don't wish you ill and Larry you are going to be gone, who knows, I may be gone too at my age but I think something may come up about this. I just don't see and I am considering this then and hoping the Chair will understand that I don't think that we had discussion but if I missed it. But I think Trohn's right. This is moving too fast. I think I can go with Bernie's motion certainly as seconded as Geoff but I don't see why we have to waive the final hearing. I don't think it would hurt anything to have this come around again.

Pittsford: Madam President, I call the question.

Clements: The motion has been made and seconded and Mr. Wilson was calling the roll.

Stainbrook: Well, then point of order, Chairperson. We did not have discussion.

Clements: I am sorry but we did. I am sorry you can't remember it. You actually participated in it some.

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Stainbrook: Ok, I give up.

Pittsford: I have called for the question. Point of order. When we have a motion and a second, we have called for a question, let's proceed.

Clements: Yes, I agree.

Wilson: Jim, should I put you down for a no?

Stainbrook: Aye, Larry. From the Navy, Aye.

Wilson: Ok. Amy Thompson?

Thompson: Yes.

Wilson: Margaret Clements?

Clements: Yes.

Wilson: Trohn Enright-Randolph?

Enright-Randolph: Would you circle back? I don't want to waste anyone's time.

Wilson: Ok. Bernie Guerrettaz?

Guerrettaz: Yes.

Wilson: Geoff McKim?

McKim: Yes.

Wilson: Jerry Pittsford?

Pittsford: Yes.

Wilson: Trohn Enright-Randolph?

Enright-Randolph: This is a decision for executive leadership and I think we can address other things when it comes to a site plan and I will have faith in my colleagues and my executive leadership and vote yes even though I have real concerns in this matter.

Wilson: The motion is 7 to 0 to send this on to the Commissioners with a favorable recommendation, again it is an amendment to the zoning ordinance text and it is a legislative act by the Commissioners who will make the final decision.

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**The motion in case ZOA-21-13, Amendment to the Monroe County Zoning Ordinance: Chapter 802 – Zones and Permitted Uses, Preliminary Hearing, Waiver of Final Hearing Requested, to send a favorable recommendation to the County Commissioners, carried unanimously (7-0).**

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**NEW BUSINESS**

**3. REZ-22-1**

**Bedford Recycling Rezone from ME to HI**

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

One (1) 30.45 +/- acre parcel in Section 32 of Perry Township at 405 E Dillman Rd, parcel #: 53-08-32-300-009.001-008.

Owner: Bedford Recycling Inc.

**Zoned ME.** Planner: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)

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

**STAFF ACTION:**

Nester Jelen: Margaret, I am going to cover this one as well. Anne, and I kind of tag teamed it. So, this...

Stainbrook: Pardon me before you start...

Clements: I am sorry Mr. Stainbrook....

Stainbrook: I am sorry too. You didn't read the issue of the question of this case. It is not at 405 East Dillman Road. It is West.

Nester Jelen: Ok.

Stainbrook: So, let's go back and correct the document before at least orally. It is not at 405 East. That was the big deal. I made before. I rode up and down and back and forth. This is a basic mistake. It could be editorialized but don't tell me I am wrong by questioning the whole thing. This whole thing is wrong then when you have got the wrong address.

Nester Jelen: I will proceed ahead Mr. Stainbrook. I believe we have brought that up in the past and we will look into getting that corrected. It is on the west side of the interstate so I understand that it is confusing and it needs to be likely corrected, so we will look into that. It did list the correct parcel number and so I will just walk through this petition. This is a rezone from Mineral Extraction to Heavy Industrial. The property is 30.45 acres and this is a property that would be wanting to rezone to HI for the purposes of possibly applying for Scrap Metal Processing Facility. With that I will go ahead and show the location of the property. It is on the west side of South State Road 37. The zoning here is Mineral Extraction and they are wanting to rezone to Heavy Industrial, which you can see is adjoining this property as well as Agricultural/ Rural Reserve and Institutional Public. The site conditions are such that it was an old quarry site so there are so man-made buildable area features. There are also some floodway considerations on the property. They also have access to CBU water and they plan to utilize a commercial septic system in this case for this use. I would like to move down to some of the site photos here. The best way to view this property, the most easy way to view this property is through aerial photography but staff did visit the site and was able to take a look at the site conditions in terms of the roadways. So, looking south you are facing South Dillman Lane towards Dillman and then also West Dillman Road. We did not have a quorum for the Plan Review Committee confirmed so we did not take this to the Plan Review Committee and the overall site plan for this site this is something as Larry mentioned

before has been reviewed but is now coming back for the purposes of a rezone and to qualify if they are able to for the Scrap Metal Processing Facility. This is the site here. Sorry this is a little bit burry. I might be able to pull up on this a little bit better but this is the facility, the building and then maintenance building, parking area, detention is over here and then they would have their outdoor storage area of 100,000 square feet towards the east side of the property. With that I can take any questions that you might have about this particular request.

**RECOMMENDED MOTION**

Staff recommends forwarding a **favorable recommendation** for the rezone request from Mineral Extraction (ME) to Heavy Industrial (HI) based on the findings of fact, subject to the Monroe County Highway and MS4 Coordinator reports with the following condition:

1. Business owner to submit a statement for how the site will be cleaned up in the event of closure for Planning staff review.

**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:

**(F) The Comprehensive Plan;**

**Findings:**

- The Comprehensive Plan designates the petition site as Farm and Forest;
- The site is surrounded by other heavy industrial uses: Republic Services Inc, stone cutting facility, tire and supply facility, CBU’s wastewater treatment facility, and a convenience store with gasoline sales;
- The property was previously a quarry;
- The property is currently zoned Mineral Extraction (ME);

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

**Findings:**

- See Findings under Section A;
- The rezone request is from Mineral Extraction (ME) to Heavy Industrial (HI);
- The nearest residential home is over 500 feet from the boundary of the parcel;

**(H) 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). The area over 15% slope is part of the old quarry and is likely manmade;
- The proposed development location is not located in FEMA Floodplain or floodplain as illustrated by the DNR best available data;

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

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**Findings:**

- Property value tends to be subjective;
- The effect of the approval of the rezone on property values is difficult to determine;

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

**Findings:**

- See Findings under Section A, Section B, and Section C;
- Access is off of E Dillman Rd;
- According to the Monroe County Thoroughfare Plan, E Dillman Rd is classified as a Local road in this area;

**QUESTIONS FOR STAFF – REZ-22-1 – Bedford Recycling**

Clements: Mr. Enright-Randolph.

Enright-Randolph: I am just kind of a little curious due to the use requested and this would be more for Kelsey Thetonia, our MS4 Coordinator, why did we not bring this to our Drainage Board?

Thetonia: Because I haven't received preliminary drainage plan yet for it.

Enright-Randolph: Ok, would that be like typical with us looking at this preliminary plan or?

Nester Jelen: So, this is just a rezone Trohn and then they would have to actually file a site plan if the rezone did proceed and the use and the text and amendment was approved by the Commissioners but we are just showing the proposed site plans so you have an idea of what the site might look like if it were to go through. But again, this is a rezone to Heavy Industrial so considering that many uses to qualify to go in here.

Enright-Randolph: Heavy Industrial typically has pretty significant uses and even and I would even be curious of how the Drainage Board would weigh in. I mean to have their input prior to the rezone would be significant in some of these requests. But let's not change the order of business I just wanted to put that out there and then I will kind of address Jim's concern. I think it is just a very basic issue that the county is doing better at. On the parcel layer it has 405 East Dillman and our address points it has 405 West Dillman so I think I might bring that to some people's attention and try to get that fixed behind the scene. But I just wanted to address that since I was looking into that.

Clements: Ok. Mr. McKim.

McKim: Yes, if you can go back to the zoning diagram that shows all of the neighboring areas and their zones. What is that little notch that little triangle shaped notch there that would be totally surrounded then by Heavy Industrial and the waste water treatment plant? What is it actually being used as right now?

Nester Jelen: This is being used I believe as a stone cutting location. They do limestone cuts for

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sale. I can look up the exact business name.

McKim: Ok, so it is not a residence.

Nester Jelen: No.

McKim: Ok. Thank you.

Guerrettaz: My, sorry Margaret, I didn't mean to. Sorry, I will raise my hand.

Clements: That's ok. Mr. Stainbrook had his hand raised and then I will go to Mr. Guerrettaz.

Stainbrook: Thank you Margaret. I just wanted to follow up with Trohn's question. I surely don't want Trohn, for this to sound condescending, I don't mean that at all but I want to make sure, Trohn, you know then this is what we just acted on. This metal treatment, not treatment, metal processing. This metal processing where we did the rezone. We are talking about the same thing here now and this was my concern that you helped generate, helped me with that I didn't think we had to do it too quickly. If this has no final hearing, I think that would be a mistake. I am sorry Jackie. So, if Trohn and I are together on this we seem to have a similar concern. I am sorry. Go ahead Jackie or whatever.

Enright-Randolph: Madam President, I do want to agree we have a similar concern. I want to substantiate that.

Clements: Yes, you have both made that clear both in the prior change to the ordinance and now in this case. But Mr. Guerrettaz had his hand raised but he is taken down his hand. Do any other members of the Plan Commission have questions or are there any further discussion? If not, I would like to open it up to the public.

Enright-Randolph: My hand is raised.

Clements: You had just spoken so I thought that was from before. Mr. Enright-Randolph and then Mr. Pittsford.

Enright-Randolph: I am very curious if anyone else would like to have some feedback from our Drainage Board and other things like that not in this particular case it is kind of one of. I hate to be subjective to kind of like new cases being presented but like in the future I think we should be looking at some of these larger rezones more in depth and utilizing our experts that we have that serve on like the Drainage Board. I really want to understand their concerns and then use that in my decision making if I would want to support this request. I just wanted to make that last comment. But I am not asking for us to amend the typical order of business but I am very curious of what my colleagues think.

Clements: Thank you. Mr. Pittsford.

Pittsford: Thank you Madam President. I was just curious because this is zoned Mineral Extraction

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to what extent to what extent this petition would interfere with current mineral extraction in the area and is it still actively generating blots through Mineral Extraction, dimensional, no blots, etcetera?

Nester Jelen: So, I will go ahead and zoom out so you can see the other Mineral Extraction areas in this township. From what we have heard from the petitioner and their representatives in the prior request they stated that this is a no longer in use quarry site. So, if the petitioner's representative is on and would like to address that they could at a later time.

Pittsford: So, is it safe to say this is a played out quarry site?

Nester Jelen: I believe so but I would like them to confirm that.

Pittsford: Ok and it does not interfere with any currently active Mineral Extraction operations in that area, which would also be addressed I suppose by the petitioner but I do want that addressed?

Clements: Ok. Well, then it is time to hear from the petitioner or the petitioner's representative. If you are here can they unmute their microphone? Is that Mr. Ziepolt?

**PETITIONER/PETITIONER'S REPRESENTATIVE – REZ-22-1 – Bedford Recycling**

Ziepolt: Good evening. Mr. Ziepolt. So, I am a lawyer for Mallor Grodner in Bloomington and we represent Bedford Recycling. Unfortunately, Mr. Larry Parsons, who is the head of Bedford Recycling is traveling out of state and cannot be here tonight and he would be the best person to answer some of these questions. In that vein and to address some of the other concerns that have been voiced by the Commission the petitioner has no objections to continuing this for a final hearing on another date. That would be just fine. My understanding of the state of the property is that the mineral extraction is complete. There are leftover mounds of dirt and gravel. The petitioner, Bedford Recycling intends to grade it and use the graded surface to put in its facility. That is the hope. I am hope to answer any questions in the limited scope that I can but I wanted to identify myself as a representative of the petitioner.

Clements: Thank you very much Mr. Ziepolt. We appreciate that. Do members of the Commission have questions for Mr. Ziepolt? Mr. Stainbrook.

Stainbrook: Yes, thank you again Margaret. Mr. Ziepolt, you also have an operation in Mitchell as well as in Bedford is that correct?

Ziepolt: Sir, I know that we have one in Bedford. I am sorry I don't work with this client a lot at least not yet. I don't know whether there is one in Mitchell.

Stainbrook: Thank you, sir.

Clements: Ok, are there further questions? If not, we will go to the public. If the public has any comment in favor or opposed please raise your hand or press \*9 on your telephone. Ok, Mr. Lazell, if you would unmute yourself.

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**PUBLIC COMMENT– REZ-22-1 – Bedford Recycling**

Lazell: My only question was is there any site plans for the drainage or anything that anybody could see?

Nester Jelen: Mr. Lazell, in the Plan Commission packet there is an example site plan that shows that the detention in this case would be to the west of the facility of the building and the parking area. I am using my cursor to show you this storm water detention area that they are proposing.

Lazell: Ok, I see that but did you say there is a man-made karst already on that property now you said?

Nester Jelen: The petitioner’s representative stated that there are leftover areas where there were karst extracted and filed on the site.

Lazell: Oh, so there is no like bit water features or nothing?

Nester Jelen: Oh, you mean like Sinkhole Conservancy Areas?

Lazell: Right, yeah, correct, yes.

Nester Jelen: This is an illustrative site plan so this isn’t one that is actually been something that we would consider high enough level to actually issue permits. When they do a full topographic survey and show the grading they will have to indent Sinkhole Conservancy Areas and they will have to meet those restrictions for setbacks on the site.

Lazell: Ok, that is all that I need to know.

Clements: Thank you. Thank you, Mr. Lazell. Are there other members of the public who would like to speak about this case? If so, please raise your hand or press \*9. Ok, we come back to the members of the Commission for further discussion. Mr. Enright-Randolph.

**ADDITIONAL QUESTIONS FOR STAFF – REZ-22-1 – Bedford Recycling**

Enright-Randolph: I hope everyone knew that I was going to be really active in this discussion. I did support the amendment. I would really be curious more broadly of how much these uses are practical in this area. We all know that we that we put the industrial in every interesting topography of our county because it wasn’t desirable to build. It turns out those were some of our most sensitive areas when it comes to storm water and our critical drainage areas. I do want to indicate that I am looking at the wetlands and NWI off of Indiana map and right in the middle the same area that you were circling is actually coming up as a wetland of the USFWFS, so I am not sure if we have to be very precautionous about you know if that is an area that can even be developed. So, I am going to point that one out and we have some flow lines too. So, let’s just make sure we look into that a little bit and more broadly I am really curious if we look at this area in the same lens that we can look at it now and if these uses are very, are really practical. What I am saying is I don’t see any density of karst features on my map, which is nice, which means there is probably,

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I can't speak to it and I am not doing a geo-tech but we have got a lot of aquifers too. This has been dug into too. I would image there is some man-made conduits that feed into it but again, I am not actually, this is all not necessarily speculation but this is just my opinion of what we could encounter and we are talking about storing a bunch of scrap metal on there. 1,000 feet of permitted storage open area. Is that correct? I am curious of what the facility is going to do and we all know that this might not be solid waste. But there is going to be byproduct. So, again, if we are moving forward to allow this particular use and we don't have any provisions of like exactly what area we are going to be serving or necessarily the scale of operation we should make sure that we are looking at this very subjectively and make sure that if we become a recycling hub for a large area of the more southern part of the state, you should make sure that we are asking for some of the best practices out there and we are leading by example and condoning a use that is not going to have any adverse impact because we all know what this community has experienced in the past. I am not saying anything back about the petitioner and I don't necessarily think I am not going to support this but I do like that they are amenable to moving it to the final hearing and I really do think we should send these more to the Drainage Board when we are looking at this type of rezone request. Not all rezone requests but this is pretty significant. I mean we just had to amend our ordinance to allow the use. That is the extent of my comments.

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

Pittsford: Yes, thank you Madam President. I would like to see if we could get an image that shows both the waste water treatment facility that derives its access from this road and the designated septic area on the subject property. Can we get something close to that? I mean, it doesn't have to be perfect, just anything.

Nester Jelen: Want me to just point?

Pittsford: That may work and you can just point out the approved septic area. Because I did note that there is an approved septic. If there is an accepted septic there it is just immediately south of the retainage pond, right, or detention pond?

Nester Jelen: It is proposed down here.

Pittsford: Right, so it is in the same general area. So, we are going to have to assume that some soil study has been done there and then if we consider right across the road from this is a significant waste water treatment facility. Where does the waste water from the treatment facility flow? Does it flow in the same direction that the water from this retention pond would flow? Those are my questions. My point in case it had been obscured is that there fluent right across the street that has to be managed. This is not going to generate any more water than it does and there is an approved septic on the property so some soil study has been done adjacent to the area where the retention pond will be. It has been determined that it is suitable for containing waste water without it flowing in an adverse way.

Clements: Thank you Mr. Pittsford. Ok, Mr. Stainbrook.

Stainbrook: Bernie may not better than some of the others but I am assuming Jerry that it goes into

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Clear Creek. Clear Creek has been, I don't know just what the contamination status is now but I don't think you are supposed to eat the fish, you are not supposed to swim. That is my latest and personal we ride the horses down to Clear Creek with some trepidation but well, I guess that is it. I am guessing that it affects Clear Creek. Whether you want to think about this, I suppose the experts in the field as far as engineering, Bernie for that matter is a member and then the professional staff, the water people concerned with the water. But I think the final thing and Margaret I think now we are drawing to a close, I know you must hope so, I hope so also, so I am going to refrain from anything, no matter how much I think I know or how much I object, I am done, absolutely. But if that gentleman that was with us or anyone else on the Plan Commission, I respect Council's reservation not knowing about Mitchell but you don't have to go to Mitchell. If you want to see this in operation, the same corporation or company go down to Bedford. It is there. Look at it on the north east side of Bedford if you do have a question. Thank you Margaret. I am done.

Clements: Thank you. Mr. Guerrettaz.

Guerrettaz: Very quickly. Thanks Margaret. In the staff report, Jackie, one note that you might add under right about the 109 where it says an addition is one condition and that is 58, this doesn't have the extended language for the 100,000 square feet that we saw in the other petition, so just a friendly point out. That's it.

Nester Jelen: Thank you. I will add that.

Clements: Ok, well, is there a motion or shall we just leave this to the next hearing?

Pittsford: Leave it where it is, please.

Clements: If that is the consensus then we will not have a motion and I will wait for just a second to see.

**FURTHER QUESTIONS FOR STAFF – REZ-22-1 – Bedford Recycling: None**

**No motion in case REZ-22-1, Bedford Recycling Rezone from ME to HI, Preliminary Hearing, Waiver of Final Hearing Requested, therefore the case is moved to the next regular meeting.**

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**REPORTS:**

Clements: Ok, we have reports from Planning and the County Legal. Mr. Wilson?

**Planning/Wilson:** The only thing I will add is the source of the error on the address is basically a misaddressing within the GIS system and this will give us an opportunity to re-advertise with the correct address even though you put the address that we listed into the Elevate system it would take you to this site. But it is wrong within the Elevate system. We will need to correct that and we can re-advertise it with the correct address. That will make sure that everybody has gotten proper notice in regard to this rezone petition. That was a good catch on Jim's part that it was an error.

Enright-Randolph: Jackie or Larry, just send that over to Jared our GIS Coordinator and he will coordinate with the Auditor's Office and we will get that corrected. Elevate pulls that data nightly so as soon as we get that we will probably have that fixed within a matter of moments.

Nester Jelen: Ok, thank you.

Wilson: That is all that I have.

Clements: Mr. Schilling, do you have any reports from County Legal?

**Legal/Schilling:** No reports but I will be happy to entertain any questions.

Clements: Mr. Guerrettaz.

Guerrettaz: This isn't a question. I am going to keep it going but I have got 2 comments. One to follow upon Larry's address note to Jim, Jim was correct in what he was saying. I can think of 3 petitions that have had issues over the years that I was involved in that the address was an issue. So, again, I compliment Jim and his aggressive tenor on getting the point across. The second point was before the meeting ended I just wanted to make an observation of something that Trohn said earlier about the stink bug impression that Monroe County and the City of Bloomington may have had at one time with INDOT and I don't have any personal knowledge of that I just know that was a perception. But just have to complement the Monroe County Highway Department that that team that we have there and it of course started with Bill Williams, and all of the work that he did but they have been very successful on getting funding, working with the state, I can think of several instances, one that is most recent was actually a crossing that they are working on across one of our railroad tracks and they have been absolutely tenacious and hard working in accomplishing that with significant state funding. They have done a great job. I understand what Trohn's point was and I just wanted to compliment the Highway Department that there was a corner to turn they have done so.

Clements: On that note I have something to add because I am the delegate to the MPO, and it is not with INDOT where the issues lie. I think the coordination between the county and city and the other organizations internally make it very difficult for a good and smooth corporation with INDOT and that has been ongoing and very well noted and very well documented that we shoot

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ourselves in the foot a little too often. The purpose of the MPO is to coordinate across all of the different entities and right now the staff under the direction of the MPO doesn't seem to be that responsive to the MPO and it has been a problem coordinating for instance around the new hospital site and that has been an aggravation for 4 or 5 years. INDOT is willing but locally we are having some problems. So, with that is there a motion to adjourn?

Guerrettaz: So moved.

McKim: Second.

Pittsford: Second.

Clements: Have a good night. Thank you everyone.

**The meeting adjourned at 8:32 pm.**

Sign:

Attest:

\_\_\_\_\_  
Margaret Clements, President

\_\_\_\_\_  
Larry J. Wilson, Secretary

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