

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION
Regular meeting to be held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, March 14, 2022, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Bryan Flowers, Jeff Willis, and Jeff Valiant
Members absent were Doris Horn, Amanda Mosiman, Bob Johnson, and Richard Reid.

Also present were Morrie Doll, Attorney, Molly Barnhill, Executive Director, Katelyn Cron, Assistant Director, Jen Hollander, staff, and Kim Eden, staff.

Mrs. Barnhill said we do not have a quorum at this time.

President Valiant said we do not, which means we can't vote on anything. He asked correct Mr. Doll.

Attorney Doll said yeah, that is correct.

President Valiant said in all my years of dealing with this this is the first time I have had this.

Attorney Doll said I would suggest we recess, not adjourn and wait a few more minutes and see if we get a quorum. He added we just need one more member.

President Valiant said okay.

Mrs. Barnhill said and Katelyn went down to make a call. She added two of them did say they were going to be here so...

President Valiant said okay. He asked does the audience understand we will just take a 5-10 minute recess in hopes someone shows up.

President Valiant put the meeting on recess for 5 minutes.

President Valiant said ladies and gentleman so here is our quandary, our fourth member who needs to be here so we can actually vote on something is about 20 to 25 minutes away. He said apparently time got away from her or whatever but she is driving in from Lynnville so we can wait until she gets here and carry on or we can table until next month and that is what we are discussing right now. He said I am sure a lot of you, especially the people involved with the

processes do not want to wait another 30 days and I am sure everyone who has made the trip up here would just like to have everything done tonight but um, I am okay waiting if the rest of the Board is.

The Board nodded their heads yes in reply.

President Valiant said okay, we will recess for 20 minutes and hopefully Doris has a heavy foot and is here soon.

Meeting recessed and readjourned at 6:20 p.m.

President Valiant said if everyone would please take your seats and we will let the record show that Doris Horn made fabulous time so with that, we now have a quorum. He asked right, Molly.

Mrs. Barnhill said yes.

Attorney Doll said it will take a unanimous vote to approve anything.

President Valiant said yes it will.

MINUTES: Doris Horn made a motion to approve the January 10, 2022 and February 14, 2022 minutes. The motion was seconded by Bryan Flowers and carried unanimously.

President Valiant said alright it looks like we have two primary plats and one re-zoning on the agenda and a few other items as well. He said as we go through these if the applicant and owner would come to podium, there should be a sign in sheet for you up there as well and then we will go through the process, ask for remonstrance, so on and so forth.

PP-22-04: Yellowstone PUD: PETITIONER/OWNER: John Mattingly Homes, Inc. by John Mattingly, Owner. Approximately 12.389 acres located on the east side of State Road 66 approximately 0 feet northeast of the intersection formed by State Road 66 and Wildwood Drive. Part of Outlot 1 in the Corrected Plat of Sudamar Heights Subdivision, Recorded in Plat File 1, Card 186. Ohio Township 36-6-9. (*Advertised in the Standard February 3, 2022*)

President Valiant asked now I believe this has a rezoning to go with it, correct.

Mrs. Barnhill and Attorney Doll said yes.

PC-R-22-03: PETITIONER/OWNER: John Mattingly Homes, Inc. by John Mattingly, Owner. To rezone 12.389 acres located on the east side of State Road 66 approximately 0 feet northeast of the intersection formed by State Road 66 and Wildwood Drive from “C-3” Highway Commercial Zoning District, “C-4” General Commercial Zoning District, and “A” Agricultural Zoning District to “PUD/C-3” Planned Unit Development consisting of Highway Commercial Zoning District. Part of Outlot 1 in the Corrected Plat of Sudamar Heights Subdivision, Recorded in Plat File 1, Card 186. Ohio Township 36-6-9. (*Advertised in the Standard February 3, 2022*)

Scott Buedel, Project Engineer at Cash Waggner & Associates, and John Mattingly, owner were present.

President Valiant called for a staff report.

Mrs. Barnhill said on the return receipts, the adjacent property owners were sent notice by Cash Waggner & Associates on January 24, 2022 for the meeting held on February 14, 2022. She said when staff checked the green cards, they found that one was mailed to the incorrect address, therefore the project was continued to this meeting. She said they sent a new notices to the address that was missed and also to an address that had recently transferred. She said after consideration by myself, Attorney Doll, and President Valiant it was decided to resend new notices with the correct times because of the changes in time for both the Commissioner's and Drainage Board meetings. She said the Area Plan Commission Office sent new notices via certified with return receipt containing the correct meeting date and times to all the adjacent property owners on February 17, 2022. She said the property is currently zoned "C-3" Highway Commercial Zoning District, "C-4" General Commercial Zoning District, and "A" Agricultural Zoning District; proposing "PUD/C-3" Planned Unit Development consisting of Highway Commercial Zoning District. She added there is no flood plain. She said the proposed development is: Lot 1 is proposing 8 duplexes and 8 quadplexes for a total of 48 units, Lot 2 has an existing storage building and they are proposing 4 more the same size, and there are no plans for Lot 3 at this time. She said they have filed a waiver requesting to relax the Subdivision Control Ordinance requirements of 40' of right-of-way for a private road and they are asking for a 24' private roadway in a 24' ingress/egress easement to be privately maintained by the owner of Lot 1. She said that one, it is called Canyon Circle. She said Lot 2 has an approved entrance from INDOT onto SR 66. She said the access to Lot 3 will come off of Jamestown Drive and plans to extend that road for this lot were included in their street plans. She said the front yard setbacks have been reduced to 14-15' with the smallest rear yard setback at 7', they are normally 25' in residential. She said the required parking is 2 per dwelling unit and they have shown that and the required parking for storage is 1 per 500 square feet and they have shown that as well. She said the Commissioner's approved the street plans today and the Drainage Board approved the drainage plans today. She said Newburgh Sewer has capacity and Indiana American Water has capacity so the plat would be in order. She said we have received 6 emails of remonstrations on the proposed development. She added I have emailed them to everybody at least twice and those are all in the back of your packets.

President Valiant asked did everyone receive those letters and have time to review.

Mrs. Barnhill said they talk about drainage, traffic concerns, one person does ask for maybe a fence between the commercial and the residential on the north side. She said that is everything on the primary.

President Valiant asked do you want to go ahead and cover the rezoning.

Attorney Doll said no.

Mrs. Barnhill asked do you want to hear them together and then...

Attorney Doll said no, it takes two motions to approve.

Mrs. Barnhill said mhm.

President Valiant said right.

Attorney Doll said I don't care whether you hear them together or separate but there will be two separate votes.

President Valiant said yeah, I know.

Mrs. Barnhill said okay. She said the lot size is 12.389 acres. She said the area is projected to be commercial in our comprehensive plan. She said the existing land use is 1 Commercial Building. She said the surrounding zoning; to the north is "C-4" and "R-2" being Heritage Place Subdivision and commercial buildings, to the east is "R-1A" and "R-2B" being Rustic Hills Subdivision Part 3 with single family dwellings and Sudamar Heights Subdivision with multi-family dwellings, to the south is "C-3" being vacant, and the west is "R-3" and "A" being Newburgh Heights Amended Plat with apartments and some vacant property. She said there is no flood plain. She said I already went over access. She said the stated use is a Multi Building Commercial Development (Five commercial buildings, eight buildings with four condominium units and eight buildings with two condominium units in a Planned Unit Development). She said this would be allowed and everything is in order.

President Valiant said thank you Molly. He asked gentlemen, anything to add to either reports.

Scott Buedel said so from the standpoint of the site itself, I think that it has been in the condition it is now for years and years. He said it looks like it was started as a project in one point in time and was just abandoned. He said there is a large cut in the hillside and it is kind of grown up. He said it is not very attractive from that standpoint. He said so from the standpoint of Wildwood Drive coming into Sudamar Heights and just the entrance that it is going to, and the view of what it is going to be at this point in time, I mean it is going to be a lot of... duplex, I mean there are duplexes along the western road and those duplexes would all face the interior road and they would have garages that come off of that interior road. He said the lots to the east actually are quad-plexes but the upper story of the unit will actually access the driveway to the east so there are parking spaces on the east side of the east buildings. He said so if you come in the eastern drive it is higher up so you will drive in on a shared access drive and there is quad-plexes to the east of that in Sudamar Heights right now and so that driveway will be improved from the 12' wide that exists today to the 24' driveway. He said the new units will then access off of that driveway and then as you loop around and go to the western road, again the lots on the east side of the western road would be like the lower part of the building so there would be a duplex, for the most part, below and then a duplex on the other side. He said so from the residential standpoint, basically taking advantage of the existing site conditions that are out there. He said

there is a large drop off on the property that just makes this suitable for this type of building where we are basically using the building to transition from the two elevations. He said again, drainage was approved this afternoon and everything comes to us and through our site. He said we are definitely handling every bit of the drainage that is accounted for. He said we meet the County standards at the 50 and 5, um, the 5 year and 50 year events. He said no questions on the drainage there and everything then discharges out to the INDOT right of way. He said we also do have approval from INDOT on the discharge into the right of way. He said there are a few drainage concerns that are out there now due to the unfinished condition of the property itself. He added in a couple areas there are some berms, some mounds of dirt that I think are just restricting the flow to get the water to where it needs to go and where it will go. He said from the standpoint of access onto Wildwood, the existing eastern drive, like I said, it is how those 4 quad-plexes to the east are accessed. He said they drive down, it is about a 12' wide concrete lane. He said then they pull into their driveway and have parking just like we would. He said we would also loop around onto the western road which would come out onto Wildwood. He said there are some improvements that are planned for the intersection, it is not a significant addition but on the northern side of Wildwood it is going to be about 8' of pavement added to that road which would allow for, whatever that access would be. He said if someone was pulling out onto the highway off of Lot 2 and wanted to go south bound, they would have a designated turn lane and everyone who wanted to go north on the highway would have a route to get around them and get out. He said on the northern part of the property, the existing building that is there now is actually where John moved his office to so John occupies that building and for his commercial use and would like to put 4 additional buildings out there for a total of 5 in the configuration that you see. He said everything again is, drainage wise, is directed toward the basin and then outflows out into the INDOT right of way. He said the commercial drive that accesses the highway to the existing building would stay as it is and would be utilized to access the other 4 buildings. He said there will have that kind of isolated cul-de-sac type feel for the commercial properties and then the eastern part of the property, there are no plans for that lot right now. He said the contours on that ground are rough and it would just be an extensive project for someone to go in and do anything with that back end. He added so there are no plans for that back property, if that ever changed we would have to come back through you to go through that process again and ask for whatever it is we were wanting to do. He said from the standpoint on the zoning and so forth that is already out there and to what we are proposing to go to I feel like this is basically a down-zone of the property to basically give us limits on what we can do here. He said so we are going to have residential apartment units on the front end of the property and those commercial units on the back side. He said everything will be rental property and John would own the underlying property and take care of all the roadways, drainage features, and so forth. He said it would be his lot alone and would be John's responsibility to take care of all of it.

President Valiant said alright. He asked anything to add Mr. Mattingly.

John Mattingly said no.

President Valiant said okay, any questions from the Board. He said being none, I will open the floor for remonstrance for or against this project. He said if you would like to come to the podium, state your name, and sign in. He said I will ask that we do not have repetitive

statements. He said for example, if someone brings up traffic, we will have traffic down as an issue so if anybody wants to get up to speak now is your time.

Randy and Kim Gilliam, adjacent property owners at 5211 Oakwood Drive, were present.

Randy Gilliam said my wife and I, Kim Gilliam, live at 5211 Oakwood Drive. He said our property connects right up to the Mattingly property on two different sides. He said our west side and our north side so they would be right across my backyard basically. He said for us this creates quite a few concerns, I am not a public speaker but I am going to do my best to relay to you what I have here. He said I will start with the noise and lighting. He said of course we currently have traffic across the front of our house, as most normal homes do, but now what is going to happen is we are going to add additional traffic directly to our west side that is going into the Yellowstone Subdivision area. He said and then at the full length of our back will be these complexes that they will be putting up, I don't know if they have designated for sure what they will be. He said with those I am sure there will be security lighting, there is currently security lighting on the building right now which will come through our windows at night if we do not close them. He said also in the back side of our house we have 9' windows and 9' patio doors that light will also come through.

Kim Gilliam added the house was made for the woods, so our whole back house is made of windows and custom made doors that just look out over what used to be the woods.

Randy Gilliam said so we have the lighting, traffic lighting too. He said we will have traffic coming through on three different fronts. He said this will bring the noise to our left, behind us, and to the front again. He said this also indicates loss of privacy as well because I believe the 4-plexes that he was describing will actually face our side yard and our backyard. He said they will have direct visual in. He said the, uh undesignated buildings to the north of us, that parking lot, they will have complete visual of our back yard and so anytime you are giving up these elements of noise, lighting, privacy you have to enter the concern of security. He said that just goes with the territory if so many people have access to your living space you have to consider security also at that time. He said so that is one of the problems we are facing right now. He said several of the problems we are facing right now are lighting, noise, privacy, um... they have removed quite a bit of the woods already behind our home and just what comes with that is the wildlife pushes out and has to find new places. He said they are finding new places in the neighborhood. He said they are under my back deck and under my soffits so that has already been an occurring problem that I have to deal with right now. He said and then of course the biggest of all, my property will be to the west and to the north will be the Mattingly developments but currently in front of my home are the 4-plexes. He said they are directly in front of my home so now my home will be almost completely encircled by business and rental properties. He said this cannot help the value of my home and as time goes on because these properties are rental properties will decline. He added people are moving in and out of these properties okay, they are not a permanent home and god bless the people that live there you know, I am not saying they're up to bad things but it is not their permanent home so that property is going to naturally decline and with that will become the decline of my property as well. He said if someone was to look at a property like mine and a property similar to it that is not surrounded by businesses they are not

going to choose my property. He said the only thing that would make my property more appealing would be for me to drop the price of it. He said I have already lived there for 20 years though so I have a 20 year investment there. He said so I am looking at the devaluation of my home, loss of privacy, and light nuisance, noise nuisance, and I have already endured the pet nuisance, well not pets but wildlife nuisance which some other people in the neighborhood have also already endured. He said I believe that is all I have, like I said I am not a public speaker and I am a little nervous but like I said I have to stand opposed to it. He said all the bad elements with it, if something goes wrong, will affect me. He said if traffic goes wrong it will hit me, if drainage goes wrong it will be on me, I am like ground zero with all the bad things that will happen right now.

President Valiant said okay Mr. Gilliam, just want to make sure, you are right on the curve on that street. He asked right on the corner of that property.

Randy Gilliam said yes I am, I think on their map it is Lot 5. He said I can definitely point it out if you need me to.

President Valiant said no I think I got it, I just wanted to make sure.

Jeff Willis said yeah, that is how you described it, the property to the north and the west....

Randy Gilliam said right.

President Valiant said so what we will do is once we have all the remonstrators come up we will give the applicant time to come up and answer your concerns.

Randy Gilliam said thank you.

President Valiant asked anyone else.

Andrew Keeping, adjacent property owner at 5122 Woodridge Drive, was present.

Andrew Keeping said uh, let's see here, I think the first thing I want to say is that I don't think anybody begrudges Mr. Mattingly and his desire to grow his business. He said that is not any of our intentions and of course I am not trying to speak for everybody but when it does effect a neighborhood as old as this one, that has been there for more than 40 years, I feel like we have no choice but to speak up in opposition. He said when I moved to this neighborhood 7 years ago we had looked at probably 40 or 50 homes including the one in this neighborhood. He said what was appealing to me about this one was the pastoral nature of the loop, it is a quaint, beautiful, quiet little loop here. He said there are a couple of lots that have never been sold and I think it is probably because the landowners prefer the wooded nature. He said you know, the ability to see wildlife, to see a deer here and there, see squirrels, and see birds. He said so contrary to the presenting gentleman's comment, I don't think that the area under consideration is unsightly right now. He said it is a wonderful place to catch wildlife in and out of the subdivision on your way to work in the morning and on your way home at night to see your family. He said with the

development comes work for a lot of different people, probably improving their lives, but there are lives of 30 or 40 families right here that I think it is also going to affect deleteriously, in a negative manner because uh, well to put it in plain language it is a poor fit. He said we are cramming in another set of duplexes on top of apartments that are already there in an otherwise single-family home subdivision. He said uh, I just wonder if this motion were to be opposed if there could be a solution that would be beneficial to both parties and I would urge Mr. Mattingly, should the Board vote against him tonight, to consider a creative solution that doesn't negatively effect the lives of the families that already live in the subdivision.

President Valiant said thank you sir. He asked anyone else.

Ron and Janet Madden, adjacent property owners at 5022 Jamestown Drive, were present.

Ron Madden said I have a concern with them stating they are going to come through Jamestown Drive for the back half of the property. He said the problem I have is that you guys don't take care of the road now. He said you don't take care of the drainage problems that we have and if you don't give him more room to break through there it is just going to cause our properties to be downgraded more than it is already. He said they have tore up the woods to the point that we have a mice problem now, we have raccoon problems, and I am just opposed to him being able to come through Jamestown Drive. He asked are you going to take somebody else's property who owns that part into the street. He asked are you going to take their street away from them, I mean their property away from them. He said there are people who own that property, who signed for that property and they put that on their deed so this couldn't happen. He said the last time my street had any work done on it was 30 years ago. He said you have tore up the street for sewer, you have tore up the street for gas and everything else they've done through there and not one time have you all fixed it. He said nothing has been fixed on our street. He said now you want somebody to come through and get to that back property but you don't want to fix the streets. He said we bought this property because we like the cul-de-sac that is why we bought this property. He said so if you are going to allow for somebody to come in and just take over our street and everything else then... the traffic is going to be tremendous and it is going to create more issues. He said we have a lot of little kids on our street. He said I have lived on this street for over 35 years and now, you know, the woods wasn't a problem before because that's the way Roy Williams wanted it to be. He said well now it is an issue because he went in and took all the trees down and all the animals and varmints now are in our neighborhood. He said we have a real problem with raccoons and we have a real problem with the mice and everything that now come to our homes. He said so, I just, I don't begrudge him to be doing something with the property but I don't like the fact that he will be bringing through our subdivision to allow him to continue to make more money on top of what he makes already. He said I know everybody has a right to make money and I am not against that, I was a contractor, I know how he feels about wanting to put in a subdivision and stuff like that but it really is going to create a lot of issues for this number going through there. He said I would hate to see something tear up our neighborhoods and degrade our property the way it is going to.

Janet Madden said he is right about the cul-de-sac that is our main concern because we have lived there, like he said, so long and I always tell people to think about how would you feel if

something like this was going to go in your area. She said you know he does beautiful work, I cant say, you know but the gentleman before I thought it was really good that he said a compromise, you know, just to listen to people. She said we have to come at you guys as far as homeowner's and people that... I don't feel like a business or contractor, like he said he was one, I don't feel like they should always be able to just come in and do something with your home. She said you know the wildlife, we love that, as far as the deer and the you know, I think someone was feeding a raccoon and now they have a pet. She said you know it is just the fact that I just don't see how somebody can just come in and say look this is what I am going to do. She said we all oppose it and I hope that is meaning something to you, not just as Board members but as people. She said you all have your own residencies and I always just think of how you all would feel if your cul-de-sac... that is the other thing too, like the other people said the traffic and everything else but if there could be a compromise I think that could be a good thing.

President Valiant asked anyone else. He said okay, Mr. Mattingly if you want to come forward and address some of the things they all brought up.

John Mattingly, Owner, and Scott Buedel, Project Engineer at Cash Waggner & Associates, returned to the podium.

John Mattingly said yes, I have no intention of coming through Jamestown or any of the streets to the west of me or my property. He said the only two accesses will be off the highway by my office now and the one off of Wildwood Drive. He said that is the only two streets going into that property. He said the quadplexes will not be facing any residential, most of them will be facing south or to the highway and the duplexes will be facing to the north, to the 4-plexes. He said the only ones that may, there will be some two-story ones that will be 9 units that will be facing the 4-plexes that will be there now. He said the rest will be facing in to the street. He said as far as coming through somebody's street or anybody's cul-de-sacs we have no intention of doing that.

President Valiant said alright.

John Mattingly said we did have some of that back there logged but our intention is to now let it grow back up. He said we just had a guy come in there and log it and that is all we did and he just took the lumber that was worth anything. He said that is all I got.

Scott Buedel said well, just to add a couple more things, from the standpoint of the traffic and the concerns of traffic on the backside of that corner lot. He said there is a connection back there but from the standpoint of if you live on the western road in this development, unless there is a blockage on one side or the other, you are probably going to come and go on your own road. He said you are not going to make that loop all the way around the back side of the property to come in and out so from the standpoint of it being like a major through road like it is in the subdivision now where it goes around that corner, I think it is more or less two cul-de-sacs that happen to have an inner connect so the inner connect I don't think is going to be used very often.

John Mattingly said and that is all on my property. He said that is nothing on the west side.

Scott Buedel said right, and then on the standpoint of drainage, I mean again we did get drainage plan approval this afternoon and we did look at some of the elevations of the rear yards of some of the properties that butt up against us and there will be a significant drop just get back to the swale just to divert the water to the basins so you know there is a short distance where there may be some ponding now. He said you know some piles of dirt and other obstructions but when that is graded out and that swale is constructed it is going to be a 2 to 3 foot drop from the back of those properties to the swale that will divert it to the basin. He said then just to answer one of the questions about Jamestown, there are no plans for the back half of that other than logging. He said we did have to show access to the property for the purpose of calling it a lot and separating it off, but that right-of-way does exist today. He said those lots, as they were platted, were continued onto the property line through the cul-de-sacs. He said so there is right-of-way that is existing there now as far as where any improvements could be constructed in the future.

John Mattingly said there is no plans for any of that, ever.

Scott Buedel said but we are not taking anything from anybody or you know having to go after additional property from adjoining land owners.

President Valiant said okay. He said these units that we are talking about, going up in that Lot 1 area, what are we talking about there like... I think it was in here somewhere but I mean do we have a price range or anything or have we even got that far yet.

John Mattingly asked as far as what we are going to spend on there.

President Valiant said well, basically in lack of better terms, what kind of clientele are we looking at.

John Mattingly said oh yeah, yeah we are going to be in the \$1,500 range. He added this is about a 6 million dollar project.

Scott Buedel said and again what would be happening off the west side of Sudamar, like north of Wildwood, there are like 4 quadplexes that exist there now so basically if you are inside of Sudamar Heights and you are coming around that curve you are seeing those 4 units that exist there today and then we would be on the backside of those, basically on the highway side of the subdivision where it is already zoned commercial.

President Valiant asked how long have those 4 been there do you know.

John Mattingly said a long time.

Scott Buedel said yeah, a long time. He said I do have a couple things just off Google Earth if you just want to take a glance at them and then one of the exhibits is the driveway that goes on the west side of the existing units. He said it is basically half of a driveway that was constructed. He said we will construct the other half of the driveway to make it a little more suitable for...

John Mattingly said that is actually on my property, the driveway is.

Scott Buedel said and then the first sheet is just from the GIS, just showing the present zoning up by the highway.

President Valiant said okay, there were also comments on noise, lighting, stuff like that. He asked do you have anything to thru in on that. He said I mean noise wise its going to be kind of hard...

John Mattingly said I think the closest thing to what they are talking about will be the commercial buildings. He said I have 1 that goes east and west or whatever it is...

Scott Buedel said north, south.

John Mattingly said I will have no lights on the back side of that building, so that should help shield anything in the warehouses.

President Valiant asked so do you plan to leave any kind of a... and I am not, I apologize I should have drove out there and looked at this property before this but I know there are a lot of trees in that area. He asked do you plan on leaving any kind of tree line or anything.

John Mattingly said we just logged it, we didn't do any clear cutting or anything. He said we logged it.

Doris Horn said so again, you are not going through any of the cul-de-sacs.

John Mattingly said right.

Doris Horn said okay.

Jeff Willis said this might be a question for Morrie, I don't know, but like if we rezone Lot 3 to the C-3/PUD and if somebody wanted to come in 30 years from now would it still be that C-3 or would it just be PUD and the owner would have to come back in and rezone it to be able to do something that you could normally just do in a C-3.

Attorney Doll said well I don't know if I really understand the question Jeff.

Jeff Willis said well there are a lot of things you can do in a C-3 that they might not want in the middle of a neighborhood.

John Mattingly said I think it is already C-3.

Scott Buedel said not the back lot.

John Mattingly said oh, yeah, yeah I understand what you are saying, yeah.

Mrs. Barnhill said so the zoning is one large description that takes all of this in so that will be what it is forever.

Jeff Willis said right, but if someone wanted to come in and put something really large that would take up that whole lot later on under C-3 they could.

Scott Buedel said but it is a C-3/PUD so the planned development right now is vacant so there is no structure planned on that lot so...

Jeff Willis said well that is what my question was if it is C-3/PUD could somebody just come in and do something C-3 or would they have to rezone it completely.

Scott Buedel said they would have to rezone.

Mrs. Barnhill said yeah because it is a blank canvas right now and once the zoning is approved it will always be blank until they come in and redo something.

Jeff Willis said I just wanted to make sure we didn't approve it as C-3/PUD and somebody comes in and says well I want to do what we normally do in a C-3 and put that there or something. He said you know I see that big empty lot and think gas station or something.

Mrs Barnhill said yeah, they would be back here.

Jeff Willis said okay.

Mrs. Barnhill said and they had to show an extension on Jamestown Drive because the road didn't quite come to the property. She said so to meet the ordinance requirements they had to have county maintained roadway to their property.

Jeff Willis said right, that's not a very good commercial entrance road either.

Mrs. Barnhill said no, I see that.

President Valiant said right, they had to show it but they're not using it.

Mrs. Barnhill said right.

President Valiant said right, Doris did you have something else I am sorry.

Doris Horn said no, I just wanted to clarify and make sure that they would not be going through any of the cul-de-sacs because that seemed to be a big issue.

President Valiant said I know one of the uh, was that a letter Molly we got that talked about maybe a fence line along the, I guess it would be behind the Gilliam's property. He said up in that area.

Mrs. Barnhill said that subdivision to the north I believe she lived in lot 9 right at the end of Virginia Drive....

President Valiant said okay that was over there.

Mrs. Barnhill continued we received an email that is in your packets it's from a Jamie Shiver at 5144 Virginia.

President Valiant said oh yeah, that's right.

Mrs. Barnhill said she would like a fence and asked to leave some of those trees along the line there. She added she would be right there...

Attorney Doll said the first cul-de-sac...second cul-de-sac.

Mrs. Barnhill said the second cul-de-sac, yeah.

President Valiant said oh I got ya, okay.

Attorney Doll said Virginia.

President Valiant said on the other side of the (inaudible) here.

Mrs. Barnhill said where that residential butts up to the storage buildings.

John Mattingly said there is a ditch down through there right now.

Jeff Willis asked are they going to have lights on the back side of those buildings, or do you know, or on the north.

John Mattingly said there is probably a 20 foot ditch down through there now.

Attorney Doll asked but are there any back lights behind it.

Scott Buedel asked on the rear of the building.

Attorney Doll said in the rear of the building or....

John Mattingly said we will not put lights on the rear of the building, if that's....

Attorney Doll asked any of them.

John Mattingly asked pardon me.

Attorney Doll asked any of the buildings.

John Mattingly said the ones that are facing, that will back up to that property that we are talking about we will not do that and we will not do one on that is at the very end of the street.

Mrs. Barnhill said so that is building number 3 at the end, building number 4....

John Mattingly said no lights in the back.

Attorney Doll asked the existing building no lights on the back, what about buildings 1 and 2.

John Mattingly said well they are going to be facing the apartments.

Attorney Doll said well the parking, isn't the parking on the north side of building one.

John Mattingly said yeah.

Attorney Doll said and so it's at the entrance of the building on the north side of 1 and 2.

Scott Buedel said yes

Attorney Doll said so I guess I.....

John Mattingly said there will be lighting on the front side yeah.

Attorney Doll said so my question is will there be lighting on the back side of 1 and 2.

John Mattingly said there could be.

Attorney Doll said and tell, these aren't my questions but.....

John Mattingly said could be.

Attorney Doll asked why.

John Mattingly said well one thing we got this swell back here but I think just for security.

Attorney Doll said okay, Scott is it downward facing lights.

Scott Buedel said we could restrict it to that.

John Mattingly said yeah.

Scott Buedel said absolutely.

John Mattingly said yeah.

Attorney Doll said good.

John Mattingly said and we may not, we may not.

Attorney Doll asked may not install lights you mean.

John Mattingly said we may not use lights but I don't want to commit to not doing them if we think we need them later on.

Doris Horn asked just on those two buildings.

John Mattingly said yes on those two buildings yeah.

Attorney Doll said and so for the benefit of the audience downward facing lights are lights designed not to shine out but rather to shine down.

John Mattingly said yeah and those two buildings actually the back of them faces the proposed buildings that I want to build so I mean it wouldn't be facing anybody but...

Attorney Doll said well the one gentleman that spoke earlier his house is right there, but the downward facing lights reduces, reduces what's called light pollution which is lighting up your neighbors and that's by the design of the light fixture they stay on the inside of the mounts...

John Mattingly said right

Attorney Doll said and you actually get more security...

John Mattingly said I mean if that's an issue on building number 2 then I say we won't do lights on building 2, I will commit to that, cause there is a lot right here.

Attorney Doll said I'm sorry I can't see what right here is.

John Mattingly said right behind....

Scott Buedel said the gentleman that talked earlier at first that is the back side of his property.

Attorney Doll said and I guess...I'm sorry Mr. President.

President Valiant said go ahead.

Attorney Doll continued you testified earlier that this back lot number 3 will not use the cul-de-sacs so it would come off the road off of State Road 66 if you ever develop it.

Scott Buedel said it has access shown off of Jamestown just to make the connection to the property.

Attorney Doll said I understand the legality of it.

Scott Buedel said correct.

Attorney Doll said but if you develop it you pledge tonight not to use Jamestown...

John Mattingly said right.

Attorney Doll continued as your actual access, so I take it you're going to come off of 66, drive between the four buildings that you're going to build next to the one you already have to access this back lot. He asked is that what your proposal is.....how are you going to get there.

Scott Buedel said I mean right now the right now....

John Mattingly said there's no intention....

Scott Buedel said there is nothing planned on that back property.

John Mattingly said if we scoot to.....

Scott Buedel said we are showing the access coming off of Jamestown because that is our, there is right of way that touches the property back there and that is how we....

John Mattingly said Scott we could scoot this building down and have access to it from here, I mean it's so hilly that it's not useable property any way.

Attorney Doll said that's what Scott said I think... so you're going to shift building number...is that 3.

John Mattingly said building number 3.

Attorney Doll said would you shift it south or shift it north.

Doris Horn said north.

John Mattingly said shift it towards Wildwood Lane.

Scott Buedel said it would have to be... it would have to go south.

Attorney Doll said south.

Scott Buedel said yeah.

Attorney Doll said to create an access to the back half of this...

John Mattingly said to create an access yeah.

Attorney Doll said okay.

Scott Buedel said but the lot is still as purposed as being purposed as a vacant lot.

Attorney Doll said vacant, vacant.

Scott Buedel said and to come back to put a building on it or do any kind of development on that would...

Attorney Doll interjected takes an approval here.

President Valiant said puts you right back here.

Jeff Willis said my concern is not that you come back in three years and do it, some of us on the Board will probably still be here and remember it, it's you sell the lot 20 years from now....

Attorney Doll interjected Molly will

Mrs. Barnhill said yeah, lost it.

Jeff Willis said but you sell the lot 20 years from now to somebody the whole parcel or all 3 parcels and they come in and the Board is sitting here well its "C-3" let's go ahead and approve it. He said and that's what I want to make sure we get clear in the notes or whatever that it's approved as a vacant....

Attorney Doll said yeah and there is no access off of Jamestown now or in the future...yes there is legal access, you are not intending to access lot 3 off of Jamestown, now or in the future.

Scott Buedel said for any kind of commercial any kind of development I mean, to get back....

Attorney Doll said if you decide to come back and develop it will come off of 66, come through the front property which is I guess lot 2...lot 2.

Scott Buedel said yes.

Attorney Doll said I understand thanks. He continued as I hear what you are saying we eliminate the possibility of using Jamestown, we've got some light pollution issues resolved by not

lighting the backs of these buildings and if you do light any of them using downward facing light fixtures. He said you know wildlife is wildlife and after having to spend part of my Christmas week chasing a raccoon in my attic it's just the way it is, not any fun.

President Valiant said its better than a skunk.

Attorney Doll said you are not removing, you're not clear cutting the lots you just fend it with harvesting of....

John Mattingly said and there is no more going on on that.

Attorney Doll said okay, the lady in lot number 9 in Virginia asked about a fence, you said there is a ditch over there now.

John Mattingly said yeah, it's a big ditch.

Attorney Doll said so it's not conducive to do a fence.

John Mattingly said no, no and I'll tell you what, I would be willing to plant some pine trees along that part of the... that half of building 4.

Attorney Doll said okay so, you may...

John Mattingly said some arborvitaes that grow fast or something like that.

Attorney Doll asked has that touched on all of the objections.

Doris Horn said no.

President Valiant said yes and no.

Mrs. Barnhill said noise, lighting, security, wildlife...

Attorney Doll interjected noise....noise, well these commercial buildings will they be used for manufacturing or...

John Mattingly said be used for warehousing only.

Attorney Doll said so it's not going to have heavy equipment...well trucks but it's not going to have some kind of manufacturing process going on out of...

John Mattingly said no, no, maybe some offices there I don't know.

Attorney Doll asked how big are these buildings Scott.

John Mattingly said they are 9,000 square feet.

Scott Buedel said yeah they are...

Attorney Doll said I don't know whether the Board thinks going to be noise prohibited or not, warehouse.

Jeff Willis said depends on what goes in the warehouse. He continued and that lot is already zoned "C-3" and "C-4" any way...

Attorney Doll said yeah so they could do it right now.

Jeff Willis said they could do it right now.

President Valiant said right, yeah the only....

Jeff Willis said if there is a back section that is agricultural it is going to get lumped into the "C-3"....

President Valiant said right.

Jeff Willis said I didn't want you know 20 years from now somebody coming in and saying well we are putting in a big store here.

Attorney Doll said well my only comments to the Board would be if your inclined to do so you need to rezone it, you need to vote on a rezoning first whichever way that vote goes determines where the plat goes is capable of being approved.

President Valiant said right.

Scott Buedel said but then the rezoning the way it's presented its almost restrictive on the property, because even though it is a "C-3" it's a vacant lot, so.

Attorney Doll said it's proposed to be added on into the future of a lot, your rezoning it into a vacant lot.

Scott Buedel said correct.

Jeff Willis said we know that right now... so the meeting, I just want to make sure that's clear so if somebody comes in 30 years from now to rezone it...

Scott Buedel said right.

Mrs. Barnhill said Jeff a PUD mixes your zonings, so if you wanted that back Lot 3 left Ag in this PUD it could be downzoned. You could ask for a downzone of that Lot 3, to leave that Ag PUD doesn't really... they still have to come back no matter what.

President Valiant said that's a good point.

Attorney Doll asked Scott do you have a need for that to be rezoned now the back lot, lot 3.

Scott Buedel said not necessarily but it is, either if its zoned Ag or zoned "C-3" it's vacant because it's a PUD.

Mrs. Barnhill said yes.

Scott Buedel said so we would have to come back to do a big development and we would have to come back to downzone it Ag, you would have to come back to do either.

Attorney Doll said you would leave that couldn't you...tonight.

President Valiant said yeah, that's what she is saying.

Mrs. Barnhill said you could cut it out.

Attorney Doll said you could cut it out and leave it Ag, just as a statement of good intentions for the neighborhood and I'm not impugning anybody's intentions....does Mr. Mattingly have an opinion about that.

Scott Buedel said if we could leave that back end of the property Ag as its zoned today without upending the process.

Attorney Doll asked do you orally move to amend your application to exclude the rezoning of Lot 3 therefore leaving it agricultural as part of this development.

Scott Buedel said and it will not be part of the PUD its self per say...

Attorney Doll asked Molly.

Scott Buedel said the PUD will be Lots 1 and 2.

Mrs. Barnhill said right, if you're amending...

Attorney Doll interjected what she said.

Mrs. Barnhill said if you're amending the description of the PUD zoning.

Scott Buedel said so the back end of the property will just be left as...

President Valiant said Ag.

Attorney Doll said as it is.

Jeff Willis asked so are we removing zones or the property lines for this PUD for lot 3, I just want to make sure we get all the dots crossed...

Mrs. Barnhill said they created a property line...

Attorney Doll said so they created a property line when none previously existed. He said everything to the east of the rear property line of Lot 2 will be Ag, so that's what's being debated right now.

Mrs. Barnhill said and so they had to show the lot 3 because that's the whole parcel they are cutting up, but they could cut that out of the PUD zoning.

Attorney Doll said yes....yes, right.

Jeff Willis said ok.

Scott Buedel said okay so there's two things...we cut it out of the PUD zoning...

Attorney Doll interjected its Ag today it will be Ag tomorrow.

Scott Buedel said okay we are fine with that that would be that's good.

Attorney Doll said and if you ever decide you want to make some development there you got to come back give notice to everybody again and here we are okay.

Scott Buedel said right, that's good.

Attorney Doll asked are you requesting that to be...

Scott Buedel said yes that would be preferable.

Attorney Doll said does everybody understand what we just did....we took the back lot, lot 3 leaving it agricultural that would be the motion Mr. Mattingly did, nobody is going to use Jamestown alright. He said the back lights well there will be no backlights on the commercial buildings on lot number 2 and Mr. Mattingly will try to plant some trees next to Virginia if that is necessary. He continued the lots where the residential buildings will be built, you have heard all of that already you know what they are, you know where they are going, and you know what the streets are. He said now that's a little bit different than it was when you walked into the room, does that stimulate, Mr. President, new remonstrations or not, if not then a motion would be available.

Someone from the audience said well I feel like there is some inconsistencies there.

President Valiant said yeah, alright hold on.

Jeff Willis said yeah because we said like they weren't going to have lights but they are but they will be downward facing.

President Valiant said right, and I know we still haven't solved Mr. Gilliam's problem but yeah I will allow, with the change in this, I will allow more comments. He said Mr. Gilliam if you want to come back up...

Randy Gilliam said along with everyone else here, there are no hard feelings to Mr. Mattingly. He said he is a business man and he is wanting to do what is successful for his business, but the first inconsistency I noticed was according to the map I got in the mail, one and a half of these do face my back yard and side yard. He said they all face not just the existing apartments there, they look inside my back yard and my side yard. He said I can show you my map if you need to see it.

President Valiant asked so you are talking right here.

Mrs. Barnhill asked so building 20 and building 19.

Randy Gilliam said I guess, they are so small I can't actually see the numbers on here.

President Valiant said yeah, if you want to step up here, just watch your step.

Attorney Doll said please don't fall.

President Valiant said yeah, watch your step. He asked are you talking these two here Randy.

Randy Gilliam said so what we have here is, here is my property.

President Valiant said right.

Randy Gilliam said these two will face this way and these two will face this way and that is if they're just duplexes, what if they become quadplexes and there is more people in them and more eyes on my yard. He said these driveways are great but most people like to back in so they have a straight shot out so if they start backing in all these lights go across here.

President Valiant said yeah, that makes sense.

Randy Gilliam said with this traffic it just... this isn't a normal neighborhood situation. He said these apartments, this is a road beside my house. He said this is a place behind my house.

President Valiant said right.

Doris Horn asked this is where he is at isn't it.

Attorney Doll said yes.

Doris Horn said I thought so, okay.

Randy Gilliam said okay so even if he doesn't put lighting here (referencing the plat), he has to put lighting here which are going to go right to me. He said this is my bedroom right here.

President Valiant said right, well and that is why he is talking about the downward lighting and stuff like that.

Randy Gilliam said that's great but light always casts out in darkness.

President Valiant said right, and its not going to be 100% but I know he said he wouldn't have lights on the back of here.

Randy Gilliam said right.

President Valiant said I am trying to... are there still trees right here.

Randy Gilliam said there are very sparse trees and you know he is already my neighbor and I haven't heard anything about trees or fences being put up.

President Valiant said because that is one thing, if there are trees there I want to keep them and build them up to try to help out.

Randy Gilliam said yes and if he wants to put a fence up and plant more trees back there that would be fabulous. He said like I said, he is a businessman and he obviously doesn't want to spend too much.

President Valiant said well he seems very open to that stuff so.

Mrs. Barnhill said so Jeff, if we would need to make that a condition on the plat or the zoning we would have to be very specific in what you want and make that...

President Valiant said right, well and that would be on the plat right not on the zoning.

Attorney Doll said correct.

President Valiant said okay.

Randy Gilliam said well you know if he wants to put in the work and wants it to work and wants to put up some fences and pines that is a good thing, I have just not heard anything like that up to this point.

President Valiant said right, and I keep trying to get to that point but... okay, alright.

Randy Gilliam said alright and I am sorry this is just, this is my home.

President Valiant said its okay, you are fine. He said I can't argue that one bit.

Jeff Willis said watch your step going back down.

President Valiant said yeah, watch your step.

Someone from the audience said I have a question.

President Valiant said if you want to step up to the podium please.

Jeff Brown, adjacent property owner at 5211 Woodridge Drive, was present.

Jeff Brown said I just have a question for Mr. Mattingly.

President Valiant said well your question would be to us and then we will address him.

Jeff Brown said okay, what would be the total residency if all of these are occupied is how many.

John Mattingly said 48.

Jeff Brown said what about in the warehouse area.

Attorney Doll asked residency in the warehouse area.

Jeff Brown said no, not residency but occupancy.

Attorney Doll said occupancy, okay.

John Mattingly asked what was your question sir.

Jeff Brown said my question is including the warehouse area, what is your anticipation for occupancy. He asked any idea.

John Mattingly said no, I don't really have a...

President Valiant said Mr. Mattingly you will have to come up and answer because we have to record all of this.

Jeff Brown said well the reason I am asking is it was mentioned about the 4 apartment buildings that are currently there, which is true, and the couples lot number 5. He said those apartment buildings are 2 families, so that is 8 families and the couples so 9 families but they are proposing in that same area to put in 48 families right next door to it. He said I am just saying that is our concern. He said this is a residential area that now looks like it's going to be pretty busy, that is all.

President Valiant said okay, thank you. He said gentleman would you like to come back up.

Scott Buedel, Project Engineer at Cash Waggner & Associates, and John Mattingly, Owner returned to the podium.

John Mattingly said sorry about this I tore my quad muscle in my knee cap so.

President Valiant said you are fine, I just apologize to you for having to keep getting up and getting down. He said so to answer the question, so we can get it on the record, you were saying for the occupancy in the warehouses are... I mean you really don't know yet.

John Mattingly said no.

President Valiant asked are you setting these up as basically one occupant per building or.

John Mattingly said well I plan to be able to split the warehouses down the middle if I need to.

President Valiant said okay, plans right now for behind like the south side of building 2 and I guess the south side of building 3, we are talking about the trees and stuff in that area with whatever is left would... I know you spoke about adding pines to I think it was Lot 10.

Mrs. Barnhill said yeah.

John Mattingly said I have been talking about some pine trees behind building 2 along the ditch.

Scott Buedel said 4.

John Mattingly said building 4, I am sorry.

President Valiant said building 4. He asked would you be opposed to do something like that as well behind building 2 and the south part of building 3. He said so it would kind of be meeting at Lot 5 and 6.

John Mattingly asked building 2.

President Valiant said yes, and behind building 3. He said because the concern was you know the lighting and everything coming from the west side of building 3. He said if there is lighting on that then that is going to, even if you point downward, it is still going to shoot over.

Scott Buedel said well there are a couple areas where there will be a swale constructed.

President Valiant asked is there.

Scott Buedel said there will be some regrading of the ground and trees will have to be taken out to get the drainage to work properly.

President Valiant said gotcha.

Scott Buedel said I think we could go back in and plant some trees where there are some voids created by the dirt work and so forth that needed to be done but there is probably a portion of the area that you are describing that is wooded, even though it has been logged, that will remain wooded so to go in and plant you know a specific number of trees in a certain distance would be...

President Valiant said yeah, no, no.

John Mattingly said I believe behind the end of building 2 and building 3 that is wooded now.

President Valiant said okay.

Scott Buedel said now on the south side of building 2 that is where the swale will be constructed so basically that part of, like projecting that down to that property line, to the south of building 2 would probably be the most open spot where trees might need to be removed and then arborvitaes, pine trees, and so forth could be planted along that line to provide an additional buffer.

President Valiant said okay, and then buildings 18 and 19.

Attorney Doll said 19 and 20.

President Valiant said 19 and 20, so their parking is that there on that east side, correct.

Attorney Doll said next to the road.

Scott Buedel said yeah, they will pull in and face the building.

Mrs. Barnhill said some of those, like the lower stories, they have a garage. She asked right.

John Mattingly said yes.

Mrs. Barnhill said yeah and they show that in their typical. She said the bottom ones have a garage and that is where some of the parking is shown. She said they did meet the minimum parking requirement.

President Valiant said okay. He asked so these are not parking spaces I am seeing right here.

Mrs. Barnhill said there are some over here, yeah.

Scott Buedel said on the west side of the east buildings yes.

Mrs. Barnhill said on the west side of Canyon Circle going north. She reiterated that is parking.

President Valiant said right.

Attorney Doll asked but the garages are on the west side. He asked is that true.

Scott Buedel said for the lower level units.

Attorney Doll said okay.

Mrs. Barnhill said yes, so they have some garages there for the lower units and the upper units have outdoor parking.

Scott Buedel said which is similar to the 4-plexes on the other side of the drive aisle that is there now.

President Valiant said right. He said the other concern that was brought up is, you know, if somebody backs in their parking space and you can't tell them which way to park and then headlights and stuff like that aiming back over across the other area.

Scott Buedel said yeah the headlight issue would really be people rounding the curve and just swinging around that curve but again I think that is just an isolated few that are going to go that way. He said then if you are going north bound and then going down to the lower road the lights are going to be aiming at building 2 and then out towards the highway.

President Valiant said alright.

Scott Buedel said so they are pulling straight in and then backing out.

President Valiant said one would think, yeah. He said I do see the concern if someone is backing into the spot and you could potentially have quite a few lights shining in your back yard.

Scott Buedel said right.

President Valiant asked any other questions from the Board. He said in the matter of the rezoning, which was amended to leave out Lot 3 as Agricultural and to change the lots up front to C-3 and C-4 to C-3/PUD.

Attorney Doll said with the various discussions today with how that would be developed; downward facing lights, etc.

Jeff Willis made a motion to give a positive recommendation for the amended PC-R-22-03 to the County Commissioners at their next regular meeting, it was seconded by Doris Horn and carried unanimously.

President Valiant said now in regards to the plat.

Mrs. Barnhill said they did have a waiver on the primary plat for the right of way.

Attorney Doll said because it... why.

Mrs. Barnhill said a private minimum right of way is 40' and they are asking for 24' instead of the 40.

Attorney Doll said but it is a private road so it is not going to be maintained by Warrick County.

President Valiant said correct.

Jeff Willis asked I guess there won't be any on street parking then.

Scott Buedel said no.

President Valiant said sorry I was looking... so do we need to label out all of the trees and the stuff like that that we lined out.

Attorney Doll said yeah I think so.

President Valiant said okay, so I will entertain a motion as long as we make sure we are adding trees along Virginia, or that building 4, trees behind building 2. He said I am curious on whether there should be a fence line over here.

Attorney Doll asked you mean on the south side, I mean the west side of Lot 5.

President Valiant said west side of Lot 5...

Attorney Doll said Scott, one of the property owners asked about a privacy fence.

President Valiant said that was another one but I am just thinking of here now to try to appease the homeowners.

Jeff Willis said well I am not 100% familiar with the terrain out there.

Scott Buedel said gotcha.

Jeff Willis asked is there anything that can be done to minimize the lights pointing in their room or the back of their house.

Scott Buedel said well I mean I think the preference, I mean if you wanted to...

President Valiant said well.

John Mattingly said I was going to do the arborvitaes instead of the fence.

Attorney Doll asked so you are going to populate that with trees.

President Valiant asked on that area too.

Scott Buedel said we can do that too.

Attorney Doll asked so you would rather add the trees then the fence.

John Mattingly said yeah I would rather have the trees. He said I think it would look better.

Attorney Doll said what does the land owner of Lot 5 think.

President Valiant said Mr. Gilliam, we are trying to help out. He asked are you okay with that.

Randy Gilliam said trees would be nice.

President Valiant said okay, trees.

Jeff Willis said they can get taller too. He said you can only put up a 6' fence.

Attorney Doll and Mrs. Barnhill said that is true.

President Valiant said that is true, trees will get taller.

Attorney Doll said well and after a few years fences begin to sort of look...

President Valiant said a little rough.

Attorney Doll said like old fences.

President Valiant said okay.

John Mattingly said well and those arborvitaes grow fast, they get tall quick.

Attorney Doll said so the proposal is to put some trees along the west side property line of Lot 5 on Woodridge Drive, right.

President Valiant said yes, part of it.

Attorney Doll said and then there will be some behind Lot 2 after the drainage is constructed is that right.

Mrs. Barnhill said building number 2.

Scott Buedel said yes, building number 2.

Attorney Doll said building 2.

Mrs. Barnhill said yep, okay.

Attorney Doll said and there may be some behind building number 4.

President Valiant said yes, correct.

Attorney Doll asked are there any other trees.

Scott Buedel said no.

Attorney Doll asked that is it.

President Valiant said and the downward lighting and all that.

Attorney Doll said downward lighting, Molly on the plat approval.

Mrs. Barnhill said mhm, did we decide no lighting on some of them though and downward lighting on others.

Doris Horn said no lighting on 1 and 2.

John Mattingly said I thought it was no lighting on the back.

Mrs. Barnhill said okay.

Attorney Doll said yes, no lighting on the backs of these buildings but downward lighting if lighting is used for the front.

Scott Buedel said correct.

Mrs. Barnhill said okay.

Attorney Doll asked what else.

Jeff Willis said well I think the downward lighting was he wasn't going to do lighting on 4... well wait I wrote all the numbers down.

Scott Buedel said 2, 3, and 4.

President Valiant said yeah.

Jeff Willis said but like he might have to put lighting over the retention pond or the basin in there for safety reasons but it would be downward lighting so...

Scott Buedel said yeah, it will be downward.

Jeff Willis said but there may be some on the back of the building that faces his apartments.

Attorney Doll asked building 1.

President Valiant said that would be building 1, yeah. He said okay.

Attorney Doll asked what else. He said we are not going to use Jamestown Drive.

Someone from the audience asked none of the cul-de-sacs.

Attorney Doll and Doris Horn responded none of the cul-de-sacs.

President Valiant said yeah, Jamestown was the only one in question.

Doris Horn said because of an easement.

Attorney Doll asked is that it. He said okay so that would be the motion to approve the primary plat if that is what anyone wants.

Jeff Willis made a motion to approve PP-22-04 conditioned upon no warehouse building, except building 1, having backlights and all other lights to be downward facing lights, no access to Jamestown Drive for access onto Lot 3 now or in the future, and the planting of trees along the west property line of Lot 5 in Sudamar Heights Corrected Plat and behind buildings 2 and 4 once drainage is finalized, and the waiver a 24' right of way on a private roadway. The motion was seconded by Doris Horn and carried unanimously.

Attorney Doll said thank you, I think you made the project better and I hope the neighbor's appreciate that and...

John Mattingly said I want to be a good neighbor.

Attorney Doll said I know you do, I understand that and I think you were tonight.

John Mattingly said thank you.

President Valiant said and thank you to the folks that came out here.

Attorney Doll said welcome to democracy.

Mrs. Barnhill said we will talk about the amended zoning tomorrow Scott.

Scott Buedel said okay.

Ron Madden, adjacent property owner at 5022 Jamestown Drive, returned to the podium.

Ron Madden said when it comes to Jamestown, there is no easement anymore because that was taken up by Mr. McBryde. He said he had that property added to his deed, well his wife, he died just recently. He said there is no easement on Jamestown that he keeps talking about.

Attorney Doll said well the committee, the way they did this and the way this was approved...

President Valiant said he's not going to do this anyway.

Attorney Doll said now or in the future. He said it might have made it better for you all tonight. He said even more now than when you came in.

Ron Madden said I hope so because that is why we bought the property.

President Valiant said yeah, okay. He said if he does we will be the first ones to know I am sure.

PP-22-05: Elpers Ridge: PETITIONER: Robert E. Elpers OWNER: Robert E. & Darla L. Elpers. Approximately 80.55 acres located on the east side of Gore Road Approximately 0.5 mile south of the intersection formed by Gore Road and SR 61. Hart Twp. (*Advertised in the Standard March 3, 2022.*)

Robert Elpers, owner and Craig Kuester, Kuester Engineering were present.

President Valiant asked for a staff report.

Mrs. Barnhill said they sent notices to the adjacent property owners we are only missing one green card but we have all of the white pay receipts and they were mailed correctly. She continued zoning is agriculturally zoned and there is no flood plain. She added lot 1 has an existing single family

dwelling on the property, lots 2 thru 5 are proposed building sites and are ranging in size from 4.47 acres to 59.16 acres. She said the Commissioner's approved the request for no street plans and the Drainage Board approved the request for no drainage plans those were both done today. She said the Health Department has approved the proposed septic sites and Spurgeon Water has capacity. She said the plat would be in order.

President Valiant said thank you Molly.

Attorney Doll asked is it a public street.

Mrs. Barnhill said that road yeah, it already is.

President Valiant asked do you have anything to add to the staff report gentleman.

Craig Kuester said I don't believe so, do you.

Robert Elpers replied no.

President Valiant asked questions from the Board.

Craig Kuester asked you did mention drainage was approved, I thought you did I was writing this down.....

Mrs. Barnhill said yes.

Craig Kuester continued that would have been the only thing I added.

President Valiant asked so we have a house on one lot....and what is the proposal for the other lots, what we are building.

Attorney Doll said residential

President Valiant said residential, just houses.

Attorney Doll asked the back house, Lot 1 will be served by the existing road that is there now, true.

Robert Elpers asked the house on Lot 1... my house.

President Valiant said the drive.

Robert Elpers said yes that will be my...

Attorney Doll said the drive is unchanged.

Craig Kuester said no.

Attorney Doll said and you're putting in a public road that's not there now.

Mrs. Barnhill said no, no that's just part of lot 3, they did a flag lot so they have a 50 foot strip going back to lot 3.

Attorney Doll said so lot 3 is fully across, I see that now....okay.

Mrs. Barnhill said it is zoned agricultural so they could have Ag uses and single family dwellings.

Attorney Doll asked they will have septic systems.

Mrs. Barnhill replied yep, they are shown and approved.

Attorney Doll said and water is, you said....

Mrs. Barnhill replied Spurgeon Water, she said yeah they are way up north.

Attorney Doll said yeah.

President Valiant asked are there any questions from the Board at this time, any remonstrators for or against this project. He continues I don't see anybody jumping up, I will ask the Board one more time any questions, if not I will entertain a motion.

Doris Horn made a motion to approve PP-22-05.

The motion was seconded by Bryan Flowers and carried unanimously.

Craig Kuester said thank you

President Valiant said if they were all that easy. He continued before we move on to other business I realized we skipped over approving the minutes.

Mrs. Barnhill said yeah

Jeff Willis asked were we all here last time, or were any of us missing, ok.

President Valiant said we were all here.

Doris Horn said you mean the minutes that she sent out early according to me.

President Valiant said yeah, so any additions or corrections for the minutes from January and February.

Doris Horn made a motion to approve the minutes from January 10, 2022 and February 14, 2022.

The motion was seconded by Brian Flowers and carried unanimously.

President Valiant said alright now, other business.

OTHER BUSINESS:

Replat of Lot 76 Lexington: Request to waive sidewalks by Kush Patel, LOC holder.

Kush Patel was present, he said how are you guys.

President Valiant said good sir how about yourself

Kush Patel responded doing good.

Mrs. Barnhill asked so are you Mr. Patel

Kush Patel responded I am, yes.

Mrs. Barnhill said ok, nice to meet you.

Kush Patel said nice to meet you. He continued I know this has been on the agenda a few times and I missed it, I'm sorry about that. He said lot 76 was originally platted for Lexington Subdivision, 76 was then sold in a bankruptcy sale and it got replated as Lexington Subdivision instead of Lexington Estates lot 1 and 2. He said that pulled it out of the original subdivision and when the homes were built on there the sidewalks were not added in front of the homes on their frontage and HOA does not, is not responsible for those lots, they have nothing to do with those lots. He added letter of credit is still outstanding on those sidewalks and I'm requesting that the letter of credit be waived and removed and no sidewalks be added to those lots.

Attorney Doll asked outstanding under Lexington Subdivision or Lexington Estates, which ones got the letter of credit.

Kush Patel said I believe it is Lexington Subdivision that now has it.

Mrs. Barnhill said it was the Replat of Lot 76 Lexington, this has been plated three times, and it was plated again since they did the replat. She added but that is what holds the letter of credit now for sidewalks.

Attorney Doll asked so what you're asking for is the Board to vote to release the sidewalk letter of credit on what lot...

Mrs. Barnhill said to waive the requirement of sidewalks on....

Kush Patel said I believe it is lots 1 and 2 now.

Mrs. Barnhill continued it is now lots 1 and 2 of Lexington Subdivision number 2, but when that was primaryed they requested no improvements so they didn't even address sidewalks or anything when they did number 2....

Attorney Doll said right

Mrs. Barnhill said it was when they did a replat of lot 76 they did have to post surety for Saint Clair Drive and for sidewalks.

Attorney Doll said okay and how long ago were the houses built, and those sidewalks were built.

Kush Patel said I don't know the exact time frame, I do know there are two house on those two lots, one was built with about 80% siding instead of 80% brick and so that tells you that it was not approved by the HOA it is completely separate from the existing HOA in Lexington Estates.

Mrs. Barnhill said number 2 the last plat on it was recorded in 2018, so it's been after that.

Attorney Doll said yeah, so it's up to the policy of the Board.

Mrs. Barnhill said I know Sherri brought this before the Board in 2018, but no body showed up to talk about it so it was continued but never brought back up.

President Valiant said never came back up.

Kush Patel asked this was brought up in 2018.

Mrs. Barnhill said yes.

Kush Patel said oh gosh that's a long time ago.

Attorney Doll said tell me your connection to this, did you build the houses... no he didn't....

Kush Patel said so Lexington Subdivision was original built by Barrington Homes, Bruce Miller He added Bruce eventually lost the subdivision, it went to First Federal Bank and then I purchased every remaining lot from First Federal Bank in 20....

Attorney Doll asked including these two.

Kush Patel said no, I did not purchase those two, but I am now responsible for the letters of credit on those two.

Attorney Doll said yes you are, okay.

Kush Patel said and so my ask is, I'm in the situation where I didn't have anything to do with those houses being built....

Attorney Doll said and you don't have the authority to build the sidewalks even if you would have wanted to.

Kush Patel said that is exactly right, yeah I have no way to convince the home owner.

Attorney Doll said so you are kind of caught between a rock and a hard spot.

Kush Patel said that is exactly right.

President Valiant said or a rock and a sidewalk....what's the wishes of the Board, sorry, it's been a long meeting. He asked what are the wishes of the Board.

Doris Horn said I think we should waive them.

Attorney Doll asked is that a motion.

Doris Horn said yeah I will make that into a motion that we waive the sidewalks.

The motion was seconded by Brian Flowers and carried unanimously.

Attorney Doll asked Jeff did you vote.

Jeff Willis said yes I was in favor.

Attorney Doll said congratulations.

Kush Patel asked do I need to do anything for that.

Attorney Doll said Molly

Mrs. Barnhill said well, the Commissioners just renewed their letter of credit for 6 months so now we need to take it and have them release it.

Attorney Doll said so there should be a letter coming from somebody, probably the County Commissioners, to him.....to Mr. Patel or...

Mrs. Barnhill said no, they just make a motion and sign off on it in the meeting and....

Attorney Doll interrupted well somebody has got to tell the bank.

Mrs. Barnhill said we do.

Attorney Doll said okay we are going to tell the bank that we don't need their letter of credit anymore.

Kush Patel said got ya, I'm putting my emailing on this paper if you guys have any issues feel free to....

Mrs. Barnhill asked should the Commissioners release it though at a formal meeting.

Attorney Doll said yeah, yeah on a public meeting, on their agenda they need to release it.

Kush Patel asked do I need to come for that meeting.

Attorney Doll said you know.....

Mrs. Barnhill said you might want to.

Attorney Doll said it might not be a bad idea just to show up to make sure it gets done right.

Kush Patel asked do you know when that is.

Mrs. Barnhill said March 28th at 4.

Kush Patel said of March 28th at 4.

Attorney Doll said in this room.

Kush Patel said got it awesome, thank you guys.

Attorney Doll said your welcome.

Mrs. Barnhill said welcome.

Kush Patel said have a good day.

President Valiant said you too.

Attorney Doll said we did that in spite of the fact you have a Braves shirt on.

(Laughing)

Kush Patel inaudible

Attorney Doll said don't you understand this is Cardinal country.

President Valiant said this is Tecumseh shirt, yeah.

Kush Patel said see ya.

Zoning Determination: 10800 Telephone Road – Concrete Business by David Enterprise, John David, owner.

President Valiant said next item.

(Laughing)

Doris Horn said this is why I tried to move the meeting.

President Valiant said oh is it.

Jim Morley Jr. product engineer with Morley Associates was present. He said I served my time back there the whole evening.

President Valiant said watch your step.

Zoning Determination 10800 Telephone Road Concrete Business by David Enterprise, John David, owner.

Attorney Doll said to rock or not to rock.

Jim Morley Jr. said David Enterprises is looking to open a concrete, they currently have a concrete plant in Vanderburgh County and they want to open a concrete plant in Warrick county and so they have purchased the property immediately east of EMB Paving they are kind of where Lynch wraps around into Epworth and there by Tee Time that area so to speak.

Attorney Doll asked the purple.

Jim Morley Jr. replied yep the purple, on the first page there is the purple and for a concrete plant it requires a "C-2" or sorry "M-2" zoning, said the wrong words. He joked it's an "R-1". He said "M-2" zoning which is the same zoning as EMB Paving next to it....

Attorney Doll said and it is that now.

Jim Morley Jr. said our ground is not our ground is Ag now.

Mrs. Barnhill said it is Ag.

Jim Morley Jr. continued so we will have to rezone the concrete plant to an "M-2" zoning. He said the concrete plant does not take up the entire piece of property, and so the part the concrete plant will be situated closest to Highway 62 towards the... I guess the south end of the property and in the north end of the property we want to... we will have a detention basin up there for storm water detention, and then we want to excavate some soil or some dirt to sell off as... borrow to developments around the area that you know need fill dirt and then we want to back fill that area north of the concrete plant to get it up to allow for future development in that area. He said the backfill material, so David Enterprises has a contract with Center Pointe and so any time if, you guys see the Miller Pipeline trucks driving around town....when they dig up roads and stuff they dig down through the dirt, through the rock and everything to get to a pipe line they don't put that dirt back in the hole they hire David Enterprises to come out with a load of what they call flowable fill, it's like a really squishy or a really loose or low grade concrete whatever it doesn't compact. He said so they put flow able fill back in the trench so that you

don't get the dips in the road, but because they don't put the dirt and gravel back in there they have to haul it somewhere to dump it and so we want to take that dirt and gravel that they dug up the utility trench and dump it on the northern end of the project side to raise that side up for future use. He said on the second page of this....

Attorney Doll said which will take a different zone...maybe.

Jim Morley Jr. said well it depends....

Attorney Doll said that's the question.

Jim Morley Jr. said that's why we are here tonight, that's where we are at...On the second page of the document is a letter from Patriot Engineering stating that the material that I just talked about would be appropriate to be used for back fill for future development and so the reason we are here tonight is, depending on how you read the Zoning code we may or may not need an "M-3" zoning. He said the "M-3" zoning...we believe it is not a "M-3" use...the "M-3" zoning is required for a solid waste disposal facility, but what we are doing, we do not feel like it qualifies as a solid waste disposal facility. He added the zoning definition of a facility is, and this is right out of the code, any assemblage of equipment used in a collections storage, conversion or disposal of solid waste usually refers to a transfer facility, recycling facility or energy recovery plant. He said for us there is no transfer facility, recycling facility energy recovery plant or anything like that we are not building a building (inaudible), it's just we are taking the dirt and gravel we dig out of the ground for getting to utilities, we are hauling it to this site and we are putting it back on to the ground to fill the site up. He said and then so the question is....that a solid waste disposal facility which I would argue that it is not, or is it back filling to raise a piece of ground up which I would argue that it is. He said we went to site review a couple of week ago and we discussed this, the third map that you see here is six different sites in Warrick County and which this type of this is done or being done currently none of them are zoned "M-3", two of them are flood plain...this is per the GIS page...two of them are flood plain zone, two of them are Ag zone, one is an "M-2" zone, and one is a "C-4" zone and oddly enough the "M-2" was one that Warrick County itself did, they brought in concrete, dirt and rock from road projects and filled in the pit that Oak Grove Road now crosses that's how they cross the Oak Grove Road pit was Warrick County itself brought that stuff in and used it as fill material. He said so Warrick County itself didn't even get an "M-3" zoning to get what they did.

Mrs. Barnhill asked to build a road.

Jim Morley Jr. replied well to fill, they used it as fill material.

Attorney Doll said so what your asking is for the Board to make a finding

Jim Morley Jr. said yeah so we would like the Board to make a finding that placing this back fill material would not be considered a solid waste facility and that we could do it “M-2” zoning.

Attorney Doll asked and then you’ll come back and rezone.

Jim Morley Jr. said yeah and so if you all find it to be an “M-2” purpose which we think it is, then we would file for an “M-2” zoning for the entire piece of property of which is required for the concrete plant.

Doris Horn said I’m thinking this is not solid waste.

Attorney Doll asked is that a motion.

Doris Horn said yes.

The motion was seconded by Brian Flowers and carried unanimously.

Attorney Doll said have a good night.

Jim Morley Jr. said thank you....I sure enjoyed the cheap seats were great back there it was a good show.

President Valiant said every once in a while we put on a good one.

Jim Morley Jr. said thanks everybody.

ATTORNEY BUSINESS:

President Valiant asked Mr. Doll

Attorney Doll said nope, nothing to report

EXECUTIVE DIRECTOR BUSINESS:

President Valiant asked Molly.

Mrs. Barnhill said nothing further...I hired somebody her name is Kim Eden, she is here tonight.

Doris Horn said hi Kim.

Attorney Doll said standup and give the crowd a wave Kim.

(laughing)

President Valiant said if you would step up to the podium and state your name for the record please (laughing) welcome aboard, you had an eventful first evening or meeting. He said anyone else have anything, if not...

Bryan Flowers made a motion to adjourn at 7:51 PM. Doris Horn seconded and the motion carried unanimously.

ATTEST:

Molly Barnhill, Executive Director

Jeff Valiant, President