

## MINUTES

**WARRICK COUNTY AREA PLAN COMMISSION**  
Regular meeting to be held in Commissioners Meeting Room,  
Third Floor, Historic Court House,  
Boonville, IN  
Monday, August 8, 2022, 6:00 PM

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

**MEMBERS PRESENT:** Doris Horn, Greg Webb, Jeff Willis, Jeff Valiant, and Bob Johnson. Members absent were Rick Reed and Amanda Mosiman.

Also present were Morrie Doll, Attorney, Molly Barnhill, Executive Director, and Kim Kaiser, Staff.

**MINUTES:** To approve the Minutes from the last regular meeting held July 11, 2022. Doris Horn made a motion to approve the minutes as distributed, Greg Webb seconded the motion and it carried unanimously with one abstention being Bob Johnson.

President Valiant said it looks like on the agenda tonight we have three primary plats, two rezonings, as well as a few other items, so as we go through these if the applicant and owner would step up to the podium and there should be a sign in sheet there for you, we will go over the staff report, have you add any information and then we will turn over to questions from the Board.

### **PRIMARY PLATS:**

**PP-22-11: Stahl Road Apartments PUD:** PETITIONER: Indiana Valley LLC by Mansoor Kahn, Member. Approximately 9.161 acres located on the south side of Stahl Road. Approximately 660 feet west of the intersection formed by Stahl Road and Epworth Road. Part of Lots 27 & 28 in Sweat's Subdivision as recorded in Plat Book 3, Page 156 in the Warrick County Recorder's Office. (*Advertised in the Standard July 28, 2022.*)

President Valiant said I believe we have a rezoning with this as well....

Attorney Doll said that is right.

Mrs. Barnhill said yes.

Attorney Doll said 22-09.

President Valiant said alright.

**PC-R-22-09:** PETITIONER/OWNER: Indiana Valley LLC by Mansoor Kahn, Member. To rezone 9.161 acres located on the south side of Stahl Road. Approximately 660 feet west of the intersection formed by Stahl Road and Epworth Road from “R-1A” One Family Dwelling Zoning District & “C-4” General Commercial Zoning District to “R-2B/PUD” Multi-Family Planned Unit Development Zoning District. Part of Lots 27 & 28 in Sweat’s Subdivision as recorded in Plat Book 3, Page 156 in the Warrick County Recorder’s Office. (*Advertised in the Standard July 28, 2022.*)

Scott Buedel with Cash Waggnner and Associates was present.

President Valiant asked Molly do we have a staff report.

Mrs. Barnhill said on the plat, they mailed their returned receipts together and we are missing 11 green cards, but we do have the white pay receipts and they were mailed correctly. She continued it is currently zoned “R-1A” and “C-4” requesting “R-2B” with a PUD, there is no flood plain. She said the proposed development is a one lot subdivision proposing six three story apartment buildings, a one story club house, and a one story maintenance storage building. She said each of the proposed apartment buildings will contain six apartments with two bedrooms and two baths per floor, two apartments with three bedrooms, and two baths per floor totaling eight units per floor, 24 units per apartment, and so 144 units in total. She continued the Commissioners did not approve their street plans today and the Drainage Board did not approve their drainage, Newburgh Sewer does have capacity and Chandler does have capacity for their water. She said since it did not go pass the Commissioners, that is based on a traffic impact study, the County Engineer had advised that it could possibly change the plat itself and he has advised that we table this one.

President Valiant said okay, I assume that you are aware of all of this Mr. Buedel.

Scott Buedel said yeah, we...at the last site review meeting, I think it was on the 14<sup>th</sup>, I contacted Lochmueller to do a traffic study and engaged them within a couple of days of that and they have been working on that since. He said I followed up with them last week and they anticipated two to three weeks to have it actually completed, so it is not finalized yet.

President Valiant said alright.

Attorney Doll asked would it be helpful to send it back, the plat, to site review once you get that. He said if the traffic study means a plat change, would it have to go back to site review.

Mrs. Barnhill said they would definitely be filing...yes, we should probably sit down and go over it once you get that back.

Scott Buedel said that is fine.

Mrs. Barnhill said with a site review, yeah.

Attorney Doll said so tabling the plat and tabling accompanying rezoning....

Scott Buedel said right.

Attorney Doll continued we normally table them for one month, but it may not be finished in one month.

Scott Buedel said yeah, I think there was some discussion earlier that maybe two weeks going back to the Commissioners or the Drainage Board in two weeks, but if the traffic study is not complete....if its two to three weeks, I mean I don't really see the reason to.

Attorney Doll asked do you think it would be done in a month.

Scott Buedel said that is what I was told, yes. He said they said two to three weeks so I believe it will be done.

Attorney Doll said the traffic study will be done in a month.....

Scott Buedel said correct.

Attorney Doll continued but do you think that if there is a need to redo the plat....

Scott Buedel said oh, absolutely, we will....

Attorney Doll said jump on it.

Scott Buedel said yes.

Attorney Doll said so tabling it will be fine, because it seems to fit the time.

Bob Johnson asked Scott when did you ask for the traffic study to be done.

Scott Buedel said I believe, when was our meeting....

Attorney Doll asked site review.

Scott Buedel continued I think it was July 14<sup>th</sup> the day of the meeting so I suggested...

Bob Johnson said yeah, I think it will work.

Scott Buedel said it was the 19<sup>th</sup> that they sent us a proposal and then we engaged on the 19<sup>th</sup> so...

Bob Johnson said okay.

Attorney Doll said okay so...

Mrs. Barnhill asked one month.

Attorney Doll said so you are agreeable Scott, your client is agreeable to tabling it for a month.

Scott Buedel said well I think because of the prior circumstances I think we have to.

President Valiant said yeah, have to.

Attorney Doll said okay.

Scott Buedel said I would like to keep going, but I don't think that would be approved.

Attorney Doll said yeah, I agree.

Mrs. Barnhill said September 12<sup>th</sup> is the date of our next meeting.

President Valiant said okay.

Doris Horn asked when is the meeting.

President Valiant said September 12<sup>th</sup>.

Mrs. Barnhill said September 12<sup>th</sup>.

Attorney Doll said September 12<sup>th</sup>.

Doris Horn made a motion to postpone until the September 12<sup>th</sup> meeting.

President Valiant said table.

Attorney Doll said table.

Doris Horn said to table this I'm sorry.

Bob Johnson said I will second

President Valiant said hold on, Doris is that for the plat and the rezoning.

Doris Horn said yes for both the plat and rezoning.

Doris Horn made a motion to table the plat and rezoning until the September 12<sup>th</sup> meeting.

Bob Johnson seconded the motion and it carried unanimously.

Attorney Doll said so anyone else that is interested in these matters, they won't be further discussed tonight, but they will be fully discussed, we hope, September 12<sup>th</sup>.

Mrs. Barnhill said you can check in with the office if you have any questions, the APC.

Attorney Doll said thanks Scott.

Bob Johnson said thanks Scott.

**PP-22-12: Warrick Research & Industrial Center No. 1 PUD Replat of Lot 4:** PETITIONER /OWNER: Westfall Investments LLC by Carl Westfall, Owner. Approximately 2.53 acres located on the north side of Vann Road. Approximately 700 feet east of the intersection formed by Vann Road and Prospect Drive. Being Lot 4 in Warrick Research & Industrial Center No. 1 as recorded in Plat File 1, Page 405 in the Warrick County Recorder's Office. (*Advertised in the Standard July 28, 2022.*)

President Valiant asked doesn't this have a rezoning as well.

Mrs. Barnhill said yes it does.

Attorney Doll said yes.

Mrs. Barnhill said 22-10.

**PC-R-22-10:** PETITIONER /OWNER: Westfall Investments LLC by Carl Westfall, Owner. To rezone 2.53 acres located on the north side of Vann Road. Approximately 700 feet east of the intersection formed by Vann Road and Prospect Drive from "M-2" General Industrial Zoning District to "C-4/PUD" General Commercial Planned Unit Development Zoning District. Being Lot 4 in Warrick Research & Industrial Center No. 1 as recorded in Plat File 1, Page 405 in Warrick County Recorder's Office. (*Advertised in the Standard July 28, 2022.*)

Carl Westfall owner of Westfall LLC was present.

President Valiant asked for a staff report.

Mrs. Barnhill said they have mailed their notices together on this one as well, the zoning and the plat. She continued we are still missing 11 green cards, but we do have the white pay receipts. She said it is currently zoned "M-2" requesting "C-4/PUD" General Commercial, no flood plain. She said this is a one lot subdivision proposing three commercial buildings at 9800 square feet and 11900 square feet, they are proposed to be storage buildings only. She said the Commissioners did approve the request for no street plans and the Drainage Board approved their drainage plans today, Newburgh Sewer had capacity for this development, Indiana American Water also has capacity so the plat would be in order. She continued on the zoning, comprehensive plan projects it to be industrial and it is currently vacant, and to the north, west, and east is currently "M-2" with industrial buildings and to the south is "A" vacant. She said

they have access on to Vann road with a shared drive that is existing, 3 commercial buildings which would be allowed and in compliance. She added everything is in order.

President Valiant said alright, thank you. He asked Sir do you have anything to add to the staff report.

Carl Westfall said no sir.

President Valiant asked any questions from the Board.

Jeff Willis asked would this be just down the road from your current facility. He said it won't be right next to them, it will be down the road.

Carl Westfall said yes sir, right by the Humane Society to be exact.

Jeff Willis said okay.

Carl Westfall said the other side is some commercial facility, I'm not sure what they do in there, but if we share that driveway again.

President Valiant said three commercial buildings, do you have any idea what you are going to put or just rent them out or lease them.

Carl Westfall said that is exactly what I'm going to do, basically going after the small subs. He said like maybe a landscaping guy, hopefully electrician guy starting out, plumber starting out, anybody just to small subs only. He said that is really all I want in there so.

President Valiant said got ya.

Mrs. Barnhill asked not retail, no office space or anything.

Carl Westfall said no I don't want retail in there at all.

Mrs. Barnhill replied okay.

President Valiant asked if there were any remonstrators for or against this project. He said seeing that nobody is moving, I will ask the Board one more time any further questions.

Attorney Doll asked are you going to do the rezoning...

President Valiant said that is what I was...yeah, if not I will entertain a motion lets go with the rezoning first.

Attorney Doll said that would be the R-22-10

President Valiant said yes.

Bob Johnson made a motion to approve PC-R-22-10. Doris Horn seconded the motion and it carried unanimously.

Attorney Doll said so that will be referred back to the Commissioners.

President Valiant said at the next meeting.

Attorney Doll said September 12<sup>th</sup>.

Mrs. Barnhill said yeah September 12<sup>th</sup> that will go to the Commissioners.

President Valiant said September 12<sup>th</sup>.

Attorney Doll said final decisions with rezoning lie with the Commissioners, the recommendation is to approve it.

Carl Westfall said sure.

Attorney Doll said and they will hear that on September 12<sup>th</sup>.

President Valiant said on September 12<sup>th</sup>. He continued alright moving on to the plat, the plat will be final here.

Mrs. Barnhill said yes, but it will be subject to.

Attorney Doll said subject to.

President Valiant said subject to, sorry subject to the rezoning.

Mrs. Barnhill said okay.

Jeff Willis made a motion to approve PP-22-12 subject to the rezoning. Bob Johnson seconded the motion and it was carried unanimously.

Carl Westfall said thank you, oh by the way, chairs are awesome.

(Laughing)

Attorney Doll said call security

(Laughing)

Doris Horn said I heard that.

Jim Morley said it looks like someone opened a can, but this is wonderful.

President Valiant said please watch your step please, please, please.... Next item on the agenda.

Attorney Doll said see he is a rule breaker.

President Valiant said yeah.

**PP-22-13: Harmony Hill:** PETITIONER/OWNER: Oakland Holdings, LLC by Jordan Aigner, Managing Member. Approximately 154.94 acres located 0 feet northeast of the intersection formed by Eskew Road and State Road 61. Boon Township. *Complete legal on file. (Advertised in the Standard July 28, 2022.)*

President Valiant said Sir, please state your name for the record.

Jim Morley Jr., project engineer was present.

President Valiant said thank you Jim, Molly do you have a staff report.

Mrs. Barnhill said we are missing nine green cards but we do have the white pay receipts and they were mailed correctly. She said the zoning is "A" Agricultural Zoning District, regarding the flood plain all of lots one and two, portion of lots three, 56 and 57 lie in the "A" flood plain and will require a certified plot plan or a LOMA before receiving a location improvement permit. She added I believe that data has been submitted, but they have not come back with elevations on it yet.

Jim Morley Jr. said correct.

Mrs. Barnhill stated the proposed development is 57 residential lots, 3 outlots being road islands lot sizes range from 2.5 to 4.32 acres, majority being 2.5 more or less. She continued outlot number one is to be maintained by the owners of lots 21, 22, 35, and 36, and we did this because it's kind of different than what we normally see, outlot 2 is to be maintained by lots 14, 15, 42, and 43 so the lots surrounding that little island, and the third outlot is to be maintained by lots 6, 7, 50, and 51. She said Commissioners approved their street plans today, Drainage Board approved their drainage plans, and they do have septic sites shown and Aaron Franz head of Health Department did sign off on those, several of them...the ones that are in the flood plain right now, his approval is subject to those being out, determine that they are out of the flood plain right now once that data comes back. She said we do have a letter from Veolia stating that this letter is to verify that City of Boonville has capacity for the 57 proposed single family dwellings in the Harmony Hills Subdivision, it should be noted that depending on final lot elevations, several lots may require private booster pumps to insure adequate hydraulic pressure above 20 PSI, the City does not have capacity to provide fire flow for the development. She added if you have any question its Jill Carr, Project Manager with Veolia North America. She said so the plat would be in order subject to, they have also filed a drainage waiver, for the 7' and



5' Morley famous easement waiver, and then lots 1, 2, and 3 with the base flood elevations being determined, so it would be in order.

President Valiant asked anything to add to the staff report Mr. Morley.

Jim Morley Jr. said no, just a regular subdivision, 2 and a half acre lots curb and gutter streets. He said the reason we have three outlots is we put those islands in the middle of the roads as a traffic calming feature to keep traffic from going too fast through the neighborhood, and the County Commissioners don't want the islands in the middle of the right of way and so we put an outlot in the middle of the right of way so that anything that is there is.... if somebody ran into something there, they would not be running in to something in the right of way it would be not on county property and so that is why there are three outlots in the subdivision and that's again done as a traffic calming thing to keep traffic from going too fast through the neighborhood. He said okay with the hundred year flood plain thing not a big deal, I don't know, this is previously mine ground and I don't know if it use to be different back then, the flood plain on the map basically covers the side of a hill, I think there is like 30 feet of fall underneath the map flood plain area so they got some weird things in their mapping there, but we are getting all of that taken care of so no big deal, happy with that, I think it's a nice project and we would ask for your approval.

Attorney Doll asked Jim under this letter on water supply it says that the City does not have capacity to provide fire flow for the development, have you thought about that, how are you going to address that.

Jim Morley Jr. said I did, I thought about it and I also touched base with Jordan Aigner, Jeremy Aigner is here in the audience today, I talked to Jordan about it also and I'll be honest with you when I first got that letter I'm like oh my gosh you know and then I realized oh wait I don't have fire flow at my house, and anybody....if you guys know anybody that has a well they don't have fire flow. He said I talked to two people that are on the Tennyson water system, neither of them have fire flow, I get my water on a lake it goes through a treatment system, I don't have fire flow and so I think that is a pretty....as you get further out in the country, and I would argue that this is getting a little further out in the county, I think it's a pretty common thing, I do think my home insurance I think I pay....my premium is a little higher because I don't have fire protection, but I assure you that my house is fully insured. He said I do know that the fire departments have a tanker truck or that kind of thing, but originally I thought wow, but then I thought there is a lot of people that live out in the country that don't have fire flow protection, I also noticed that they referenced the PSI of what their line is and so at my house, because I live out in the country there is no public water there so I pump my water out of a lake, and so I have gauges on my treatment system in my house and I regularly operate somewhere between 10 and 15 PSI, do I have the best water pressure in town...I don't, do I love where I live because it's out in the country, I do. He said and so if someone thought 20 PSI was not good enough for them, let's say they have a family of seven and three people wanted to shower at the same time then is that going to be a great circumstance, probably not, but they have the ability to put a pressure pump in to boost that pressure as referenced in the Veolia letter, but I can tell you personally....I stand here before

you...I regularly operate between 10 and 15 PSI and I don't have fire protection on my own home.

Attorney Doll asked would you object to this essence of this letter, which just arrived today didn't it...

Mrs. Barnhill said this morning yeah.

Attorney Doll said a notation on the plat so that anybody that buys is forewarned; it would actually protect the developer, hey it's on the plat you don't have fire protection.

Jim Morley Jr. said I think I would only ask that if we are going to put it on there put "at this time" or "at this date...."

Attorney Doll asked at the date of platting.

Jim Morley Jr. said yeah because if they come out and redo some of their water lines out there and now there is all kinds of pressure, you know....

Attorney Doll said so an approval of the plat conditioned upon added language that incorporates the information off of this letter and you have seen the letter right.

Jim Morley Jr. said yeah.

Attorney Doll asked that is not objectionable.

Jim Morley Jr. said no, I think, I would just want to make sure we do it at the time of platting because those water systems are always being tweaked and such.

Attorney Doll said and subject to as of this date, as of this date. He said and I have a question about the detention from our meeting today, one of the detention sites is off plat...it's across the road...is there an easement or anything on the plat that shows who owns that property.

Jim Morley Jr. said there is not, but I will say historically we never have done that.

Attorney Doll asked who owns that property.

Jim Morley Jr. asked do you know who owns it.

Mrs. Barnhill asked across the road....Hendrickson.

Bob Johnson said Hendrickson.

Mrs. Barnhill said yes.

Bob Johnson said yeah.

Jim Morley Jr. said I don't know, I mean....

Attorney Doll asked which Hendrickson.

Mrs. Barnhill said well the judge split it all out to the children, so one of the children.

Jim Morley Jr. said I would say that the water that goes there....that's going to go there is the same water that currently goes there, I will say historically in the past, not just this development a lot of developments have drained off site into pits and for lack of a better terms its hey it goes to the pits, you know...and we never chase that down.

Attorney Doll asked you think it's drained there for more than 20 years. He said an easement pipe prescription, I'm looking for a legal way that it can't be blocked or stopped.

Jim Morley Jr. said it can't be blocked or stopped, because Indiana drainage code prevents you from blocking concentrated flow.

Attorney Doll said yeah, but also Indiana court cases say you can't concentrate a flow and drain it on your neighbor.

Jim Morley Jr. said it's already on concentrated.

Attorney Doll said that's why I'm asking, has it been like this for 20 years, you think.

Jim Morley Jr. said your more from that area then I am, what do you think.

Jeremy Aigner said I would think so.

Attorney Doll said okay.

Jim Morley Jr. said yeah.

Attorney Doll said then you would have an easement by prescription.

Jim Morley Jr. said I will take one of those.

Attorney Doll said yeah.

Jim Morley Jr. said it goes under the road there through a pipe so it is already a concentrated....when it leaves the property.

Attorney Doll asked and the pipe is a County pipe.

Jim Morley Jr. said yes, pipe is a County pipe.

Attorney Doll said okay, thank you.

President Valiant asked any remonstrators for or against this project if so step forward, seeing nobody moving, I will bring it back to the Board for any other questions. He said and if you have none I will entertain a motion.

Bob Johnson made a motion to approve PP-22-13.

Attorney Doll said subject to a notation on the plat that as of this date, these factual circumstances exist.

Bob Johnson made a motion to approve PP-22-13 subject to the plat stating that at this time there is not enough water pressure to provide fire support. Doris Horn seconded the motion and it was carried unanimously.

Jim Morley Jr. said thanks everybody have a good night.

President Valiant said thank you sir.

Jeremy Aigner said thank you.

Bob Johnson said thank you Jeremy.

**OTHER BUSINESS:**

**COMP-21-07:** Formal Complaint: Owner: Matthew Wilson & Tamara Gentry; 5111 Landview Drive. *Continued from June 13, 2022.*

President Valiant asked Molly do you have a report.

Mrs. Barnhill said I went back out there today, those pictures are in your folders. She said the slide is in, I looked underneath it and it is plugged in to electricity, it's not plugged in to water, and I turned off my car and listened and I didn't hear anything. She said that is my report, I have not heard from Mr. Hambidge.

President Valiant said I thought he was in earlier....no, okay.

Mrs. Barnhill said I thought the whole neighborhood was coming today.

President Valiant said well that is what I thought. He said since the last meeting I have went by there three times, including today, I told Molly I believed her but I was going to drive by anyway. He said there were actually a couple of guys out in the driveway talking, I started to stop and ask them what the deal was, but just looking at it nobody is living in this thing, is my

opinion, of course we can discuss but if you are living in a camper with the slide out, no water, no sewage, but you got your electricity your better than I am.

Attorney Doll said so it is on the agenda we have ample notice to the complaining party.

President Valiant asked we have not heard from the property owners correct.

Mrs. Barnhill said correct, never did get ahold of them.

Attorney Doll said it would be appropriate to make a motion to dispose of this complaint.

President Valiant said I was seeing what the wishes of the Board was, if I keep going out there I'm going to ask the County to reimburse gas money, been by there more times then I care to do, but I was doing my due diligence.

Doris Horn asked do you need a motion to dismiss this.

Attorney Doll said yeah, dismiss or deny.

Doris Horn made a motion to deny complaint 22-07. Jeff Willis seconded the motion and it was carried unanimously.

Mrs. Barnhill said thank you.

### **Pebble Creek:** Sidewalk Waiver

Mrs. Barnhill said this last one, the primary plat has been approved, they are actually secondarying it, but there are some lots that they are starting to build on. She said Dr. Husain is the developer, he was going to come, but he took a covid test today, I told him to please don't come. She continued I have got it highlighted on the first page where the plat is it is lots 21, 22, 23, 24, and 25. She said when it was approved it was approved with full sidewalks, so you can see these are double frontage, so they have had to...initially they are supposed to put sidewalks all the way around there, they are asking to not put sidewalks in the highlighted area.

Attorney Doll asked is that the rear yard.

Mrs. Barnhill said yeah that is their rear yard, their houses face Montgomery Court.

President Valiant said okay

Mrs. Barnhill said so there will be sidewalks on the other side of the street on the end of these lots....end of lot 25 and 21.

President Valiant asked so it's going to be a backyard, yeah.

Mrs. Barnhill said that will be their backyard, and Greg do you have any concerns with...

Greg Webb said I don't as long as we have sidewalks on the front side, what they are considering the front side, for the kids to use I don't have a concern about doing away with the back one.

Bob Johnson said as long as there is a place for the kids to walk safely I don't have a problem with it.

President Valiant said there are sidewalks on the other side, correct, and they're going to be...

Mrs. Barnhill said there will be yes.

President Valiant said yeah, so...

Attorney Doll said so he has asked for a....

President Valiant said waiver.

Attorney Doll said waiver.

Mrs. Barnhill said yes.

Attorney Doll said okay of the...

Doris Horn said 21, 22, 23, 24, 25.

Attorney Doll said rear sidewalks on these specific lots.

Mrs. Barnhill said yes.

Attorney Doll said so the motion, if any motion is made should recite the lots and point out that it is the rear sidewalk.

Mrs. Barnhill said along Sand Drive.

President Valiant asked what are the wishes of the Board.

Greg Webb made a motion to approve the waiver for sidewalks on the rear of the property for lots 21, 22, 23, 24, and 25. Doris Horn seconded the motion and it was carried unanimously.

### **ATTORNEY BUSINESS:**

Attorney Doll said we have sued Nellie's the property owner and for the outside patio at that restaurant which was constructed without a location improvement permit and over two

easements, or with in two easements. He said he has hired council, council has appeared and has an extension to answer until September 2<sup>nd</sup> that is all I know as of now.

Bob Johnson asked which one is that Morrie.

Attorney Doll said Nellie's Restaurant.

Bob Johnson said Nellie's, okay.

Attorney Doll said we have an upcoming contempt hearing in the Fisher case, is it Fisher.

Mrs. Barnhill said yeah.

Attorney Doll said the carnival case that is coming up at the August 22 or is it....

Mrs. Barnhill said I think it is the 22<sup>nd</sup>.

Attorney Doll said September 12<sup>th</sup>.

Mrs. Barnhill said no, not the 12<sup>th</sup>.

Attorney Doll said so both of those matters are moving forward, that's all.

**EXECUTIVE DIRECTOR BUSINESS:**

Doris Horn made a motion to adjourn at 6:31 p.m. Bob Johnson seconded the motion and it carried unanimously.

ATTEST:

\_\_\_\_\_  
Molly Barnhill, Executive Director

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Jeff Valiant, President