

## MINUTES

### **WARRICK COUNTY AREA PLAN COMMISSION**

Regular meeting to be held in Commissioners Meeting Room,  
Third Floor, Historic Court House,  
Boonville, IN  
Monday, February 14, 2022, 6:00 PM

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

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

Also present were Morrie Doll, Attorney, Molly Barnhill, Executive Director and Katelyn Cron, Assistant Director.

**MINUTES:** Bryan Flowers made a motion to continue the approval of the January 10, 2022 minutes. The motion was seconded by Jeff Willis and carried unanimously.

Attorney Doll said I mentioned to Molly, with Amanda's absence for an extended period of time now, um there is a provision in the state statute to allow with my recollection, off the top of my head, the County Commissioner's have the authority to appoint an alternate neighbor to the APC. He added they could be summoned to cover a meeting in the known absence of someone in a regular meeting. He said my advice would be to explore that to see about having a floating member, an alternate, an eighth member who could cover because sometimes it is really difficult to get a large quorum to meetings in the evenings and it would be great if we could do that. He said you and I can look at it.

President Valiant said thank you Molly and thank you Mr. Doll. He said we have a few primary plats and a couple rezonings on the agenda tonight. He said so we had a lot of things on the agenda and it has narrowed down to one. He said there are a couple items that have been either continued or withdrawn that way if you folks are here for those and you don't want to stay for the other part of the meeting you are welcome to exit.

**PP-21-17: Oak Grove Industrial:** PETITIONER/OWNER: Oak Grove Industrial, LLC by Walter L. Howard, Owner. Approximately 33.7 acres located on the west side of Epworth Road approximately 800 feet south of the intersection formed by Oak Grove Road and Epworth Road. Ohio Township 20-6-9. (*Advertised in the Standard December 2, 2021. (Continued from December 13, 2021 and January 10, 2022).*)

President Valiant said this has been withdrawn.

**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 said that also has a rezoning that goes with it.

**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*).

President Valiant said this has been continued to next month. He asked correct.

Mrs. Barnhill said yes.

President Valiant said alrighty.

**PC-R-22-02:** PETITIONER: Gayle Annette Dorsey OWNER: Gayle Annette Dorsey 1/3 Int, Cynthia J Robbins 1/3 Int. & Maurice A Schuble 1/3 Int. To rezone 33.91 acres located on the north side of Oak Grove Road approximately 0 feet northeast of the intersection formed by Oak Grove Road and Epworth Road from “A” Agricultural Zoning District to “C-4” General Commercial Zoning District with a Use & Development Commitment. Ohio Township 17-6-9. (*Advertised in the Standard December 30, 2021.*) (*Continued from January 10, 2022*).

President Valiant said this has been withdrawn.

Someone from the audience asked what does withdrawn exactly mean.

President Valiant said withdrawn means they have withdrawn their application and if they are going to pursue it they have to re-apply. He said as far as the continuance on Yellowstone, it will be continued to next month which is...

Attorney Doll added March 14<sup>th</sup>.

Richard Reid said and you should get a letter on that.

Attorney Doll said um, well a continuance may not have another notice sent.

Richard Reid said on a withdraw.

President Valiant said on a withdraw, yeah.

Mrs. Barnhill and Attorney Doll said no.

President Valiant said well if they re-file.

Attorney Doll said if they re-file then you will be notified again.

President Valiant said on the continuance on the Yellowstone will just be continued to next month's meeting.

Attorney Doll said so anyone that is here and is interested in the Yellowstone application be back here on March 14<sup>th</sup> at 6:00 pm. He said that is when it will be heard, we think.

President Willis said alrighty, moving on to our main item on the agenda.

**PP-22-03: Lighthouse Landing:** PETITIONER: Phillip Hartz OWNER: ASG Properties LLC by Sarah Mauck, Member. Approximately 5.179 acres located on the south side of State Road 662 and the east side of Pollack Avenue 0 feet south east from the intersection of State Road 662 and Pollack Avenue. Being Parcel 1 in Waterworks No. 1 Minor Subdivision, Recorded in Document # 2009R-010761. Ohio Township 3-6-9. (*Advertised in the Standard February 3, 2022*).

Scott Buedel, Project Engineer Cash Waggoner & Associates, was present.

President Valiant called for a staff report.

Mrs. Barnhill said on the return receipts to the adjacent property owners we have all green cards except one from INDOT which we usually do not receive back from them. She said we do have the white pay receipt showing it was mailed correctly. She said the zoning is "C-4" General Commercial and there is no flood plain. She said the proposed development is a two lot subdivision, lot 1 being 1.394 acres and lot 2 being 3.631 acres. She said the Commissioner's approved the request for no street plans today, they asked for no improvements to Pollack Avenue and their entrance on this one will actually be a state approved entrance. She said their drainage plans were approved today by the Drainage Board today. She said we did not get a letter from Newburgh Sewer so any approval would be subject to a letter of capacity from Newburgh Sewer. She said Chandler Water does have capacity. She said the plat would be in order subject to the INDOT approval for the entrance off of Pollack and the Newburgh Sewer capacity letter.

President Valiant said thank you Molly. He asked Mr. Buedel anything to add to the staff report.

Scott Buedel said I am here on behalf of the owners of the property. He said there was a Limited Power of Attorney that was filed today, recorded today and dropped off at the Planning Commission and if you don't have it I can give you my copy.

Mrs. Barnhill said yes I have that. She said ASG Properties LLC designate Glen Merritt and Scott Buedel.

President Valiant said okay.

Scott Buedel said then the other two items that Molly had mentioned, from the state standpoint, the reason we're getting an INDOT permit is because the state acquired right of way going down Pollack Avenue so INDOT did acquire that right of way and we are trying to cross that to get out to Pollack. He said we are in the process of getting an INDOT permit. He said we have got some feedback from what we have submitted to them so far but nothing is finalized yet so we hope that is close. He said from the standpoint of Newburgh Sewer, we have dealt with Russell at Newburgh Sewer, and we feel like everything is in order and we should be getting that capacity letter soon. He said he just wanted to run the modeling on adding the commercial lot into the sewer system that we are discharging to.

President Valiant asked any questions from the Board at this time.

Richard Reid asked what are the plans for the 2 commercial lots.

Scott Buedel said right now Lot 2 is planned to be mini-storage so from the standpoint of ingress/egress there is not going to be a lot that is happening with that. He said Lot 1 is set up to be part of the storage facility but it is going to be built to have the ability to have conditioned storage in it but I think they are going to construct the building as if somebody wanted to come in and have a commercial building on Lot 1 that they could. He said and not to say this is it but just with what happens all the time, a Dollar General type store might go into there. He said that is not set in stone but that is just kind of envisioned the type of building they might build for their storage facility and then the type of business that might come in and run a commercial business out of it. He added for the most part though it is mini-storage.

President Valiant asked any other questions from the Board at this time. He asked any other remonstrators for or against this project please come forward.

Stanley Barron, adjacent property owner at 5722 Byerson Drive, was present.

Stanley Barron said I live on Byerson Drive and I live across the street from the proposed development. He said just some questions for the developer as far as the need for whatever is going to end up being there. He said for the community, um, as far as market studies and things like that. He asked do we need more storage facilities.

President Valiant said sir, you will address the Board and then we will give Mr. Buedel a chance to come up and answer your questions.

Stanley Baron said I mean, that is what I am concerned about. He said and the basis for the market study if there is no need for it if the business fails it would be an eye sore to the community and to the neighborhood. He said it is also going to be traffic increase and light pollution, we live right across the street. He added also keep in consideration the proximity to the Rivertown Trail. He said those are the questions I would have.

President Valiant said okay thank you sir, we will give Mr. Buedel an opportunity to answer those questions. He asked anyone else on this project.

Melinda Mitchell, 101 Yorkshire Drive, was present.

Melinda Mitchell said I live in the Town of Newburgh but right down the street. She said I do have some concerns, that road is extremely heavily traveled. She said you know there is a lot of traffic and Mulzer's Crushed Stone and a lot of farmers constantly going in and out of Mulzers and down that whole street. She said then of course now it is down to 2 lanes instead of 4 lanes because of the bike trail. She said there are a lot of people that use that trail and it is going to be expanded of course, um, I don't know when of course I don't think anyone has a timeline that I know of. She said the safety of the citizens I am definitely concerned about. She said you know, the road is pretty narrow and highly used, um, when I guess storage units aren't going to be a lot of traffic but when he starts talking about retail space and not knowing what could go in there in the future it kind of leaves a big blank. She said like I said, concerns for the people who are using the trail because that is all the way down the road so I would like you guys to at least get you to pinpoint what would be on that front lot because if it is a fast-pace type of store or restaurant or whatever that could be kind of dangerous. She asked would there be a potential of a light there because people are playing Russian rullet trying to take a left out of Pollack Avenue and Byerson Heights across the street. She added it is really crazy on that street now since it is 2-lanes. She said people are trying to get in front of the semis and trucks that are coming and going and it is just, I live there I know, it is dangerous as it is right now. She said then adding another.... One of the things I have heard and one of the rumors, I run the local Facebook page called "My Hometown Newburgh", we have about 7,000 members on it now but someone had mentioned that it might be a gas station. She asked could that even be feasible there when he talks about retail space.

Mrs. Barnhill said it would be allowed in that zoning.

Melinda Mitchell said and we already have 3 gas stations on Newburgh Road and in fact we would have more gas stations on that road compared to all the others, even on the Expressway or our part of the Expressway. She said there aren't even 4 gas stations.... And a gas station there, just in my opinion, would be just horrible. She said I mean, I just can't fathom that so I would like you guys to try to narrow, if possible, to narrow down what that retail space might be before you vote approving the front lot to be used as whatever. She asked is that something that you guys might consider.

Bob Johnson said let me ask you this.

Melinda Mitchell said mhm...

Bob Johnson said if he doesn't know what that front lot is going to be used for where do we go from there.

Melinda Mitchell said well, you know, that is why I get the back lot approving that because I mean even though, like he said, it would be a lot of light pollution but I can't see how that could really be voted against, in my opinion.

Bob Johnson said and also to address more of your concerns, if that turned into say a convenience store or a gas station there would have to be some traffic studies to go through there to accommodate that extra traffic.

Melinda Mitchell said okay, and like I said I would just like you guys to dig as deep as you can because there is a big safety issue right there.

Bob Johnson said sure.

Melinda Mitchell said from my observation so I don't know if you could vote on half of it for the two different lots he is wanting to divide.

Bob Johnson said okay ma'am.

President Valiant said thank you ma'am, thank you very much. He asked anyone else on this project.

Deana Brown, adjacent property owner at 9677 Mariview Court, was present.

Deana Brown said I also live in Byerson Heights. She said our back door, our patio faces directly to the lot they are talking about. She said they touched on a lot of the issues with the safety. She said the Rivertown Trail goes right there and what we understand is that it is going to turn down on Pollack and wind its way down by Angel Mounds which from also what we understand is that the entrance to the new building is going to be there on Pollack so that means the trail is going to cut right across the entrance to this new development that is going in there. She said there are kids on the trail, lots of families, small children, I mean she mentioned the issue. She said also where we live, there are 3 new subdivisions. She said there is Driftwood, there is Riverstone, and there is Williamson or whatever that is called.

Someone from the audience said Williams Landing.

Deana Brown said Williams Landing, thank you. She said my husband did a survey, well uh he looked into it and with all the houses being built, which you can figure there are probably 2 cars per household that is going to add so much more traffic on this "highway" that has already been taken down to 2-lanes. She said so now you are talking about putting other stuff in there and we can hardly get out of our subdivision the way it is. She said the other ones aren't even finished yet so we are talking about 150 more homes in a small area which needs to be considered. She said we will have all of that traffic, on a 2-lane road, and that is all I have to say.

President Valiant said thank you ma'am.

Tanya Mauck, adjacent property owner at 9644 Mariview Court, were present.

Tanya Mauck said hi there, I also live in Byerson Heights and I think we would support everything that has been said and the only other thing maybe I should share is previously commitments from our county have increased housing there tremendously and it is highly residential area. She said not only is the Rivertown Trail there but also the ballpark there at Mulzer so family homes have just really been the heavy focus in that area and it seems mis-directed to suddenly throw a commercial development in that area based upon other commitments from the county and so I think our intersection, that they mentioned, is very dangerous and um, I hate to see the investment that the county has put forth suddenly go in another direction and decrease our home values, etc. She said I would just repeat everything that has been said before me as well, thank you.

Bob Johnson said thank you.

President Valiant said thank you ma'am.

Robert Brown, adjacent property owner at 9677 Mariview Court, was present.

Robert Brown said I am 1 of 32 homeowner's that live in Byerson Heights. He said Byerson Heights has one road in and one road out and it also butts up directly to Pollack Avenue. He said I have some numbers on the new subdivisions that are being built in our area. He said Driftwood Park Estates is a quarter-mile east of this project, there are 80 residents and according to the Bureau of Transportation statistics it is 2 vehicles per residence. He said that is 160 vehicles from Driftwood Estates. He said Riverstone Apartments, or subdivision is being built directly east of Byerson Heights there access and exit is Ellerbush Road, which if you continue south goes right into Mulzer Ballfield, well not the ballpark but the crush stoned. He said Riverstone has 43 lots, 86 vehicles. He said on the southern end of Pollack, right across from the southern end of the proposed project is Williams Landing. He said it has 42 lots which is equivalent to 84 vehicles. He said as other individuals have stated, getting in and out of Byerson Heights is a nightmare now and these other vehicles are just going to add to that problem. He said now if you add a commercial lot, I just can't fathom what it is going to do to Byerson Heights. He said it is next to impossible to get out now because the powers at be reconstructed 662 from a 4-lane road to a 2-lane road with bicycle passes. He said as other people have stated, the safety of residents, the use of the Rivertown Trail come into play. He said I see people, adults and children, walking all along Pollack just to get to the Rivertown Trail. He added it is a magnet for activity. He said people walk their dogs, they ride their bicycles, skateboards, I've seen people on motor scooters which aren't even supposed to be on there, but people use Rivertown Trail more than I ever dreamt they would. He said I am just worried about the safety there and this whole thing just seems like an inconvenience for our area. He said less than a quarter of a mile to the east is a Casey's General Store, three-quarters of a mile to the west is Circle-S with a convenient store, one-mile to the west is a Dollar General Store. He said I just don't know if another commercial building like that is necessary. He said these are just a lot of concerns that I think need to be looked at. He said thank you.

President Valiant said thank you sir. He asked anyone else, I don't think there is anyone else left in the room.

Scott Buedel, Project Engineer Cash Wagner & Associates, returned to the podium.

Scott Buedel said sure, so from the standpoint of the mini-storage the group that is developing this, they have done a number of sites throughout the area. He said the one is just west of Boonville here, as you head back towards Evansville. He said there is one right there on the north side of the highway. He said they did that one and they did another one there in Vanderburgh County. He said I think it is also called Lighthouse Landing and they have done a couple over in Henderson and some others in Southern Indiana so as far as market analysis and trying to find out if this is a good location, I realize we are talking about a subdivision and not site design and what is actually going on here but site design from the standpoint of the storage facility, you know, I believe they are aware of the market and what the need is. He said um, and whenever you mention all the or when all the subdivisions were mentioned and all the number of lots being built in this area, most of lots have covenants and restrictions which don't allow you to park uh a camper on your property or you can't have outbuildings and so forth so the more subdivisions come into an area the more I think that is the need for storage comes into play. He said so I am not in the business but I am sure they have looked at this property then they have looked at the surrounding area and determined that this was a good area for that. He said from the standpoint of a gas station being built on that corner, that is first I have heard of that and from the standpoint of what we have shown on our site plan for what would be turned in if the subdivision was approved it is a rectangular building with a parking lane out front that has a single lane in with parking on either side of it. He said so from a standpoint of pump islands and access around those pump islands and turning radiuses and so forth I just don't see this being utilized for something like that. He said being 1.3 acres it is just not, it is just not suited for a gas station.

President Valiant asked so you're limited on what you can put in there.

Scott Buedel said right, um I do understand the concerns for traffic and the mini-storage were to change and we came through site review and there was a concern that the use of the property was higher than what was needed... um, you know if a traffic study was needed going through site review, whatever the case may be if d-cell lanes were needed you know those could definitely be added when going through the site review process for the use of the property.

Mrs. Barnhill asked Scott, since all that right of way right there is actually state and you have to have state approval for your entrance would that traffic study go through the state. She asked is that how that would work.

Scott Buedel said I don't think the state is going to request that the traffic study is completed. He said I think the state is just looking at where it is in relation to the intersection to make sure it is not in the operational functioning movements of the intersection itself. He said they will make sure it is far enough back and then from the standpoint of maybe a culvert that is underneath that



driveway to make sure that culvert is sized properly so I think they are just looking at it from the standpoint of the geometry of the intersection.

Mrs. Barnhill said okay.

Scott Buedel added not the volume of traffic that would be going through that. He said and then from the standpoint of Rivertown Trail, I realize that is a huge asset for Warrick County and I mean I have seen it myself too there are a lot of people who utilize Rivertown Trail. He said that is just a great asset to Newburgh, Warrick County and hopefully if it interconnects with Evansville it will go all the way through to Evansville too, but uh, from the standpoint of just having a driveway a single-driveway that is crossing you know the trail, there is going to be multiple crossings for the trail as it meanders through the county and there is going to have to be provisions put in place for any type of crossing that, um, would go across there. He said so you know we have done subdivisions where like Driftwood, whenever we did Driftwood there were provisions put in place and we worked with the designers for Rivertown Trail to make sure our entrance accommodated anything that would take place for traffic on Rivertown Trail and also traffic coming in and out of the subdivision. He said so the same thing here there would be accommodations made as far as handi-cap ramps, sidewalks and provide a safe access point and visibility and all those type of things can be addressed at site review when the details of the pavement and the parking lot and so forth are in place.

President Valiant said you may have said it but I might have missed it, the entrance is off of Pollack.

Mrs. Barnhill said it is off of Pollack but it is state right of way right there. She added state comes all the way down to that 55' jog right there and then the county would take over from there.

President Valiant said right, thank you.

Scott Buedel said and then just the shared driveway is proposed where that cross hatched area is so for both lots we are proposing one driveway to access out on Pollack so it would be a shared drive.

Mrs. Barnhill said and the property is currently zoned C-4 which allows for...

President Valiant asked how long ago was that.

Mrs. Barnhill said that was done in 2009 and that allows for a Walmart, a hotel, anything commercial could go in right now without coming here.

President Valiant said a lot of things could go in there, right.

Attorney Doll said without a re-zoning or a special use.

President Valiant said right.

Doris Horn said mhm.

President Valiant asked any other questions from the Board.

Jeff Willis asked are you helping them with their storage or are they having an outside firm design their storage buildings. He added not the building themselves but the site.

Scott Buedel said the site, yeah we will be doing the site yes.

Richard Reid asked how many storage units are you thinking you're going to have in there.

Scott Buedel said I don't have a number of the units but you know how those sites look, they pretty well encompass the entire property. He said so the 3.5 acre site is you know, there is quite a few buildings in there but from the standpoint of whether they are 12' X 24' or they are 6' X 10' I don't, I don't have a...

Richard Reid interjected you will probably have room for some RV's and some open area in the back then too, won't ya.

Scott Buedel said actually the way we have our site plan set up right now it is all enclosed.

Richard Reid said oh.

Doris Horn said okay.

Mrs. Barnhill said open air storage will require a special use and would have to go to the Board of Zoning Appeals.

Richard Reid said oh, okay.

Jeff Willis asked are they building it similar to the one out by Walmart and the one on north Green River.

Scott Buedel said yes, similar to those.

Jeff Willis asked so similar style and everything to those.

Scott Buedel said yeah, yeah.

Bob Johnson asked Scott do you have any clue what might become of Lot 1 in the future.

Scott Buedel said well the way it is told to me is that they are going to build that building basically for conditioned storage and its going to be constructed as if a commercial user came in

and said I would like to buy that property from you, again it is not going to be set up for a gas station because it is just a straight in parking lot, parking on either side, but if somebody were to come in and use just looking at the shape of the building and the use, and I realize it's not going to be this but it just kind of fits the bill as a Dollar General type facility. He said so I would say that is a possibility but...

Bob Johnson said a drug store or something.

Scott Buedel said right, right.

President Valiant said so you said it will be built like a storage facility so kind of like a warehouse.

Scott Buedel said right, right so if that doesn't come into play then I think they're just going to continue on and utilize this as if they didn't divide the property in the first place and just go ahead and have the storage on both properties and it will just be conditioned storage on that property.

President Valiant said gotcha.

Bob Johnson said thank you.

President Valiant said so, just so you will say it because I think this is where you're going with this, there is no plan for it right now. He said they are just building the building but there is no plan right now. He asked they don't have anyone lined up to take this building correct.

Scott Buedel said no, but...

President Valiant said but if somebody comes in.

Scott Buedel said right, we have it drawn on a site plan.

President Valiant said right just so everybody understands that there is nothing going in there other than a building. He asked any other questions from the Board at this time.

Melinda Mitchell, 101 Yorkshire Drive, returned to the podium.

Melinda Mitchell said if the front lot is like not designated and they would go ahead and build that building if someone would buy that property they could just tear that building down and when he says they are talking about a Dollar General store well we have one just a few blocks.

President Valiant said I think he, and if you said it right, I think he said the building reminds him of a Dollar General not that it is a Dollar General store.

Melinda Mitchell said right.

President Valiant said I think he was just trying to put us in the mind frame of what type its going to be.

Melinda Mitchell said but how many acres is the front lot.

President Valiant said 1....

Richard Reid said .394.

Melinda Mitchell asked what was it.

Scott Buedel said 1.3.

Melinda Mitchell said okay, will there be something in writing that says they won't put a gas station in.

Mrs. Barnhill said it is zoned for a gas station, it is already zoned.

President Valiant said yeah, right now one could go in without even coming to this meeting.

Melinda Mitchell said at the point that it was zoned that way...

Attorney Doll interjected 13 years ago.

Melinda Mitchell said yeah, it was a 4-lane road.

Attorney Doll said no, it was zoned that way 13 years ago and I am not sure it was a 4-lane road 13 years ago.

Melinda Mitchell said well I live there.

Attorney Doll said and so do I, in that area, but it has been this way for 13 years.

Melinda Mitchell said yeah, well now it is 2-lanes and it wasn't 2-lanes.

Attorney Doll said it has been C-4 for 13 years.

Melinda Mitchell said well what I said was that 13 years ago it was not the same situation and we didn't have the Rivertown Trail or any of that back then.

President Valiant said right.

Attorney Doll said but they could still put the same... he is not changing the zoning.

Melinda Mitchell said right, I get that.

Attorney Doll restated he is not changing the zoning. He said your argument would be a very appropriate argument if they were seeking to change the zoning from a C-4 to a C-3 or C-2 or C-1 but that is not what they are doing because 13 years ago whoever owned it then, I take it that is not the current owners because there are some deeds in here.

Scott Buedel said I think the Mulzer's owned it.

Melinda Mitchell said yeah I think you're right.

Attorney Doll said okay so 13 years ago the Mulzer's re-zoned this property to C-4 which is a commercial district with the most permissive uses. He added it has dozens of permitted uses that could be used because Warrick County has a sequential zoning code meaning what you have in a C-1, you can also have in a C-2, and what you have in C-2 you can also have in C-3, and so on down the line so it has been this way for 13 years and so they are not trying to re-zone they are just subdividing into 2 pieces which the presentation at the Drainage Board today it was said that that was being done mostly to try and deal with sewer capacity with the Town of Newburgh. He asked am I accurate Scott or inaccurate.

Scott Buedel said well the Town of Newburgh is... I mean we are applying for permits for both lots to get capacity for both lots.

Attorney Doll asked what is the sewage needs for a storage building or a series of storage rental buildings.

Scott Buedel said zero.

Attorney Doll added so there wouldn't be anything back there so all the sewer capacity is out by the highway and it is a how many acre. He asked 1.37.

Richard Reid said 1.394.

Attorney Doll asked what is the maximum capacity of parking on a parcel that size in a C-4.

Scott Buedel responded it depends on the use of the building. He added it could be 1 to 200 or...

Mrs. Barnhill asked are you talking about on a commercial like storage buildings.

Attorney Doll said any building, just commercial.

Mrs. Barnhill said it goes by the use, 1 per 500 square feet, 1 per 200 square feet.

Attorney Doll said so the reason I asked that question is to demonstrate that the lot may have less traffic than a residential lot might have. He added because residential lots are tiny I mean they can be very, very small. He said so if you can have 2 cars per every residence then you could have a lot more. He said with a lot this size with I don't know, a quarter acre or even less sized lots you

could have 10 or 12 cars parking in a section of ground this size if it was residential. He said so they aren't trying to rezone it, I guess they are just trying to subdivide it until they can figure out or the owner can figure out what specific uses they are going to make of the lots. He asked is that the accurate use of that statement. He asked the purpose of you subdividing tonight is what.

Scott Buedel said to create the back lot for mini-storage and to create the front lot for either to sell it or to use it in the mini-storage.

Attorney Doll said so as we sit here tonight, is the mini-storage, I don't want to use the word certainty but is the mini-storage more of a certainty than not.

Scott Buedel said I mean we have a site plan put together that we are going with.

Attorney Doll asked so you are proceeding, you are progressing on the mini-storage portion.

Scott Buedel said that is what we have prepared yes.

Melinda Mitchell said if they put a bike shop on that front lot that would probably be good.

Scott Buedel said right, that is a possibility I guess if somebody wanted to do it.

Melinda Mitchell said you have to think outside the box.

Attorney Doll said so we are concentrating on that front lot but the real certainty is the real lot, the mini-storage.

President Valiant said correct, right.

Attorney Doll said and it has been zoned this way for 13 years so.

Jeff Willis said and by them shrinking that front lot it is actually going for them to be harder to put something else in there.

Melinda Mitchell said that is true.

Jeff Willis said so if we allow them to subdivide it and make a smaller lot then it is going to be harder for them to have a turn radius and put a gas station in there. He added to put the proper things in for the gas station.

Melinda Mitchell said but then we would still have to go back that there are so many people that we all have a concern with safety.

Jeff Willis said well and storage is going to be one of your lower traffic...

President Valiant said it is going to be low traffic.

Melinda Mitchell said yeah, we couldn't stop that anyway because it is commercial.

Jeff Willis said so that is probably one of the better uses if you're worried about traffic.

Melinda Mitchell said well, it is ugliness. She said you know storage units are ugly and that is a pretty area. She said I mean they are, they are not the prettiest thing.

Jeff Willis said and that is why I asked what they looked like. He said I used to be in the storage industry and I understand they are not the prettiest buildings but...

Melinda Mitchell said right, maybe a nice fence or something there.

Richard Reid said but they are money makers.

Melinda Mitchell said yes they are, but they're ugly.

Jeff Willis said but they do have ones in Boonville and the one on North Green River Road and they are nicer looking facilities as far as storage facilities go.

President Valiant said yeah the one on Green River is nice.

Jeff Willis said yes, the one on Green River is very nice facing the street so I have also met the owners at a convention so.

Bob Johnson said there is a brand new one out there by Walmart.

Jeff Willis said that is the same company.

President Valiant said yeah.

Melinda Mitchell said I don't spend my time in Boonville but, uh... my main concern is the fence and the safety and there is, like they said, there is a lot of foot traffic, bike traffic, skateboarders, and once they expand the trail heading towards Angel Mounds then that whole intersection is going to be just...

President Valiant said it is going to be, yeah.

Melinda Mitchell interjected and right now they have it set up where you have to cross the road to get to the other side. She said there is just this kind of like pedestrian painted strip.

President Valiant said yeah, a crosswalk.

Melinda Mitchell said yeah and I have seen a couple people try to get across that and it is almost impossible.

President Valiant said yeah, not the best planning on that but that wasn't this Board.

Melinda Mitchell asked so, will this be something you guys vote on tonight or will this be so we can have more time.

President Valiant said well and just to make sure that, and I think Mr. Doll explained it very well but if he wasn't dividing this property this company, whoever hired him, wanted to put in a Neighborhood Walmart or whatever that could go in right now and we wouldn't even be here so I just want to make sure you all kind of understand that. He said if he wasn't doing what he is doing tonight, dividing it, anything could go in there...

Melinda Mitchell said well, as long as the state approved of it.

President Valiant said yeah, but I mean anything going in C-4 so I just want to make sure you guys do understand that.

Melinda Mitchell asked is there going to be a safety type study, you know.

Attorney Doll said there will be a curb cut approved by the state, the state will look at the curb, they will look at the driveway.

Melinda Mitchell said okay.

Attorney Doll said they will look at the property to determine if in anyway it interferes with their right of way for vehicular traffic and they will have to get a permit or approval from the State of Indiana Department of Highway, or Department of Transportation, DOT. He said they will draw it up and it will have to meet certain specifications for width and radius and all those things to make sure trucks or whatever could get in and out of there if they had to. The state reviews that and determines where a curb cut is and if it is sufficient.

Melinda Mitchell said okay.

Attorney Doll said that is what the state looks at. He said I don't know what the word safety means, I mean I know what the word safety means but there is no definition in the Department of Transportation statutes about that. He said so there isn't a guideline, something that they could measure them by to see if it fits by definition.

Melinda Mitchell said cause with Byerson Heights right across the street and them already having...

Attorney Doll said I am sorry...

Melinda Mitchell said with Byerson Heights, the subdivision right across the street from the entrance of Pollack, and them already having just a horrible time trying to get in and out of there.



Attorney Doll said well, you know um...

Melinda Mitchell said that is why I was wondering if they would put a light there.

Attorney Doll said no, I don't think...

Melinda Mitchell said so you don't think.

Attorney Doll said we don't have any control over that that is strictly up to DOT on the highway but the fact that this property has been zoned this way for so many years. He said the real, frankly, you are trying to hold this property liable for the traffic in the neighboring property that is a subdivision and maybe that is where the question should have been asked, at the time the subdivision was platted, you know were there adequate considerations given to what the vehicular traffic would be generated from the subdivision in that neighborhood. He said so you can't really penalize this commercial property because the subdivision next door has a lot of traffic. He said people have the right to use their property within the limits of the law. He said Warrick County has zoning districts, they are well published, they have been around well this version has been around since 2005. He said so when people bought this ground, when the current owner bought it and I don't even know the current owner, there is a name here but I don't know them, um, they were relying on the fact that this property could be used in certain ways because that is what our code said it could be used for. He said so we can't really come in now and say yeah we know the code says that but we can't let you do that because of X, Y, or Z. He said okay, if we did that we would be what the law calls arbitrary and capricious. He said you can imagine that is something nobody really wants to be.

Richard Reid said that's bad.

Attorney Doll said that is where we get sued and we end up in court and maybe in Indianapolis in the Court of Appeals and maybe even in the Indiana Supreme Court and people ask for monetary damages and sometimes they get that and sometimes they don't. He said but, if it is in the code that this property could be used for that and there isn't anything that conditions that and says you can't do that here, our hands are pretty well tied.

Melinda Mitchell said yeah.

Attorney Doll said and if the current owner was coming and saying you know we would like to rezone this to "C-4" and hypothetically tonight it wasn't "C-4" already and we would like for you to up zone it so we can use it more intensively, more commercially or intensively, now every argument you have made and your fellow residents have made is important and needs to be heard and would be considered by the Board and would be relevant, but that is not what they are doing. He said they are simply saying we have this "C-4" parcel and we want you to cut it in 2 pieces. He said um, the Presidents indicated that that might be a blessing to the neighbor's in that neighborhood because by separating that into a low intensive use in the back where the storage will be probably ensures you are going to have a lot less vehicular traffic on that acreage, generated

from that acreage, then you would if the whole parcel was allowed to be used and somebody like Walmart comes in and says you know were going to build a Neighborhood Market right here.

Melinda Mitchell said you know we already had that right down the street.

Attorney Doll said yes you did.

Melinda Mitchell said we fought it, and we fought it.

Attorney Doll said I understand that but at least you knew they were looking at you, they were in your neighborhood.

Melinda Mitchell said yep.

Attorney Doll said this is the size of a piece of property that might be big enough for a full development like that but cutting it into pieces makes it less developable, less desirable for something that may be a more intensive use that would still fit in a C-4. He said so I know it may not seem like it to you right now but this may be a blessing in disguise.

Melinda Mitchell said and you know I am just here asking questions and...

Attorney Doll said no, no you are citizen of the county and thank you for coming. He said you have every right to be here and ask questions.

Richard Reid said that is your job.

Attorney Doll said yeah, that is your job in the democracy.

Melinda Mitchell said yeah.

Attorney Doll said okay.

Melinda Mitchell said yeah, and I appreciate you taking the time to kind of break it down and make it a little bit more clear because you guys have the plans and we don't. She said I mean we didn't really get to see anything so that's why I think a lot of us are here too.

Attorney Doll said I understand.

Melinda Mitchell said okay, well if they do rezone I think you would have a battle.

Attorney Doll said well there is no bigger "C" District above 4.

Melinda Mitchell said well...

President Valiant said thank you.

Tonya Mauck, adjacent property owner at 9644 Mariview Court, returned to the podium.

Tonya Mauck said I would just like some direction in regards to the sewer permit or... what is the next step on that and if we have questions and concerns in regards to that.

Attorney Doll asked Scott do you want to talk about that, I mean it is your project.

Scott Buedel said yep, we have contacted Newburgh Sewer for just the sewer capacity letter at this point in time. He said there is sewer over in Williams Landing, the new subdivision is at the corner, kind of, the corner of Pollack Avenue and then it makes the 90. He said there is sewer that is very close to the southwest corner of this property so were looking at our options on how we are going to get across the street and how we are going to service the development. He said so we are working with Newburgh Sewer to find out the best route to do that, whether it is an individual grinder-pump lift station type of facility that pumps basically Lot 1 only because Lot 2 is a non-use. He said so there is really no sewer needed on the large lot and so we are just looking at trying to get that over there to that man-hole. He said but whatever the requirements are to get the sewer to Lot 1 we will abide by Newburgh's requirements.

Attorney Doll said and that is sanitary sewer.

Scott Buedel said correct.

Attorney Doll said surface-water or storm water sewer is or drainage is different, separate. He said they cannot be co-mingled, it is against federal law, shouldn't be – shouldn't be co-mingled.

Tonya Mauck said see I have concerns about capacity so should I go to...

Attorney Doll said that is strictly a Newburgh prerogative, they have complete control over their sewer system.

Scott Buedel said and they will run a modeling system of that lot as a commercial use and it produces so many gallons a day and you know in their chart and they will plug that into their system.

Tonya Mauck said right, my concern is there are Newburgh citizens without the capability of sewer and I assume it is a capacity issue so adding this is just... but I will go to them with that question.

Scott Buedel said well I will say that before Williams Landing came along Newburgh Sewer was way out in the farm field so it was a pretty good ways away and so when Williams Landing got developed and Newburgh Sewer got extended to basically the southwest corner of this property, now it becomes a viable piece of property to be able to get into that sewer system whereas two years ago when it was a quarter mile away out in the middle of a field it was not reliable.

Attorney Doll said it was cost prohibited.

Scott Buedel said right.

Tonya Mauck said it is just sad that we have been bi-passed that opportunity. She said we don't have sewer in Byerson Heights.

Scott Buedel said right, right and I don't know if it was necessarily that it is when it was developed that was how it was set up and sewers were not in that area.

Tonya Mauck said right but with this new development they are by-passing us but I think that is an issue I can take up with them.

Scott Buedel said right but one thing, just to add to this, and I don't know what 1.3 acres as a commercial lot that could be developed, we will have on-site storage for our storm water so if you can see on the north side of the property, the lake maintenance and storm drainage easement, that cuts across the north side of the property, Lot 1 I would almost guesstimate cuts off about 1/3 of that property. He said so that is where we are going to store our storm water so if you take a 1.3 acre commercial lot that we are creating and take 1/3 off of there, now we are down too... there is not a whole lot that can go in there.

Attorney Doll said and just to remind the Board, as Commissioner Johnson already knows, as he chairs the Drainage Board you have to have a net neutrality result of the development which means rain water, etc. that falls on that lot discharged on that property cannot be increased by the development. He said you have to discharge the same amount of water...

Scott Buedel interjected or less.

Attorney Doll said or less than does naturally exist in the environment today.

Scott Buedel said correct.

President Valiant asked any other questions from the Board.

Richard Reid asked Scott, were you done with all those questions.

Scott Buedel said uh, I believe so.

Richard Reid said okay, I thought you got cut off so.

Jeff Willis said the only comment I want to make is that I mentioned I had met the potential owners and it was 5 years ago or so. He said I couldn't pick them up out of a line-up and I don't know them personally, I just wanted to mention that. He said the only reason I mentioned that I saw them at the convention is because they were learning how to be, or not learning, they were there contributing to the betterment of the storage industry so.

President Valiant said gotcha, thank you Jeff. He said um, any other questions... if not I will entertain a motion.

Richard Reid made a motion to approve PP-22-03 subject to INDOT commercial entrance approval and Newburgh Sewer capacity letter, it was seconded by Doris Horn and carried unanimously.

Robert Brown, adjacent property owner at 9677 Mariview Court, returned to the podium.

Robert Brown said excuse me, I have a quick question. He asked is recreational zoning also encompassed with the classification of C-4.

Attorney Doll said no.

Robert Brown said that property was rezoned recreational 12 years ago. He said Barton Mulzer proposed that but we fought against it and it passed to recreational.

Attorney Doll said well it has carried on the books of Warrick County as C-4 since 2009.

Mrs. Barnhill said correct.

Robert Brown said this is about the time when... and it that time it was actually agricultural wasn't it and he fought to have it recreational because they were going to build more ballparks and we fought against it because it was in our back yard.

Attorney Doll said all I can tell you is what it shows in the records of Warrick County.

Robert Brown said okay, thank you.

President Valiant asked any other business.

Mrs. Barnhill said the primary plat and the rezoning that are requesting to be continued, shouldn't we get a motion on those.

Attorney Doll said you should.

Mrs. Banhill said okay the primary is PP-22-04.

Attorney Doll asked to continue, is that what it is.

Mrs. Barnhill said it is a request to continue to the March meeting.

Bob Johnson made a motion to continue PP-22-04 to the March 14, 2022 APC Meeting, it was seconded by Jeff Willis and carried unanimously.

Mrs. Barnhill said okay the rezoning that goes with it is PC-R-22-03.

Richard Reid made a motion to continue PC-R-22-03 to the March 14, 2022 APC Meeting, it was seconded by Bob Johnson and carried unanimously.

Mrs. Barnhill said thank you.

**OTHER BUSINESS:**

**ATTORNEY BUSINESS:**

Attorney Doll asked do you want to propose to the Commissioner's the option of alternates.

Jeff Willis said I think it's a good idea.

President Valiant said yeah.

Attorney Doll said I mean Amanda is going to be out for months.

Bob Johnson said I think in Amanda's case yes.

Attorney Doll said well, I would encourage you to have a floating alternate because we don't know. He said for example, Mike Moesner is out for a little while I think from BZA.

Mrs. Barnhill said okay.

President Valiant asked so this is somebody who could do both.

Attorney Doll said well okay.

Bob Johnson said well Sherry is at every meeting she could do it.

Attorney Doll asked could you do both functions.

Sherry said I would check with my Board.

Attorney Doll said it is up to the Commissioner's to name who that would be though.

Bob Johnson said well it is either you or Katelyn.

Jeff Willis asked could we get someone for the BZA too or could that be the same.

Attorney Doll said I don't know I think you could do either Jeff.

Jeff Willis said well there has been a couple times where we only have 4 people.

Attorney Doll said I underlined that section of the code for Molly and we will just send an email to Commissioner Johnson and you can decide how you want to handle it.

President Valiant said I think it is a good idea, you know especially when we know someone is going to be gone long term.

Doris Horn said and with COVID going on and stuff.

Jeff Willis said I think in December we only had 4 people at the BZA meeting.

Attorney Doll said we have had several nights when we barely had a quorum. He said so I would encourage you to think about that and if the Commissioners want a sense of the Board about it I guess the sense would be the Board favors the appointment of a floating alternate that if they know somebody is going to be gone they can give them a call and say hey are you available tonight.

President Valiant asked so is it anytime somebody is out or is it somebody long term.

Attorney Doll said well I would think it would be anytime somebody is out but I think it wouldn't have to be many but maybe one or two alternates and that way we can have a higher chance of a full quorum to consider these applications. He said we have actually delayed some developments in the county, does anybody remember that. He said we have had people show up and say what do you mean you can't vote on this, we are ready to go.

Mrs. Barnhill said it has been a while.

Jeff Willis said couple times where we only have 4 people and we have 1 person who has to abstain for whatever reason.

Attorney Doll said right, okay so the sense of the Board to the Commissioner's would be that you are in favor of a floating alternate.

The Board replied yes.

Attorney Doll said okay, thank you.

**EXECUTIVE DIRECTOR BUSINESS:**

Mrs. Barnhill said nothing further, thank you.

Richard Reid made a motion to adjourn at 7:03 PM. Doris Horn seconded and the motion carried unanimously.

ATTEST:

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Molly Barnhill, Executive Director

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Jeff Valiant, President