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~~EDMORE ZONING BOARD OF APPEALS~~ PUBLIC HEARING
EDMORE VILLAGE COUNCIL
REGULAR SESSION
APPROVED JOURNAL OF MINUTES

October 12, 2020

1. **CALL TO ORDER:** The regular session of the Village of Edmore Council was called to order on Monday, October 12, 2020 at 7:00 p.m. by **President Gloria Burr**.
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL:** Members present – **Ashbaugh, Colburn, Guild, Hadley, Moore, Rasmussen, Burr**. Also present: **Justin Lakamper** – Village Manager, **Shirley Drain** – Village Treasurer, **Kerri Peterson** – Village Clerk.
4. **APPROVAL OF THE AGENDA:** Motion by **Rasmussen** to approve the agenda. Supported by **Moore**.
VOICE VOTE: ALL YES: MOTION PASSED 7-0.

President Burr closed the Edmore Village Council regular session and opened the ~~Edmore Zoning Board of Appeals~~ public hearing at 7:04 p.m. KP

5. ~~ZONING BOARD OF APPEALS~~ PUBLIC HEARING: **REZONING REQUEST 1398 INDUSTRIAL DRIVE:**
a. **PUBLIC COMMENTS:** **Burr** asked for public comments to please state your name before you speak. Please speak loudly and clear as we are on Zoom and it is very hard to hear on Zoom if we do not speak slow and clearly. You can speak up to 5 minutes if you have to and I am asking when someone else is speaking, please do not interrupt the person speaking, you will have a turn to speak. We will now open it up to the public comments. **Krista Jackson:** Good evening. May I take my mask off while I am speaking? **Burr:** Yes. **Jackson:** Thank you. My name is Krista Jackson. I'm an attorney from Smith Haughey and I'm here representing Tony Maxfield, the owner of 1398 Industrial Drive. We are here tonight to request that the property identified as 1398 Industrial Drive, which is parcel number 041-628-001-70, be rezoned to B2. This change was reviewed by the Planning Commission and recommended in a 4-0 vote and I believe that is appropriate for many reasons. This property has been operated as residential, as a 2-unit duplex, for the past 3 years without any incident or any complaint. It is located such that to the north the property is zoned as B2, to the east there is agricultural property, to the south there is agricultural property, and to the west there is an industrial pallet making company. This is a parcel that is about 5.11 acres with a large set-back from the road and again, has been used as residential without any disruption from the surrounding areas. This is across Industrial Park Drive. It is zoned B2. Therefore, we don't have any issue with spot zoning. It would be consistent with adjacent, although across the road, properties and would be a continuation of those B2 parcels. Therefore, just an extension of an existing B2 district. The other properties that are adjacent are industrial zoned, so therefore the industrial zoning would be on two sides. There are other properties within the Village that have this, including one owned by Mr. Maxfield at 651 Forrest, therefore we don't think that should be a determining factor. It's consistent with the intent of the city to have more flexible zoning as the city is trying to get it's RRC certification and the arguments against changing this zoning are somewhat speculative in that really they only take issue if an industry were to come in

that would create an issue with having an adjacent property that's residential and those industries are not currently here and so the change should be made even though those industrial zoned properties are adjacent because there's not an issue at this time. So, if anyone has any questions, Mr. Maxfield is also here if there's something I'm not aware of.

Burr: Thank you. Are there any other public comments? **Tony Maxfield:** I heard after you got started, did you change what is going to be done during the public hearing? Did you add something? **Burr:** We do not vote during a public hearing. That was a misprint. We vote on

our regular agenda. This is just a public hearing. We do not vote on a public hearing. That was a misprint and we had to change it. **Maxfield:** Okay, so when will that be voted on, if I may ask? **Burr:** It will be done in D., under New Business. **Maxfield:** Okay. So that's when you'll go

over the proposed zoning changes plus the request? **Burr:** That's when we'll vote on both of them, yes. **Maxfield:** Okay, thank you. **Colburn:** Just for clarification, Tony, I think what you heard was there's going to be some discussion about the B2 and B1 areas and that was brought up into the hearing, if anybody wanted to make a comment on that as well. **Maxfield:**

Okay. At this time. **Colburn:** At this time. That was the change. **Burr:** Yes, at this time at the public hearing there can be B1, B2 and also the rezoning. We're doing them altogether. **Maxfield:** A couple questions I had on that reading through this new, which looks like the it's the change your proposing drafts, I see you're talking about number of off-street parking spaces required. Is this something for all new or is this something that everybody will have to conform to that's already here? **Lakamper:** The required off-street parking that is required that's in the ordinance is the same. The amendments would create a new designation of residents. Right now, we have single-family, 2-family, multi-family. We created a mixed use dwelling as well. So, all that's doing is adding the same mixed-use dwelling to the same parking requirements of residents. **Maxfield:** Is this a requirement that forces everyone that's in the village to abide by or it's just anything that's new built? I can't believe you have 2 individual parking spots for every single-family dwelling or mixed dwelling and 2 and ½ for every multi family, which one should be covered. **Lakamper:** It's in the ordinance so technically yes, everyone should be following it. **Maxfield:** But do they? **Lakamper:** I have not gone around and counted everybody's parking spots. Like I said, it's in the ordinance, they should be. Anything with new built or proposed new build would certainly be looked at. And if there are that aren't in compliance, we can look at that as well. **Drain:** Would they be grandfathered, Justin, if they were always that way? **Lakamper:** If it was before the passage of this ordinance in 1989. **Maxfield:** So, I guess my question, this ordinance was in effect since 1989 or changed I thought you just said? **Lakamper:** All I did was adding mixed use dwellings to the requirements. The requirements that are there are already in place, yes. **Maxfield:** All right. **Burr:** Thank you. Any other public comments on B1, B2 and rezoning? **Jill Turner:** May I take my mask off? **Burr:** Yes. **Turner:** My name is Jill Turner. I live at 1398 Industrial Park Drive. I have lived there for the last year and a half now with my 8-year-old little boy. We have come to make it a very nice home. We love living there. My son has a big yard that is safe to play in. We just would hope that we wouldn't have to move or even have to have the stress of trying to find another place to live. Because it is extremely hard around here to find a place to rent, especially for a family. Thank you. **Burr:** Thank you. Anyone else in the public have a comment? If not, I'm going to open it up for the council comments.

- b. **COUNCIL COMMENTS:** **Burr:** Any council members have a comment during the hearing? If not, I'm closing the hearing for the rezoning of Industrial Park and B1 and B2 districts.
- c. **ADJOURNMENT OF PUBLIC HEARING:** Adjourned at 7:14 p.m.

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President Burr closed the ~~Edmore Zoning Board of Appeals~~ public hearing and re-opened the Edmore Village Council regular session at 7:14 p.m.

6. **PUBLIC COMMENTS: AGENDA ITEMS:** Burr asked for public comments. None heard.

7. **DEPARTMENT REPORTS:**

A. **POLICE:** Lakamper reported. Total of 198 hours patrolled. Highlights included on September 23rd, a traffic stop near Forest and Fourth Streets led to the discovery of methamphetamine. The vehicle was stopped for suspicion of being operated without having insurance on the vehicle. Officers learned the driver, a 43-year-old Blanchard man, did not have a valid driver's license. A search was conducted of the vehicle. In addition to the methamphetamine, other pills and drug paraphernalia was discovered. The vehicle was impounded. Due to COVID restrictions at the jail, a physical arrest did not occur that night. The incident has been turned over to the prosecutor's office for review and criminal charges.

B. **FINANCE:** Burr reported for Tracy. In addition to our regularly occurring work: Balanced tax rolls and submitted them to the County Treasurer. Spoke with MEDC Grant representative, Louis Vinson, to ensure close out of the Bag Factory CDBG. We have one more form to submit to waive the need to conduct an individual audit, which will be submitted this month. Otherwise, all paperwork has been submitted. Once this form has been submitted, we will successfully be closed out with the MEDC. The U.S. Department of Housing and Urban Development will still need to review all grant documents to officially close it out on their end, however, the MEDC has informed us that they are years behind in this work and for us not to expect this to be finished any time soon. Tracy is on vacation starting October 8th and returning on October 19th. Burr asked for questions. Drain asked does that mean since these documents won't be reviewed anytime soon, we had to have that grant for 5 years, if we did anything out of the usual before that period of time we would probably have to pay that grant back. Does that mean that doesn't start until this is reviewed or has that already started? Lakamper: I don't know. That's a good question. Burr: I talked to Louis about that back when we were doing all of this and he said that from five years from the date that it was closed. But since they are so far behind, I'm presuming they would probably make waivers. Lakamper: We can certainly ask about it. Burr: We can ask them. That's the way it was stated back then. Drain: I'm just worried because they give us a date as council to know when that grant is used up and all. Lakamper: Right and MEDC administers the CDBG grants, so I would assume once they close it out that would be the day of it. But HUD will not do it anytime soon. I will follow up on that one.

C. **DDA:** Lakamper reported for Phil. The DDA moved their meeting to October 21, 2020 in order to hold their meeting in person. Meeting will be at the Curtis Building at noon. Otis Elevator conducted the required tri-annual elevator testing for state certification. The Arts Council has moved into the bag factory. Their arts and crafts store called 'In the Bag' is now open Wednesday through Saturday from 10-6 p.m. The bathrooms are finished, inspected and approved. We can use the upstairs now. That takes us to about a 300-person capacity in normal time, right now the limits are at 85% occupancy, which is 20 people per 1000 square feet. In the case of the Bag Factory that comes out to 85 people per floor. Because that is now available, we had a few weddings that were going to be cancelled that have agreed to hold it on each floor with 85 people. Guild: Is that 85 due to COVID? Lakamper: Yes. Guild: How many otherwise per floor? Lakamper: 150. Guild: 150 per floor? Lakamper: Yes. Burr: Any other questions or comments?

- D. **DPW: Burr** reported for Andy. In addition to our regularly occurring work: We will begin leaf vacuuming once a week until November 30th, starting the week of October 12th. Perforated tiles in the soaker pond at the sewer lagoons had been blown around from the wind and were in disarray. We fabricated steel stakes to hold the tiles in place permanently. We worked on yearly lift station maintenance. We fabricated a saddle to hold a new rubber vacuum tube for the leaf vac. We had a significant amount of Miss Dig's this month (30) for Consumers who have been replacing poles throughout town. Observed a warning light on the newly replaced sewer pump at the main lift station. I have contacted the supplier Jet Pump about getting it repaired under warranty. We should know more about the status soon. Checked each fire hydrant for water and have pumped 8 of them down to prepare for the winter. Reposted 'No Hunting' signs at the sewer lagoons. **Ashbaugh:** I think we're very fortunate to have such innovative workers out there. They have fabricated many things for the machinery that has save the village a lot of money. I think we're very fortunate and they should be commended for their talents and abilities. Over the past year, they've been really good about it. **Burr:** They've been really good about it.
- E. **MANAGERS: Lakamper** reported. The bathrooms are finished at the Bag Factory and the fire alarms are all in, tested and working. The revenue sharing with the state has been replaced with Cares Act funding in the form of a grant. This amounted to a little more than \$5,000. The State did this as a means to save State funds by using the Federal Cares Act money instead. The only issue for us is that Cares Act grant can only be used for specific expenses that were not previously budgeted for and which were needed due to COVID. We did not have a lot of those so we'll be looking for way to ensure that we can use that grant and if we don't use it up then we have to give the rest of the money back by January 2021. **Drain:** Is that above and beyond the regular revenue sharing? **Lakamper:** No, it replaced it. **Drain:** Is that just a one-time thing? **Lakamper:** They have not told us otherwise. The State's proposed budget from the legislature for their upcoming fiscal year includes fully funded revenue sharing and the Governor has indicated that she supports this. I anticipate further revenue sharing payments to return to normal. That may change. **Colburn:** What governs the revenue sharing? It seems curious that they could substitute one thing for the other and then it's restricted. **Lakamper:** Part comes from the State and the other is a portion of the sales tax in that area. They just informed us that they gave it to us but not as normal revenue sharing. **Colburn:** There's usually legislation that drives these things and I was just curious as to what the language of the legislation was and whether they have the latitude to do this in the first place. **Lakamper:** It's obviously discretionary, but I can't tell you exactly how legislatively they were able to do this. I can tell you it happened to every city in the state. **Colburn:** It's a statewide thing, but you wonder. Thank you. **Lakamper:** The COVID regulations, even though the executive orders have now been struck down, the Health Department has basically reissued the mask usage and the building size limits under a different authority so that remains in place and MIOSHA also has their own set of rules for the workplace so that also stays in place. So, for the most part there are little changes for us as the Village in terms of COVID regulations despite the Supreme Court ruling. We are meeting in person because we can't otherwise and Zoom at this point is just a courtesy. The park install will happen on November 6th. We are waiting for the equipment to be delivered. DPW will be working Friday and Saturday with us. We are still looking for volunteers to joins us November 6th and 7th. After the election the current Council will still remain the same for our next meeting on November 9th. Once the official election results have been certified and the new Trustees are qualified, they will take their seats on

the board at the December meeting. Good news from the State, they have announced a large grant to deal with the lead and copper issues that we face. I have been in contact with Bob Wilcox from Fleiss and Vandenbrink for details and I will be attending a webinar next week to learn more about eligibility, etc. Depending on the details this could help us significantly with these upgrades. We will be doing our first pipe replacement this year. **Ashbaugh:** I appreciate the update on the blight cleaning up that you made to keep us informed. I really appreciate that. **Burr:** Yes, it's very helpful without us having to call or come in.

F. PRESIDENTS: None.

8. TREASURER'S REPORT: Drain

A. TREASURER'S REPORT & COMMENTS: Drain: Books are closed and balanced for the month of September.

B. APPROVAL OF PAYMENT OF BILLS: **Ashbaugh** moves to approve the payment of the bills. Supported by **Rasmussen**. ROLL CALL VOTE: **Ashbaugh, Colburn, Guild, Hadley, Moore, Rasmussen, Burr**. ALL YES: MOTION PASSED 7-0.

9. COMMITTEE REPORTS: None.

10. APPROVAL OF MINUTES:

A. REGULAR COUNCIL MEETING September 14, 2020: Motion by **Colburn** to accept the September 14, 2020 minutes. Supported by **Moore**. ROLL CALL VOTE: **Ashbaugh, Colburn, Guild, Hadley, Moore, Rasmussen, Burr**. ALL YES: MOTION PASSED 7-0.

11. NEW BUSINESS:

A. APPROVAL – PURCHASE AGREEMENT OF PARCEL NUMBER 041-628-001-40: Lakamper: This is the parcel on Industrial Drive between Gale's Gym and the storm water retention pond. This is a purchase agreement between the Village and HBS Cru who is prequalified with the State for a class C medical marihuana grow facility. The agreement is fairly standard but, a few notable provisions are: The sale is contingent upon them successfully obtaining a municipal marihuana license. The Village would provide an ALTA survey and title insurance. The closing costs would be split 50/50. HBS Cru would have 2 years from the issuance of municipal marihuana license to build a facility. Should they fail to do so, and the land be subsequently sold, any profit above the original sale price and any costs of improvements would be split between HBS Cru and the Village equally. Closing would be December 16 2020. The total sale price is \$30,000. After the survey and insurance, the Village would net around \$27,000. This is the price we discussed at the last meeting and they agreed to it. HBS Cru will have to install water lines and they also have to install a sewage pump to pump to a main that is up the street in front of Gale's property. It's a pretty solid piece of land for them and I think it works well for the Village also. **Colburn:** Is the license in any way predicated in part on them getting a location? **Lakamper:** Yes. The location would have to have the special use permit on it. So, in this instance the Village would have to request the special use permit on itself and then it would also have to transfer it to them. **Colburn:** This would have to be approved in order for them to get their license. Is that correct? **Lakamper:** Yes. On this parcel. **Hadley:** Remind us what a class C license is. The number of plants? **Lakamper:** Yes. Motion by **Hadley** to approve the purchase agreement of parcel number 041-628-001-40. Supported by **Guild**. ROLL CALL VOTE: **Ashbaugh, Colburn, Guild, Hadley, Moore, Rasmussen, Burr**. ALL YES: MOTION PASSED 7-0.

B. RESOLUTION – POSTPONE WTER SHUTOFFS UNTIL NOVEMBER: Lakamper: The state had prevented us from conducting water shutoffs until now. That was an executive order that has been struck down so that provision is no longer in place. We could technically start collecting

now. We were suggesting to start in November to give people some time to pay off what they owe. We would send the standard shutoff notice plus an additional letter to all of the accounts that are delinquent at the moment informing them when we're going to start shutting off again, how much they owe, what they can do about it. If we do it in November that gives them a little less than a month to get it paid. One thing I noticed is the number of accounts we have delinquent right now is pretty much the same number of shutoff notices we put out every month. It seems like those two might correlate a bit and that people could use an extra reminder that it's time to pay it. If the council felt it was a good idea to give them ore time than just a month, it's no problem at all. If you wanted to go further into December, it wouldn't change anything. **Burr:** Is the council happy with just giving them a month or extending it out a bit? **Guild:** December would be fine with me. Give them a chance to get the money together. **Burr:** I agree. I think December gives them extra time. This way they'll know by December. If we went December what would the date be Justin? **Lakamper:** December 11th. **Guild:** We would get the letters out when? **Lakamper:** This week. **Guild:** Should give them plenty of time. **Burr** agreed. Motion by **Guild** to accept resolution to suspend water shut offs for non-payment to December 11, 2020. Letters to go out with notification of shut off Friday, October 16, 2020. Supported by **Rasmussen**. VOICE VOTE: ALL YES: MOTION PASSED 7-0.

- C. **APPROVAL – PROPOSED ZONING ORDINANCE AMENDMENTS:** **Lakamper:** These are the amendments that we have been talking about for a while. They all address housing in the B1 and B2 districts. Essentially, we have a little bit of an issue in Edmore that we have residents in those two districts. This would make almost everything existing at the moment compliant and make it a legal path with other development with residential uses in them. The new type of definition of the dwelling that we are adding is a mixed-use dwelling. That will give us a definition of a dwelling located on the upper level floors of an attached or detached building where the street level floor is occupied by another use allowed in the district. This was in the B1 district would essentially make all of the downtown buildings that traditionally have apartments above them once again be able to be used for that. Currently, there are a few that already are being used for that so they would now be compliant. That would be the big change. This is a big trend in planning is to have mixed use buildings, so it's in line with everything that's being suggested and bringing us a step closer to that redevelopment ready certification. The other thing we're doing is adding automobile repair garages and a car wash to the B1 district because they already exist in the B1 district and we're just going through here trying to make sure everybody is compliant for the most part. The addition that we have is we're also going to allow single family, two family, and multi-family dwellings, however that would have to go through the special use permit process. Again, this is already happening in the district, so we want to create a path for these things to work, but we also don't want just every storefront downtown just turning into an apartment building. This way on a case-by-case basis the Planning Commission would have to review those. Moving on the B2 district, we're trying to again add automobile repair garages and car washes to the permitted uses, because again they are also already present, as well as self-storage facilities. We have two of them. They're not in there, so that would make that all compliant. Then here we are also adding multiple family residential dwellings to the permitted uses and single family, two family dwellings as well, but they would need to be located in an existing structure. This would allow what's happening right now to become compliant but it would prevent single family homes being built on M-46 while we have other land in the residential zones that would be

well suited for that and could be bought and used for that. We would also be adding mixed use dwellings there. Again, if there would ever become some larger development, that would allow them right away just to be able to do what is a pretty moderate form of development would be to have stores on the bottom floor, apartments above it if they wanted to. We would just be adding mixed use dwellings to the minimum parking spaces required, so two. So, if you had mixed use you would have to have two for the apartment. The definition of mixed-use dwellings would have to be added. All the rest is the same. **Colburn:** A couple questions. One, I think we talked about this before. Initially on Main Street, we talked about this because it's been like this for decades and multiple people have been doing this for decades and it seems like we're just getting the zoning catching up with what many people have been doing for as long as I know of, I understand that. Getting to some of the other areas though, is it the same situation that you're seeing? This is something that a precedent has been set by people for a long period of time and we're just getting the zoning up to that? **Lakamper:** Yes. In the B2 district, there are at least 4 instances where this would just be now making what somebody is already doing compliant with the ordinance. **Colburn:** But it's a longstanding something somebody's been doing. **Lakamper:** There are some that have been there for a long time. **Colburn:** I know on Main Street; I'm amazed this wasn't there already. Buildings have been set up like that for 100 years. The other things are, I'm a little confused about the mixed-use dwelling in the B1 on the single family, the special uses. If they wanted to come under the special use, they'd have to go under the special approval process, but under the mixed use, what's the distinction there? **Lakamper:** The single family would be the whole building is one residence. Mixed use would be the first floor is the business, the upstairs is the residence. **Colburn:** I understand that, but I meant so the mixed-use dwelling is not something they'd have to go through a whole procedure for? **Lakamper:** It's already a permitted use. **Burr:** Is everyone aware of where the B1 and B2 districts start and end? **Lakamper:** I displayed a map and explained where the B1 and B2 districts start and end. **Burr:** What are the streets at both ends of B1? **Lakamper:** B1 is from Lewis to Maple. **Drain:** It only goes back as far as the alley and not to the next street. **Hadley:** In our B1 district, we have some single-family residences that have been there for a very long time. But because they existed prior to that being zoned B1 this wouldn't require them to have a special use permit or anything like that? They just are what they are. **Lakamper:** They would continue to exist as non-conforming uses like they always have. **Hadley:** And they can buy and sell that property as often as they want, as long as someone continues to use it as a residence that's not an issue. **Lakamper:** Yes. **Hadley:** It would only be if they tore it down, say the house burned down in a fire, they couldn't rebuild a residence there they would have to rebuild a business, that type of thing. **Lakamper:** If these amendments were made, they could apply for a special use permit and then build a house there again if they had got the permit, but yes, you're correct. **Burr:** If someone is living in a home where he just explained, and they wanted to sell that to a business, what would be the steps there? They can just put in a business or does that have to be special use again? **Lakamper:** No, as long as it's a permitted use. If you put repair garages in now, if somebody wanted to sell it to a repair garage, they can just go ahead and do that. Because it would be permitted use then doesn't require any approval or anything like that. In that case, if it then stopped being used residentially, which is a non-conforming use and it went to a business use, then it's business use and that's it. It can't go back. **Burr:** It can't go back to residential. **Lakamper:** It can't go residential unless, if these amendments were done, if they then applied for a special use permit to ask for it to be used as a residency again. **Burr:** They have to go

through a special use permit after. **Lakamper:** Only if non-conforming use was given up. Motion by **Hadley** to approve the proposed zoning ordinance amendments. Supported by **Rasmussen**. ROLL CALL VOTE: **Ashbaugh, Colburn, Guild, Hadley, Moore, Rasmussen, Burr**. ALL YES: MOTION PASSED 7-0.

- D. **APPROVAL – PROPOSED REZONING OF PARCEL NUMBER 041-628-001-70:** **Colburn:** We are essentially being asked to approve what may or may not in a technical legal sense be, but in a principle sense in my estimation is spot zoning. So, what is that? An extreme manifestation of spot zoning would be for instance, a 4-acre industrial use plot in the middle of 1000 acres that's zoned residential. It would be like a little island in and of itself. That would be an extreme manifestation of it. However, the principle behind spot zoning is far less extreme. Spot zoning is illegal because it confers rights to a singular property owner that others in the same area do not receive. And the operative word here is 'zoning'. Without zoning, this entire issue would be moot. Spot zoning is illegal because of the existence of zoning. If we didn't have zoning, people could theoretically build anything anywhere. So, it's important we keep this issue and its components in the context of zoning. What do I mean by that? Those advocating for the zoning change might argue that across the street from one section of the property in question it's zoned B2, and therefore it's in the vicinity of a B2 area and thus the house in the industrial park in question is not inconsistent with that area land use. But that argument takes the essence of spot zoning out of context, at least in principle. When I said that spot zoning is illegal because it confers right to a single property owner that others in the same area don't receive, the word 'area' should be understood within the context of zoning. Obviously, owners of property in different zones have and receive different rights. They're in a different zone. But that misses the point. The word 'area' can legitimately be understood generically, that is in the general vicinity, in the absence of zoning. But the whole purpose of zoning is to define specific areas as distinct one from another. The piece of property in question is in the area or zone, specifically designated for industrial use. No one disputes that. Therefore, it's really irrelevant in principle, what's across the street in a different zone. The area in question in this context, is industrial. No one else in that zoned area uses or has ever to my knowledge, used any part of their property as residential nor can they without being in violation. Therefore, to confer this special privilege to this one singular property owner in that zoned area, while perhaps not technically illegal is nevertheless in my judgement, inappropriate. There is no other compelling reason to change this zoning than to accommodate a singular property owner. That's an essential component of the very definition of spot zoning, which is in its strict manifestation, illegal. If we were talking about expanding an airport or a hospital that abuts the property and this was the only space available or if perhaps someone suggested building a fire station there that benefitted everyone in the zoned area and beyond, that would be one thing. Those would be compelling reasons to consider changing the zoning. Every zoned area or district if you will, abuts another area zoned differently. We can't possibly have zoned areas without one area abutting another. But the purpose of zoning is to separate areas one from another, for different uses and to preserve the space for those different uses. If we don't respect these boundaries except for compelling exceptional reasons, then we're right back to no zoning. If we in essence spot zone this today, then the owner's whose property abuts Mr. Maxfield's current lot, can make the same argument tomorrow that he's making today. They can say, well our property is right up against his that's now zoned B2 and is now allowing residential, so we want to build a house on this piece of industrial park property, too. Rezone our property as well. And they'll have a stronger

argument because would have already allowed it once and thus set a precedent. I think we can all see if we kept that going, eventually potentially, the entire industrial park would be gone. And by what consistent measure could we stop that from happening? If we make decisions in a vacuum, which is what we're being asked to do today, we will have defeated the entire purpose of zoning. That is in my view, short sighted. Now let's contrast this request with another situation in town regarding the same gentleman and out of compliance zoning situation. We just went over this. Main Street. Mr. Maxfield has at least two pieces of property on Main Street which he uses, has used, or is in the process of rebuilding for the purpose using as residential, which were as of a few minutes ago, in conflict with current zoning. The old real estate office and the old Edmore Inn, to name two. But in these situations, Mr. Maxfield has an excellent case for rezoning or modifying zoning and here's why. Numerous properties not zoned for residence and owned by others besides him, have been used as such for decades on Main Street and other areas. There's standalone houses, apartments, dark businesses, and so forth. Mr. Maxfield therefore is not doing something different from all other property owners with his Main Street properties, even though they're technically out of compliance or were. For instance, the difference between the old Edmore Inn, which was being used as an extended stay, and an apartment building, is more of a technical difference than a substantial one. Converting that allegedly drug infested, dilapidated flophouse into a newly renovated apartment or condo building, benefits the entire village and I personally thank Mr. Maxfield for that. There are therefore significant, compelling reasons to change and modify the zoning to allow residential on Main Street. Because unlike with the industrial park situation, rather than changing zoning to benefit a singular property owner, we'll be bringing the zoning in line with what many owners have been using the property along Main Street and elsewhere for many, many decades. I'm all for updating the zoning on Main Street, just voted for it, which will bring Mr. Maxfield's property there in compliance, but I'm solidly against essentially spot zoning the request for the industrial park property. There is no compelling, whole village reason to do so. **Ashbaugh:** I would like to make a comment about the Planning Commission. Their responsibilities and regulations and their review of this parcel and if I'm reading it right, they recommended 4-0 to approve this change. So why do we have a Planning Commission if we don't follow their recommendations for the growth and benefit of our village? **Colburn:** Well, with all due respect, why do we have a Council if we're just going to rubber stamp everything they do? We need to take this into consideration. We take their recommendation and then we think it through, and we weigh it against other things and then we make a decision. **Burr:** That is industrial park and if we do rezone that to a B2, allowing residential in that area, that we are losing land in our industrial park. Which we really should not be doing because we really do not have excess land for industrial. I am suggesting that we do not rezone that to a B2, because I do not want to lose land in the industrial park. Later on, if something was to move in and you did have a home sitting there and they have shift workers coming in, some kind of chemicals, some kind of smells, things aren't real quiet all night long, you're going to have a problem. Your residential and your industrial person. It just needs to stay as an industrial park. **Hadley:** I kind of feel like we've talked this to death. I don't know if there's anything you need to add on this, but I think everyone knows where everyone stands and I think we just need to make sure we're taking the personal out of it and we're just looking at simply what it is. First of all, property isn't created for any one purpose. Someone in time past determined what a certain property should be zoned and shouldn't be zoned and that should always be fluid depending on circumstances. The question here is, what's the best use

of this property? I would say that if there was an existing operating factory on this property that was going to be torn down to be turned into a residence or something like that, I think it would be a completely different discussion. But we're talking about an existing building that's already been built and we're just simply extending the business district one lot over to include – we're changing industrial to business; we're not changing anything to residential. It just seems to make sense to me that this is the best use for the property and bringing it into compliance and everyone's happy. **Burr:** We're also losing industrial land which we do not have offer in industrial, we do not have one as of today, correct, because that's been an argument. **Hadley:** We do not what, Gloria? **Burr:** We do not have industrial knocking on the door up there, correct. That's been discussed. We've already been through all that. But you look in the future, which some things are starting to change, we do have a person interested in a lot up there now, over 2 acres, across the road. There have been inquiries about different parcels in our industrial. So, I just do not want to see any land taken out of our industrial park. I think it should all stay industrial zoned. **Colburn:** Do we need a motion on this one way or another? **Burr:** Yes, you can make a motion. **Colburn:** Should I make one or should I wait? **Burr:** Go ahead and make your motion. Motion by **Colburn** to deny the rezoning request on parcel 041-628-001-70. Supported by **Moore**. **Burr:** Any more discussion? **Hadley:** I want to speak to Gloria's comment that is as far as leaving out industrial land. I would again reiterate that this isn't a vacant parcel. So by denying the request, which instead of in the hopes that maybe someday a factory, some sort of industrial property, may want to build what we're going to create essentially is a 5-acre lot with a vacant building on it for who knows how long. If that's what feel is the best interest of the village, to have vacant property that's not paying water bills and all that because there just sits a vacant building, but I would dare say that he would be better off to use it for at least some purpose rather than just to sit empty. **Colburn:** I just don't think a short-term gain is worth compromising a long-term thing and the industrial park is there for a reason and we need to preserve that area. It's not like we have no place else to have residents in. But it's a lot easier to put a resident someplace than a factory or a business. We need to preserve that. It was put there for a reason and it should be used for that reason and if we lose a little bit, a little bit of tax money, a little bit of water bills or what not, I think that's a small price to pay to preserve that zone. **Hadley** asked **Justin:** How many vacant lots in our residential area do we have? Just off the cuff. **Lakamper:** Four? Four or five. **Guild:** Do you mean that belong to the village? **Hadley:** I just mean vacant lots in general that is available to build a residence on. Discussion ensued about how many vacant lots there were in the village. **Burr:** There's approximately at least eight if not more. **Hadley:** Tom's point was there's lots of place to build and I just don't see a lot of them. **Colburn:** I said there's lots of places for residents or at least I meant to say that. **Hadley:** I understand what you're saying. Yes, people can sell their homes and move out of town and someone else could move in, but as far as creating new residences, I don't know. We had that house built on Charlotte a while back, so you know what I mean. There aren't new residences being created on a regular basis is my point. **Maxfield:** May I speak? **Burr:** I'll let you speak once. Thank you. **Maxfield:** Thank you. Going on about that even asking how many residences. How many are for sale that somebody could build on? I know you went on about you don't want to lose the opportunities to have an industry in that lot, which the village doesn't own that lot to be able to sell it to industry. And thirdly, I guess, I've acted in good faith on this, I had permission from your village official to move forward with that. And there's other people have heard that and understand that also. So, I just want everybody to think about those things and what's happened in the

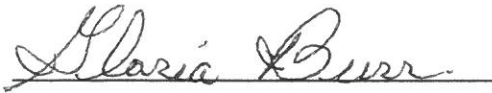
past on quite a few other things. I think Aaron has it. It's the best use for that property. If you drove by that and look at that it's one of the nicer houses in the community with a 5-acre or 5.5-acre yard, whatever it is. It isn't really set up as a place you're going to go in and build any type of industry or a building for that. I know it was brought up about noise if somebody did this or did that with people living there. But it's no different than we have a motel right in the middle of this business district with industrial clear down the side of it and it has never been a problem in the last 20 years as far as the noise or the problems from the industries. We don't have industries that are in there working 24/7 that are making a lot of noise. They're quiet factories. **Burr:** Thank you. **Colburn:** Just say, the best use of industrial zoning is industry. **Burr:** Any more comments from the council or questions? ROLL CALL VOTE: YES – **Colburn, Guild, Moore, Rasmussen, Burr.** NO – **Ashbaugh, Hadley.** MOTION PASSED 5-2.

12. **PUBLIC COMMENTS:** **Carla Green** introduced herself as running for Edmore Village Board trustee.

13. **COUNCIL COMMENTS:** None.

14. **ADJOURNMENT:** Motion by **Rasmussen.** Supported by **Colburn.** VOICE VOTE: ALL YES: MOTION PASSED 7-0

President Burr adjourned the meeting at 8:19 p.m.



Village President



Village Clerk

Approved for Publication

NEXT MEETING: November 9th, 2020

As a side note: This meeting was held in person and televised virtually via Zoom as a convenience due to COVID-19 restrictions.