

**UNOFFICIAL
THE CITY OF EASTMAN PLANNING & ZONING BOARD
EASTMAN CITY HALL
AUGUST 19, 2024
MINUTES**

THE EASTMAN PLANNING & ZONING BOARD MET IN A REGULAR SCHEDULED MEETING AT EASTMAN CITY HALL AT 6:00 P.M.

MEMBERS PRESENT: BOBBY DANFORTH, AMANDA WOODARD, DWAYNE BURNEY, IVELYN LAMPKIN, AND DAVID WHITTEN.

OTHERS PRESENT: CITY OF EASTMAN FINANCIAL REPORTING CLERK VICKI BOHANNON, CITY OF EASTMAN CODE ENFORCER JACK WHITE, CITY CLERK APRIL SHEFFIELD, MARLAN ELLER, ALLEN LONG, JEFF BANKS, AND BRAIN DENNIS.

BOBBY DANFORTH CALLED THE MEETING TO ORDER, AND DWAYNE BURNEY GAVE THE INVOCATION.

APPROVAL OF AGENDA:

BOBBY DANFORTH ASKED FOR AN APPROVAL OF THE AGENDA, DAVID WHITTEN MADE A MOTION TO APPROVE THE AGENDA AS PRESENTED, SECONDED BY DWAYNE BURNEY, THE AGENDA WAS UNANIMOUSLY APPROVED. SO CARRIED.

APPROVAL OF MINUTES:

BOBBY DANFORTH ASKED FOR APPROVAL OR CORRECTION OF THE MINUTES FROM THE SCHEDULED MEETING ON JUNE 17, 2024. DWAYNE BURNEY MADE A MOTION, SECONDED BY AMANDA WOODARD TO APPROVE THE MINUTES OF THE SCHEDULED MEETING ON JUNE 17, 2024, AS PRESENTED. SO CARRIED.

PUBLIC HEARING:

APPLICATION FROM **5404 MAIN STREET LLC.** TO REZONE PROPERTY LOCATED AT 5404 MAIN STREET FROM AN **I** ZONE TO A **P** ZONE IN ORDER TO CORRECT ZONING DISCREPANCIES. MARLAN ELLER WAS PRESENT ON BEHALF OF THE APPLICATION. ALLEN LONG WAS PRESENT OPPOSING THE APPLICATION. ELLER, MANAGER OF 5404 MAIN STREET, LLC, STATES THAT HE RESERVES THE RIGHT TO COMMENT UNTIL AFTER ALL OF THE PUBLIC COMMENTS ARE MADE.

ALLEN LONG, OWNER AND CEO OF FARMERS PROCESSING AND STORAGE COMPANY INC., COMES FORWARD TO SPEAK ON BEHALF OF HIS FAMILY'S INTEREST CONCERNING THE APPLICATION. FIRST, HE ASKS ELLER TO WITHDRAW ALL OF HIS APPLICATIONS. ELLER DECLINES. LONG THEN PRESENTS EACH OF THE BOARD MEMBERS AND ELLER WITH A 1950S LEASE WITH THE RAILROAD LOCATED ON MAIN STREET. HE ALSO PRESENTS THE BOARD MEMBERS AND SECRETARY WITH A FILE FULL OF INFORMATION. VICKI BOHANNON IS ATTACHING THE FOLDER TO THE APPLICATION IN QUESTION. LONG ALSO REQUESTS DETAILED NOTES TO PRESERVE ANY INFORMATION IN CASE THIS BECOMES A LEGAL EVENT. LONG STATES THAT HE IS TRYING TO KEEP THIS SITUATION OUT OF COURT. IF AN AFFIRMATIVE VOTE IS GIVEN, IT WILL RESULT IN A MULTIPLE COURT BATTLE. FIRST, AN INJUNCTION, THEN A MANDAMUS ORDERING CERTAIN THINGS TO BE DONE, AND THEN A CIVIL SUIT FOR ECONOMIC DAMAGES CAUSED TO HIS FAMILY.

EXHIBIT A, ACCORDING TO MR. LONG, ARE SOME QUESTIONS THAT HE SHOULD NOT BE ASKING THE PETITIONER, BUT THE BOARD SHOULD BE ASKING. AFTER HE REQUESTED AND REVIEWED THE UNOFFICIAL MINUTES, A FEW THINGS STOOD OUT. ONE BEING THE CORRECT ZONING. LONG STATES THERE IS NO ERROR IN THE CURRENT ZONING, WHAT IS IN QUESTION IS THE NONCONFORMING USAGE OF THE PROPERTY OWNED BY 5404 MAIN STREET, LLC. THIS NONCONFORMING USAGE IS STATED IN THE CITY OF EASTMAN'S ZONING ORDINANCE THAT WAS ESTABLISHED IN 1970. HE WAS PROUD TO SEE THESE BASIC AND ELEMENTARY ORDINANCES FOR A TOWN OF 5600 PEOPLE. LONG HAS BEEN INVOLVED IN A LOT OF REAL ESTATE TRANSACTIONS IN HIS LIFETIME. HE UNDERSTANDS ALL OF THE COMPLEXITY OF ZONING, RIGHTS-OF-WAY, AND ALL THINGS INVOLVED.

AMANDA WOODARD STOPPED HIM TO ASK A QUESTION. SHE READS FROM HIS HANDOUTS THAT HE REFERS TO CHANGING THE ZONING ORDINANCE. MR. LONG STATES HE WOULD COVER THAT SOON AND ONLY IF NEEDED. HE THEN ASKS ANYONE TO STOP HIM IF THEY HAVE A QUESTION.

LONG GOES ON TO SAY THAT IF THERE IS AN AFFIRMATIVE VOTE OR ANY ZONING CHANGE, HIS FAMILY WILL SEEK ECONOMIC DAMAGES. HE STATES THAT THE BOARD HAS VERY IMPORTANT ROLES TO PROTECT THE INTERESTS OF THE CITIZENS. NOT TO GIVE SOMEONE INTEREST IN ORDER TO INCREASE THEIR VALUE BY TAKING AWAY FROM SOMEONE ELSE.

LONG WAS DISAPPOINTED IN THE MINUTES OF THE PREVIOUS MEETING. NO ONE ASKED A QUESTION, AND THE PETITIONER DID NOT BRING FORWARD INFORMATION AFTER A PARTICULAR PHONE CALL HE HAD WITH MR. LONG. LONG STATES THAT THE PHONE CALL WAS ABOUT HIM WORKING WITH 5404 MAIN STREET, LLC. AND THE CITY AND THE COUNCIL TO HELP THEM OBTAIN WHAT THEY NEED. HE ALSO INDICATED THAT HE WAS OPPOSED TO ANY CHANGE TO THE ZONING ORDINANCE. HE HAD SOME DISAPPOINTMENT WHEN THE SIGNS WENT UP ALONG WITH THE PUBLIC NOTICES. HE THEN DECIDED TO GET TO WORK. LONG CONTACTED THE CITY CLERK TO OBTAIN PREVIOUS MINUTES AND HELP WITH FINDING THE ORDINANCE ONLINE. HE SAYS THERE IS A MAP DISCREPANCY ON THE WEBSITE ALSO.

MR. LONG STATES THAT IF THE LLC DID NOT KNOW THE EXISTING STATUS OF THE PROPERTY WHEN IT WAS BOUGHT, THEY SHOULD HAVE. HE STOPS TO PUT ON HIS BANKER'S CAP TO REPRESENT ALL CREDITORS THAT THIS PROPERTY WILL REMAIN LIKE IT IS AND THE BOARD DECISION WILL EFFECT. THERE ARE A LOT OF OTHER THINGS INVOLVED THAN JUST 'I WOULD LIKE TO HAVE IT THIS WAY.' ISSUE AT HAND IS THE APPLICATION TO CHANGE THE LONG-TERM STANDING OF SAID PROPERTY. HE WAS EXTREMELY DISAPPOINTED IN THE OTHER PROPERTY OWNERS IN QUESTION. LONG STATES THE PURPOSE OF A PUBLIC HEARING IS TO COLLECT EVIDENCE AND RESOLVE ISSUES BEFOREHAND.

LONG READS ARTICLE 10, SECTION 101 OF EASTMAN ORDINANCE, AND THE PURPOSE OF THE ZONING BOARD. HE SAYS THAT THEY ARE TO PROTECT THE EXISTING USES AND PROVIDE AND ENCOURAGE SUITABLE USES, NOT TO CHANGE IT. HE ONCE AGAIN STATES THAT FARMER'S PROCESSING OPPOSES ANY APPLICATIONS SUBMITTED REQUESTING A CHANGE TO THE ZONING IN THAT AREA. HE THEN REQUESTS THAT THE BOARD DENY OR DISAPPROVE THE LLC'S REQUEST. FARMER'S PROCESSING IS IN THE BELIEF THAT IT WILL SUFFER PRESENT AND FUTURE ECONOMIC DAMAGES DUE TO THE ABOVE-MENTIONED ZONING CHANGE AND IS PREPARED TO DEFEND THIS ACTION IN COURT. THE BOARD NEEDS TO CAREFULLY CONSIDER WHAT THEIR ORDINANCES STATE AS IT IS THEIR GUIDE OR BIBLE. IF THEIR ACTION SENDS THE DECISION TO THE CITY COUNCIL, THERE WILL BE AN INJUNCTION FILED.

LONG STATES THAT ANOTHER ISSUE IS THAT THE PROPERTY THAT WAS PURCHASED IS IN NON-CONFORMITY TO WHAT THE CURRENT USAGE IS. NEXT WOULD FOLLOW A MANDAMUS FORCING THE CITY TO ENFORCE ITS OWN LAWS AND ORDINANCES.

LONG ASKS INSPECTOR/ENFORCER JACK WHITE A FEW QUESTIONS. WILL OR HAS THE CITY OF EASTMAN ISSUED A CERTIFICATE OF OCCUPANCY FOR THE APARTMENT BUILDING LOCATED AT 5404 MAIN STREET? WHITE CANNOT ANSWER IF THERE WAS ONE ISSUED IN THE PAST, BUT HE IS ABLE TO

ISSUE ONE NOW IF REQUESTED. LONG SAYS THE PETITIONER COULD ASK FOR THAT INSTEAD OF ASKING TO CHANGE THE ZONING OF THE WHOLE AREA. AND BY THE WAY, THERE IS NO STREAM OR DITCH THERE TO SEPARATE THE BLOCK. SO, THE ANSWER WOULD BE YES, THEY CAN OCCUPY THE AREA AT THE CURRENT USAGE WITH A CERTIFICATE WITHOUT HAVING TO REZONE. AS A GOOD CORPORATE NEIGHBOR, LONG WOULD APPRECIATE THEM. BUT DON'T TAKE THE RIGHTS OF HIS FAMILY AWAY BY DIMINISHING THEIR VALUE TO ENHANCE THOSE OF THE LLC. AMANDA WOODARD ASKS IF THE CERTIFICATE WAS NEVER DONE BEFORE. WHITE STATES THAT HE HAS BEEN UNABLE TO FIND ONE. BOBBY DANFORTH ASKS IF MR. LONG WOULD BE ALRIGHT WITH A CERTIFICATE OF OCCUPANCY BEING ISSUED AND LONG SAYS YES. DANFORTH STOPS THE COMMENTS TO CONSULT WITH THE BOARD. WOODARD WANTS TO CONTINUE AND HEAR BOTH SIDES. DANFORTH AND WOODARD REQUEST A TIME LIMIT, BUT MR. LONG OPPOSES IT.

LONG CONTINUES ON BY STATING AGAIN THAT THE PROPERTY IS IN NON-CONFORMANCE. UNDER THE CODE, BEING IN NON-CONFORMANCE COULD EXPOSE THE INVESTORS TO A HORRIBLE SITUATION. THE CODE ENFORCER COULD WALK IN WITH A CEASE AND DESIST BUT LONG DOESN'T WANT THAT TO HAPPEN. MR. LONG THEN ASKS IF A CERTIFICATE OF OCCUPANCY WOULD SUFFICE. MR. WHITE STATES THAT AS FAR AS HE IS CONCERNED, YES. MS. WOODARD ASKS EVEN IF IT IS ZONED INDUSTRIAL? WHITE SAYS THAT SINCE OUR PREDECESSORS HAVE ALREADY ALLOWED IT, THIS SEEMS TO BE THE ONLY ROUTE TO TAKE AT THIS MOMENT. LONG AND WHITE DISCUSS THE OPTION RECOGNIZING IT AS 'GRANDFATHERED IN.' MS. WOODARD BELIEVES THAT THEY NEED SOME LEGAL ADVICE BEFORE THEY CAN OFFICIALLY MAKE THAT STATEMENT. AT THAT POINT, MR. LONG GOES BACK TO WOODARD'S EARLIER QUESTION ABOUT CHANGING THE ORDINANCE. HE SAYS THAT IT CAN BE DONE BY CHANGING A FEW WORDS AND NOT HAVING TO REWRITE THE WHOLE ORDINANCE. AND MAYBE THERE CAN JUST BE A LITTLE BIT OF AN AMENDMENT IN ORDER TO ACCOMMODATE HIS NEIGHBORS. HE SAYS THAT HE HAS NEVER WANTED TO BE ADVERSARIAL WITH HIS NEIGHBORS. HE WILL GIVE MORE THAN HE WILL TAKE.

BACK TO LONG'S EXHIBITS. EXHIBIT A IS BASICALLY THE SUMMARY JUST GIVEN. EXHIBIT B IS A COPY OF THE P & Z MINUTES. LONG SUGGESTS A CORRECTION TO THE JUNE MINUTES BECAUSE ELLER IS QUOTED AS TO HAVING INVESTORS THAT WANT THIS PROBLEM FIXED. LONG SAYS TO ELLER THAT THERE IS ONLY ONE OTHER INVESTOR, WHICH IS AUSTIN BARROWS. ELLER AGREES. EXHIBIT C IS A MAP SCANNING ACROSS A CLASS 1 RAILROAD, A FREIGHT LINE FOR NORFOLK SOUTHERN WITH 150 FT RIGHT-OF-WAY. THE FRONT DOOR OF THE MAIN STREET PROPERTY DOES LIE 125 FT FROM THE RAILROAD. THE CITY OF EASTMAN FIRE DEPARTMENT LIES APPROXIMATELY 60 FT FROM THE SIDE DOORS OF THIS BUILDING. IF ANYONE HAS HEARD A TRAIN GO BY OR EVEN WHEN ALLEN GOES DOWN TO HIS PROPERTY TO HANDLE FAMILY BUSINESS IN THE MORNINGS AND THE FIRETRUCKS GET PULLED OUT ON THE APRON AND BLOW THEIR HORNS, IT IS NOT AN AREA TO PUT APARTMENTS IN. HE IS FINE WITH THEM BEING THERE. HE WAS FINE WITH IT WHEN HE SOLD THE PROPERTY TO KEITH WATSON AND THEN IT WAS LATER SOLD TO WILLIAM BROWN. IF A HURRICANE OR TORNADO CAME THROUGH AND KNOCKED IT DOWN, THEY WOULD PROBABLY NEVER BUILD BACK AND PUT APARTMENTS THERE. AT THAT TIME, THE REMAINING BLOCK WOULD BE DIMINISHED BECAUSE THE ZONING WON'T GO BACK. EXHIBIT D IS THE APPLICATION, WHICH IS TERRIBLY UPSETTING TO MR. LONG. HE TELLS THE BOARD THAT IS THEY HAD READ IT; THEY WOULD SEE THAT IT MENTIONS 21 PROPERTIES IN THE AREA. HE ASKS WHY WASN'T THE MOST IMPORTANT ONE THAT SURROUNDS THIS ONE AND COMPRISES MORE THAN 31% OF THAT AREA ASKED, 'WELL WHAT ABOUT THESE GUYS?' HE FEELS THAT THE BOARD SHOULD CHALLENGE THE PETITIONER AS TO HOW THE NEIGHBORS FEEL WHEN ANYONE PRESENTS AN APPLICATION TO THEM. THEIR PROPERTY THAT YOU ARE REFERRING TO ONLY REPRESENTS 12.01% OF THE AREA THAT YOU CONSIDER THE WHOLE TRACT. THEREFORE, NON-RESIDENTIAL IS OVER 70% OF THAT TRACT. THERE IS ALSO ANOTHER PARTICULAR PROPERTY WITHIN THAT TRACT THAT BELONGS TO MS. MONICA JOHNSON. THAT

PROPERTY WAS ORIGINALLY ALSO PART OF THE LONG FAMILY. IN THE EXHIBITS, LONG ALSO HAS A SURVEY THAT HE PAID TO DO FOR ALL 3 TRACTS IN QUESTION. THERE IS ALSO A SURVEY OF THE HABITAT HOUSES THAT ARE NOW NO LONGER CONSIDERED HABITAT HOUSES. THERE WERE DILAPIDATED HOMES THAT THE ORGANIZATION CAME IN AND TORE DOWN TO BUILD NEW ONES. LONG HAS NO WISH TO DISTURB THOSE HOMES.

MR. LONG APOLOGIZES FOR THE TIME BUT FEELS THE STORY MUST BE TOLD. HE THEN PRESENTS TITLE DEED FROM THE DODGES BACK ON FROM JANUARY 2, 1885. THE PROPERTY CHANGED HANDS MANY TIMES UNTIL ALLEN'S GRANDFATHER BOUGHT THE PROPERTY IN MARCH 22, 1926. THE PROPERTY HAS NOW BEEN IN THE LONG FAMILY FOR 98 YEARS AND HAS BEEN CONSIDERED AN INDUSTRIAL PROPERTIES THAT HAVE EVOLVED OVER TIME. COTTON GINS, OIL MILL, GRIST MILLS, SAWMILL, AND OTHER AGRICULTURAL THINGS. THIS IS SOMETHING THAT MR. ELLER AND PARTNER SHOULD HAVE KNOWN WHEN THEY BOUGHT THE PROPERTY. MR. LONG AND HIS BROTHER ENTERED INTO THE TITLE IN MAY 1983. THEY HAVE OWNED THE PROPERTY FOR OVER 41 YEARS IN HIS BROTHER RECENTLY DIED AND NOW HIS SHARE HAS GONE TO ALLEN'S NIECE AND NEPHEW. LONG PRESENTS EXHIBIT F FROM 1903 AS TO THE MAKE UP OF THAT PROPERTY. THE 1927 IS THE NEXT PAGE AND THE NEXT IS FROM 1951. EXHIBIT G IS A LARGE MAP SHOWING THE ALL OF THE AREA SURROUNDING ZONED AS INDUSTRIAL WITH THE MAIN STREET PROPERTY SITTING SMACK DAB IN THE MIDDLE OF IT., HE SAYS YOU DON'T GO IN AND CHANGE EVERYTHING ELSE AROUND YOU TO ACCOMMODATE FOR THEIR INTERESTS. HE STATES THAT THE BOARD IS DOING A FABULOUS JOB AS THE CITY OF EASTMAN GROWS BUT THEY DON'T NEED TO GO IN AND INTERRUPT THE WAY THINGS ARE BY OPENING UP A CAN OF WORMS. EXHIBIT I SHOWS WHEN THE PROPERTY IS NON-CONFORMING. ON APRIL 29, 2005, CLOSED THE SALE OF SAID PROPERTY TO KEITH WATSON TO USE FOR A CONTRACTOR'S YARD BECAUSE HE WAS BUILDING HOUSES. LISTER HARRELL WAS ALSO INTERESTED IN THE PROPERTY AT THAT TIME. KEITH USED THE PROPERTY IN THAT MANNER UNTIL 2008 WHEN ALL OF THE BANKS IN TOWN WERE ABOUT TO GO OUT OF BUSINESS AND TOOK HIM OUT OF THE HOUSING BUSINESS. HE THEN CONVEYED THE PROPERTY TO THE COMPASS GROUP WITH LAWYER EMILY KITE EXECUTING THE PAPERWORK. AT THAT TIME, KEITH BORROWED FROM FOUR COUNTY BANK TO CONVERT THE PROPERTY INTO APARTMENTS. MS. WOODARD ASKS ABOUT THE RECORDS FROM 2008. MR. WHITE STATES THAT HE HAS NOT HAD OPPORTUNITY TO SEARCH FOR THOSE RECORDS YET. MR. LONG CANNOT IMAGINE THAT MR. WATSON DID ALL OF THAT WORK WITHOUT A BUILDING PERMIT. HARD TIMES CAME AND FOUR COUNTY BANK FORECLOSED ON THE PROPERTY. IT WAS THEN SOLD TO PHILLIP JARRELL AND WILLIAM BROWN SHORTLY THEREAFTER. MR. BROWN WAS ALSO A CONTRACTOR. LONG STATES AGAIN THAT HE DOESN'T BELIEVE THAT BROWN WOULDN'T HAVE GOTTEN PERMISSION FROM THE CITY TO DO THIS. ATTORNEY JOSEPH MARCHANT HANDLED THIS PARTICULAR SALE. THE LAST TRANSACTION APPEARS TO HAVE BEEN ABOUT A YEAR AGO WHEN 5404 MAIN STREET LLC PURCHASED IT WITH ATTORNEY RON DANIELS HANDLING THE PAPERWORK.

AMONG THE POINTS THAT LONG DECIDES TO MAKE INCLUDE THE LATIN TERM *CAVEAT EMPTOR*; AKA AS IS. WHICH HE A TERM HE SAYS ALL BANKERS AND LAWYERS ARE AWARE OF, WITHOUT WARRANTY THE BUYER TAKES A RISK. IT PUSHES THE RESPONSIBILITY ONTO THE BUYER TO DO THEIR DUE DILIGENCE BEFORE COMPLETING A TRANSACTION.

MR. LONG THEN GOES ON TO SAY THAT HE WANTED TO ASK MR. BARROWS A SERIES OF QUESTIONS. FIRST, HE POINTS OUT THAT BARROW'S PARENTS ARE LONG AND HIS WIFE'S BEST FRIENDS. CONTINUING, HE SAYS THAT HE ALREADY KNOWS THE ANSWER TO HIS QUESTIONS. BARROW IS THE ONLY PARTNER WITH ELLER IN MAIN STREET LLC. ALSO, THIS IS NOT THE FIRST PROPERTY THAT BARROW'S HAS PURCHASED, 7TH AVENUE. HE IS QUITE CONFIDENT THAT AN ATTORNEY DID HANDLE THE TRANSACTION AND THAT THE TRANSACTION WAS RECORDED. LONG CANNOT ANSWER HIS QUESTION OF WAS BARROWS SATISFIED WITH THE CLOSING.

MR. ELLER INTERRUPTS MR. LONG TO ADDRESS THE CHAIRMAN (BOBBY DANFORTH) STATING THAT LONG IS GETTING INTO THINGS WELL OUTSIDE THE SCOPE OF WHAT THE HEARING IS. LONG SAYS IT IS PUBLIC RECORD AND HE WILL GET TO THE POINT. ELLER DOES NOT FEEL THAT THIS NEEDS TO CONTINUE. HE SAYS HE IS THERE TO ANSWER QUESTIONS ABOUT THE PROPERTY'S USE IN REFERENCE TO HIS PETITION. HE IS NOT THERE TO ANSWER WHETHER ANOTHER MEMBER OF HIS COMPANY MAY OR MAY NOT HAVE PURCHASED PROPERTY UNRELATED TO THIS PETITION. LONG STATES THAT HE WILL THEN ASK ELLER THE QUESTIONS. LONG GOES ON TO INFORM THE BOARD THAT ELLER IS THE MANAGING MEMBER OF THE LLC, AND HE IS ALSO AN ATTORNEY. ELLER HAS BEEN TRAINED PROFESSIONALLY AND EDUCATED AND ALSO HANDLE TRANSACTIONS HIMSELF PERSONALLY. LONG STATES THAT ELLER WAS INVOLVED IN FLIPPING A PROPERTY THAT HE BOASTED ABOUT IN FRONT OF LONG AND HIS WIFE ON AUGUST 10 AT THE BARROWS RESIDENCE. LONG IS PROUD OF THEM. THEY MADE \$170,000. BOBBY DANFORTH INTERRUPTS LONG TO ASK HOW MUCH LONGER. LONG SAYS JUST A FEW MORE MINUTES. ELLER WAS ADMITTED TO THE BAR IN 2020 AND LONG STATES THAT ELLER IS A GOOD STANDING CITIZEN WITH A GOOD RECORD AND A GOOD ATTORNEY. THE QUESTION IS DID HE ENTER INTO A PURCHASE AGREEMENT FOR THE SALE OF THE PROPERTY? ELLER SAYS YES. LONG THEN ASKS IF THE PROPERTY WAS CONVEYED AS AN 'AS IS' PURCHASE? ELLER SAYS YES. NEXT, LONG ASKS IF THE SELLERS MISREPRESENTED THE PROPERTY? ELLER SAYS NO. LONG ASKS IF HE WAS REPRESENTED BY AN ATTORNEY? ELLER SAYS YES. LONG ASKS IF THE ATTORNEY DID A TITLE SEARCH ALONG WITH LEGAL DESCRIPTIONS, ZONING, EASEMENTS, AND OTHER ACCESS TO THE PROPERTY? ELLER STATES YES. LONG ASKS IF THE LAWYER PROVIDED A TITLE OPINION COMMITMENT OR A TITLE INSURANCE POLICY? ELLER SAYS THAT HE PROVIDED A COMMITMENT TO THE BANK FOR THE CLOSING ATTORNEY. LONG THEN ASKS WHO PAID FOR IT? ELLER STATES THAT THEY DID. LONG ASKS AGAIN THE SAME QUESTION. ELLER REMINDS HIM THAT THE QUESTION HAS BEEN ASKED AND ANSWERED. LONG PRECEDED TO ASK IF ELLER ENGAGED HIS ATTORNEY TO REVIEW AND EXPRESS OPINION ON THE ZONING DECLARATION FOR THE PROPERTY? ELLER SAYS NO. LONG ASKS WHY. ELLER AGREES TO ANSWER THAT QUESTION WHEN LONG IS DONE. LONG PROCEEDS FURTHER TO ASK IF THERE WAS AN APPRAISAL PERFORMED ON THE PROPERTY? ELLER SAYS NO, THERE WAS NOT ONE DONE AT THE TIME. THE PURCHASE WAS BASED OFF OF AN INCOME RATIO. THE BANK WAS SATISFIED TO ISSUE THE LOAN BASED ON THE AMOUNT OF MONEY THAT WAS COMING IN FOR RENT. HE SAYS THAT LONG IS WELCOME TO ASK THE BANK IF THEY HAVE DONE ONE SINCE. LONG STATES THAT APPRAISERS HAVE TO PUT THEIR REPUTATION ON THE LINE BECAUSE THEY CAN BE HELD LIABLE FOR ANY INCORRECT INFORMATION. EXAMPLES CAN BE FOUND IN EXHIBIT J FOR EACH TYPE OF ZONE. LONG SAYS APPRAISERS ARE SUPPOSED TO DECLARE THE ZONING ON A PROPERTY BUT ELLER HAS STATED HE DOESN'T EVEN KNOW IF THERE IS ONE OUT THERE. LONG THEN CONTINUES ON TO SAY THAT IF ELLER DID NOT KNOW THE PROBLEMS THAT HE WAS ENTERING INTO, HE SHOULD HAVE. LONG CLOSES BY SAYING THAT IT IS QUITE OBVIOUS THAT IT IS, HAS BEEN, ALWAYS, AND COULD BE AN INDUSTRIAL ZONE. GENERALLY, A BUYER WOULD NEED TO PERFORM A PHASE 1 OR 2 CONTAMINATION REPORT OR ENVIRONMENTAL STUDY. LONG ASKS ELLER IF IT WAS DONE ON HIS PROPERTY? ELLER STATES THAT HE DOESN'T KNOW. LONG GOES ON TO SAY THAT ELLER WAS PREVIOUSLY INVOLVED IN A TRANSACTION WITH ANOTHER INVESTOR BY THE NAME OF TIMOTHY SCOTT TAYLOR OF STATESBORO. THIS GENTLEMAN UNDERSTANDS REAL ESTATE TRANSACTIONS. HE WAS INVOLVED IN A LIMITED WARRANTY DEED IN THE PURCHASE OF THAT PROPERTY. IT WAS PURCHASED WITH A JOINT SURVIVORSHIP BUT WAS LATER DEEDED TO AN LLC. LONG HAS A LIST OF PROPERTIES THAT ELLER IS LISTED AS OWNER ON THE DEEDS. HE ASSUMES THAT ELLER HAS THOSE DOCUMENTS. SEVERAL AFFIDAVITS OF TITLE, CERTIFICATIONS OF TRUST, AND OTHER PAPERS WERE FILED. SALES OF AN OLD RIGHT-OF-WAY WITH A TRACT OF LAND. A LOT OF DEEP AND DETAILED

STUFF. LONG'S PRIMARY POINT OF THE ABOVE INFORMATION IS TO SHOW THAT MR. ELLER HAS A HIGH LEVEL OF KNOWLEDGE IN REAL ESTATE TRANSACTIONS.

AGAIN, LONG ASKS DO THEY GO IN AND CHANGE THE ZONING AND DOWNGRADE SOMEONE'S PROPERTY. NOT UPGRADE THE VALUE, BUT DOWNGRADE IT WHEN, IN FACT, IT MAY NOT BE NEEDED. THAT IS BASICALLY LONG'S POINT. BOARD MEMBER BURNEY ASKS ALLEN THAT WHEN HE SOLD THE PROPERTY, WAS IT HIS UNDERSTANDING AND INTENTION FOR IT TO BE A WAREHOUSE? LONG SAYS YES, IT WAS. AND IT WAS ACTUALLY THAT FOR ABOUT 3 YEARS. WE ALSO HAD MADE AN AGREEMENT THAT IT WOULD HAVE WATER AND SEWER INDEPENDENT FROM THE REST. HE WAS ALSO SUPPOSED TO CAPTURE THE RUNOFF FROM THAT PIECE OF PROPERTY, BUT IT HAS YET TO BE DONE UP TO THIS DAY.

LONG REFERRED BACK TO THE ZONING ORDINANCE. THE ZONING ORDINANCE'S PURPOSE IS TO CREATE SPECIFIC USAGES AND BOUNDARIES OF AREAS THROUGHOUT THE CITY. THE CITY OF EASTMAN IS ACTUALLY THE GOVERNING BODY. THE PLANNING & ZONING BOARD ARE JUST THE ONES TO DO THE LEGWORK AND MAKE THE RECOMMENDATIONS. HE READS THE DEFINITION OF A NON-CONFORMING USE. HE THEN SAYS THAT IF THAT PROPERTY HAD OF BEEN APARTMENTS BACK IN 1969, THEY WOULD BE GOOD TO GO. ALLEN IS STILL WILLING TO HELP THEM HOWEVER HE CAN IN ORDER TO CONTINUE ITS OPERATION AS AN APARTMENT BUILDING. BUT HE IS NOT APPRECIATIVE OF THE AGGRESSIVE STANCE TO DIMINISH THE VALUE OF HIS PROPERTY. MS. WOODARD ASKS HOW IT WOULD DIMINISH THE VALUE OF THE PROPERTY BY GOING FROM INDUSTRIAL TO BUSINESS? LONG SAYS HE IS GETTING TO THAT. HE THEN TALKS ABOUT VARIANCES. IS A VARIANCE BETTER THAN A SPECIAL USE? LONG STATES AGAIN THAT HE WOULD LIKE TO HELP HOWEVER POSSIBLE, BUT HE IS OPPOSED TO CHANGING THE ZONING FROM INDUSTRIAL IN ORDER TO SUIT THEIR NEEDS. NEXT IS THE SUBJECT OF DETERMINING BOUNDARIES. HE SAYS THAT HE SAW ALL KINDS OF STUFF ABOUT CHANGING BOUNDARIES AND THE DEFINITION OF A BOUNDARY. "YOU CAN'T DO THAT." HE TELLS THE BOARD THAT THEY CAN RECOMMEND CHANGES BUT WHAT IS THERE IS THERE. HE READS THAT THE LOT LINE OR BOUNDARY LINE CAN BE THE CENTER LINE OF A STREAM, BUT HE SAYS EVERYONE KNOWS THAT IT IS NOT A STREAM, IT IS A DITCH. LONG SAYS THAT IT ACTUALLY JUST USE TO BE A DIRT ROAD THAT HAS WASHED AWAY OVER TIME.

AS FAR AS THE DAMAGE OF BECOMING A B-1, LONG STATES THAT THE BEST PROPERTY THAT YOU CAN HAVE AS FAR AS AN ECONOMIC VALUE IS AN I-1. THAT IS BECAUSE ANYTHING THAT YOU CAN DO IN PROFESSIONAL OR BUSINESS ZONE, YOU CAN DO IN AN I ZONE. PLUS, ALL OF THE THINGS THAT YOU CAN DO IN AN I ZONE THAT WILL ENHANCE YOUR CAPABILITY OF THE PROPERTY, EXCEPT APARTMENTS. THAT IS IN THE ORDINANCE AND THAT IS WHAT HE HAS FOR A SUGGESTION FOR THE BOARD IN ORDER TO HELP ELLER AND HIS PARTNER OUT. THERE ARE 25 THINGS THAT YOU CANNOT HAVE IN A B-1 ZONE. AMONG THOSE BEING A CONTRACTOR'S STORAGE YARD, BUILDING MATERIAL SALES OR STORAGE, BLACKSMITH, AND METAL WORKING. ALL OF WHICH LONG HAS PREVIOUSLY DONE AND STILL HAS EQUIPMENT FOR. THE CITY OF EASTMAN HAS EVEN USED ALLEN'S PROPERTY AS A STORAGE YARD A FEW TIMES. HE SAYS THAT CANNOT BE THE CASE ANYMORE OF THE ZONING IS CHANGED.

BOBBY DANFORTH INTERRUPTS AGAIN TO SAY HE BELIEVES THAT THE BOARD UNDERSTANDS LONG'S POINT. DANFORTH ASKS LONG TO WRAP UP HIS COMMENTS. LONG HANDS OUT A SUGGESTION TO THE BOARD FOR A CHANGE TO THE ORDINANCE CONCERNING AN I ZONE. UNDER USES PERMITTED, ADD (G) APARTMENTS GRANDFATHERED IN AS OF A CERTAIN DATE, AND AN (H) ANY OTHER CASE BY CASE BASIS. THE PURPOSE OF THE INTENT TO CHANGE IS TO GRANDFATHER ANY APARTMENTS LOCATED WITHIN AN INDUSTRIAL ZONE THAT IS CONSIDERED NON-CONFORMING USE AS OF A PARTICULAR DATE. THAT IS IN ORDER TO AVOID THIS GOING FORWARD BECAUSE OF THE CLARITY OF THE PAST HISTORY AND ACCEPTANCE OF WHAT IS ALREADY THERE, IMPROPER BUILDING PERMITS ISSUED, OR UNABLE TO LOCATE PERMIT OR SPECIAL USES

PREVIOUSLY APPROVED. IN CLOSING, HE SAYS THE DAMAGES ARE HARD TO PUT A NUMBER ON, BUT IT IS THE FACT THAT THE MARKETABILITY OF HIS PROPERTY WILL BE DIMINISHED. LONG ALSO SAYS THAT ELLER TOLD HIM THAT IF THE ZONING CAN'T BE CHANGED, IT COULD POSSIBLY DAMAGE THE ABILITY FOR THEM TO SELL THEIR PROPERTY AND BE ABLE TO PROFIT. LONG SAYS THAT THERE IS NO EXCUSE THAT THEY DID NOT DO THEIR RESEARCH BEFORE THEY BOUGHT IT., HE REFERS TO THE PREVIOUS MINUTES AND THE STATEMENT OF THERE BEING ERRORS IN THE ZONING. LONG SAYS AGAIN THAT THERE ARE NO ERRORS IN THE ZONING, IT IS THE USAGE. THE BUYERS SHOULD HAVE KNOWN AND DONE THEIR PROPER DUE DILIGENCE. IF THEY HAD DONE WHAT THEY WERE SUPPOSED TO, HE WOULD HAVE BEEN DOWN HERE WITH THEM ASKING THE CITY TO HELP ACCOMMODATE THEM.

BOBBY DANFORTH APOLOGIZES FOR NOT SETTING A TIME LIMIT BEFORE EVERYTHING GOT STARTED. ALL MEMBERS DO AGREE TO GIVE ELLER THE SAME AMOUNT OF TIME, WHICH IS 50 MINUTES. MARLON ELLER APPROACHES THE BOARD. HE FIRST THANKS MR. LONG FOR HIS VERY ROBUST PRESENTATION. HE STATES THAT THE BOARD HAS LEARNED MORE ABOUT HIM THAN THEY CARED TO KNOW. HE AGREES THAT HE IS VERY WELL VERSED IN THESE ISSUES. HE UNDERSTANDS THAT. EVERY CITY HAS DIFFERENT ORDINANCES AND THEIR OWN SETS OF RULES. WHEN THEY PURCHASED THIS PROPERTY, ELLER DID INVESTIGATE WHY IT WAS ZONED INDUSTRIAL. AT THE TIME THE PROPERTY WAS PURCHASED IN 2021, ELLER HAD THE 2017 ZONING MAP. HE SAYS THAT HE DID CALL THE CITY ABOUT THE ZONING OF THE PROPERTY AND IF HE WOULD HAVE ANY ISSUES. HE STATES THAT HE WAS TOLD THERE WOULD NOT BE ANY ISSUES BECAUSE THE PROPERTY WAS GRANDFATHERED IN AND NOT TO WORRY ABOUT IT. HE DOESN'T SEE WHERE THAT HAS ANY BEARING ON THE PURCHASE OF THE PROPERTY. IT WAS SAID THAT HE SHOULD HAVE KNOW BETTER. ELLER SAYS HE DID KNOW BETTER, AND HE DID ASK THOSE QUESTIONS. THAT'S WHY THEY WENT FORWARD AND WHY IT WASN'T AN ISSUE. ELLER IS UNSURE IF MR. LONG HAS READ THE APPLICATIONS AND ADDENDUMS THAT HAVE BEEN PROVIDED. ELLER KNOWS THAT AT LEAST 4 OF THE BOARD MEMBERS SHOULD REMEMBER SINCE THEY HAVE BEEN PRESENT THROUGH IT ALL. ELLER REMINDS THEM THAT HE STATED THE REASON FOR DOING THIS WAS TO CORRECT SOMETHING GOING FORWARD. HE ALSO HAD TOLD THEM THAT HE WASN'T MARRIED TO THE IDEA OF A ZONING CHANGE. THERE MAY BE OTHER THINGS TO DO. HE IS ON BOARD FOR WHATEVER THEY DECIDE. ALL ELLER NEEDS IS A RECORD THAT SAYS THAT HE ATTEMPTED TO MAKE THAT CHANGE AND THIS IS THE RESULT. ELLER STATES THAT HE IS NOT INTIMIDATED BY MR. LONG'S THREAT OF LEGAL ACTION, AND HE HOPES THAT THE BOARD IS NOT AS WELL. ELLER SAYS THAT IS BECAUSE MR. LONG DOESN'T HAVE A CASE. ELLER THEN GOES ON TO REFER TO SECTION 32 OF THE ZONING ORDINANCE. THIS SECTION REFERS TO ANY PROPERTY THAT WAS LAWFULLY IN USE AT THE TIME OF THE ENACTMENT OF THE ORDINANCE THAT MAY CONTINUE AS A NONCONFORMING USE IS THE ZONING DISTRICT IS CHANGED HEREAFTER. ACCORDING TO ELLER, THAT MEANS THAT LONG HAS NO CASE BECAUSE UNDER THE LAW, HE IS ALLOWED TO DO WHATEVER HE IS DOING EVEN IF THE ZONING IS CHANGED. THEREFORE, ELLER DOES NOT UNDERSTAND THE ARGUMENT. HIS PROPERTY IS NOT THAT VALUABLE. OBVIOUSLY, MR. LONG DOES NOT DERIVE A LOT OF VALUE FROM HIS PROPERTY CURRENTLY BECAUSE HE IS LETTING THE CITY OF EASTMAN USE IT FOR FREE. ELLER THEN PRECEDES TO BEGIN QUESTIONING MR. LONG. HE ASKS IF LONG HAS EVER USED HIS PROPERTY FOR RESIDENTIAL USE? LONG SAYS NO. ELLER THEN ASKS MR. WHITE IF MR. LONG HAS EVER REPRESENTED TO HIM THAT HE HAS USED HIS PROPERTY FOR RESIDENTIAL PURPOSES? WHITE SAYS NO. ELLER THEN REMINDS THE BOARD OF PREVIOUS RECORDINGS AND MINUTES WHERE THEY HAD DISCUSSED WHAT MR. LONG MAY HAVE BEEN USING HIS PROPERTY FOR. ELLER STATES THAT MR. WHITE HAD SAID THAT THERE WAS A TENANT IN THERE. WHITE STATES THAT HE DID SAY THAT BECAUSE AT ONE TIME HE WAS TOLD THAT BACK WHEN JESSE BEARDEN WAS THE INSPECTOR THAT LONG HAD PUT A KITCHEN AND SO FORTH IN AND WHITE WAS UNDER THE

ASSUMPTION THAT SOMEONE WAS LIVING THERE. LONG INTERJECTS TO AGREE THAT WHAT WHITE HAS SAID IS A FAIR STATEMENT. HE SAYS THAT HE AND HIS BROTHER HAD STARTED REMODELING THE OLD OFFICE AND HAD PUT A KITCHEN IN THERE. IT IS NOT FOR RENT, LEASE, OR FOR RESIDENCE SO TO SPEAK. ELLER ASKS LONG IF HE IS STATING FOR THE RECORD THAT HIS BROTHER OR HIS NEPHEW HAVE NEVER LIVED THERE FOR AN EXTENDED PERIOD OF TIME. LONG SAYS THAT IS AN ABSOLUTE NO AND DOES NOT KNOW WHY ELLER WOULD INDICATE THAT. HE SAYS THAT IT IS AN OFFICE AND IF SOMEONE WERE TO STAY THERE. ELLER INTERRUPTS AND REMINDS LONG THAT IT IS HIS TURN TO TALK. AS FAR AS INDUSTRIAL USE, MR. LONG IS CORRECT THAT ANYTHING THAT IS PERMISSIBLE IN A P ZONE OR A B ZONE IS PERMISSIBLE IN AN I ZONE. AS FAR AS RESIDENTIAL, IT IS PROHIBITED. THE WORD PROHIBITED IS WHY WE ARE HERE. IT MEANS SOMETHING. ELLER SAYS HE PUT IN ALL OF THOSE ADDENDUMS BECAUSE AS THEY STARTED LOOKING AT ALL OF THE DETAILS AND WHAT THEY WANTED TO DO AS FAR AS AN EXIT STRATEGY FOR THEIR PROPERTY. IT IS COMMON THAT WHEN YOU PURCHASE A PROPERTY YOU MAY NOT KNOW WHAT THINGS MAY COME UP OR WHAT IS ACTUALLY GOING TO HAPPEN. THERE ARE A LOT OF HIDDEN PROBLEMS WITH PROPERTIES. WHEN THEY STARTED LOOKING INTO THINGS AND THEN THE NEW ZONING MAP CAME OUT IN 2024, AND IT SHOWED INDUSTRIAL. THAT IS WHEN THIS BECAME INTO FOCUS. THAT IS WHEN ELLER FELT THE NEED TO DO SOMETHING TO ADDRESS THAT. YOU HAVE AN INVESTOR THAT GOES AND LOOKS AT THE MAP AND THEN WHAT HAS THE ABILITY TO BE THERE AND REALIZE THAT YOU HAVE SOME EXPLAINING TO DO. BOBBY DANFORTH ASKED IF THE BANK QUESTIONED ELLER ABOUT IT. ELLER SAYS NO BECAUSE THEY HAD ALREADY HAD THE DISCUSSION ABOUT IT. AND, THEY DON'T HAVE ANY DOCUMENTATION FROM THE CITY SAYING THAT THEY ARE IN NONCOMPLIANCE. ELLER HAD CALLED AND ASKED AND WAS TOLD THEY DIDN'T NEED IT BECAUSE THERE WAS NO PROBLEM. THEY WERE GRANDFATHERED IN, AND ELLER HAD WRITTEN THAT IN THE ORIGINAL ADDENDUM. WOODARD ASKS MR. ELLER WHO TOLD THEM THAT THEY WERE GRANDFATHERED IN? HE SAYS HE BELIEVES IT WAS MR. WHITE. WHITE SAYS NO, HE TERMED THEM AS EXISTING WHEN HE CAME TO WORK THERE. ELLER SAYS THERE IS NO DIFFERENCE BETWEEN GRANDFATHERED AND EXISTING. DWAYNE BURNEY ASKS IF THAT SECTION 32 WOULD APPLY THE SAME TO ELLER AS IT WOULD MR. LONG? ELLER SAYS HE DOESN'T KNOW THE ANSWER TO THAT. THAT SECTION REFERS TO THE DATE OF THE CODE, WHICH IS 1970. IN THAT ACCOUNT, HE SAYS THAT THERE IS NO PROPERTY IN THE CITY THAT CAN HAVE A CONTINUING OR NONCONFORMING USE LAW BECAUSE THE ZONING ORDINANCE SAYS IT REJECTS IT. AS MUCH AS ELLER WOULD LOVE TO HAVE THAT PROPERTY REZONED, HE BELIEVES THAT MR. LONG RAISES A GREAT POINT. IT IS UNFORTUNATE THAT IT HAD TO GET TO THIS POINT BECAUSE IT PROBABLY COULD HAVE BEEN RESOLVED WITH A COUPLE OF PHONE CALLS. IF HE AND ALLEN HAD GOTTEN ON THE SAME PAGE, THEY WOULD HAVE PROBABLY COME TO THE BOARD WITH A JOINT PROPOSAL INSTEAD. ALLEN AGREES. ELLER ASSURES THE BOARD THAT WHAT THEY HAVE DONE AND WHAT MR. LONG IS DOING IS IN THE INTEREST OF BUSINESS. IT IS NOT PERSONAL. HE STILL DOES NOT BELIEVE THAT CHANGING TO A B-1 IS GOING TO DEVALUE HIS PROPERTY AT ALL. THERE IS REALLY NO POINT IN KEEPING IT INDUSTRIAL UNLESS HE IS GOING TO USE IT FOR ONE OF THOSE USES THAT REQUIRES PERMISSION. NOWHERE IN HIS SPEECH DID ELLER HEAR LONG SAY THAT HE WANTED TO USE IT AS A SALVAGE YARD OR ANYTHING ELSE THAT REQUIRES PERMISSION. WAREHOUSING, WHICH IS WHAT HE IS USING IT FOR NOW, IS PERMISSIBLE. HE CAN STILL DO IT, EVEN IF THE ZONING IS CHANGED. THE IDEA THAT PURCHASING AN INDUSTRIAL PROPERTY HAS MORE VALUE THAN A BUSINESS ZONED PROPERTY IS SOMETHING THAT ELLER CANNOT FATHOM. BECAUSE WHAT PERSON WHO IS IN RESIDENCE WANT TO LIVE NEXT TO A SALVAGE YARD, COAL MINE, OR EVEN A GAS STORAGE FACILITY? THE ISSUE THAT THE CITY WOULD BE FACING IF THEY KEEP IT ZONED INDUSTRIAL IS THE FACT THAT THERE IS A 6-UNIT APARTMENT COMPLEX SURROUNDED BY THAT PROPERTY AND THERE IS ALSO A RETAIL BUSINESS GOING IN RIGHT NEXT TO IT. THERE IS ALREADY GAS TANKS THAT MAY OR MAY NOT BE EMPTY

STORED ON A DEFUNCT GAS STORAGE BUSINESS. THERE ARE 4 SINGLE FAMILY RESIDENCES THERE BUILT AROUND 1999-2000. ELLER ASKS IF IT IS REALLY NECESSARY TO MAINTAIN INDUSTRIAL ZONING THERE WHEN YOU HAVE 4 RESIDENCES AND 6 RESIDENTIAL APARTMENTS? IF YOU DO PUT A SALVAGE YARD OR SUCH THERE, HOW MUCH IS THAT GOING TO DEVALUE THOSE SINGLE-FAMILY RESIDENCES? NO ONE IS GOING TO WANT TO LIVE THERE. BUT THEN AGAIN, YOU DIDN'T HEAR HIM SAY THAT IS WHAT HE WANTED TO DO? ELLER ONCE AGAIN STATES THAT LONG HAS NO CASE. ELLER ENCOURAGES THE BOARD TO REZONE THE AREA AND ALLOW FOR THEIR SPECIAL USE REQUEST. IF THE BOARD FEELS THREATENED BY MR. LONG'S THREAT OF COURT, FINE. IF THEY WANT TO ISSUE A CERTIFICATE OF OCCUPANCY, GREAT. BUT HE ALSO THINKS THAT THE BOARD SHOULD REVISIT THE IDEA OF SEEING WHAT CAN BE DONE WITH THE CODE AND COMING UP WITH SOMETHING TO RECOMMEND TO THE CITY COUNCIL IN ORDER TO RESOLVE THAT SITUATION. ELLER PROMISES THAT HE IS NOT GOING TO BE THE ONLY ONE IN THAT POSITION. ESPECIALLY SINCE THE CITY HAS INDUSTRIAL BUILDINGS THAT ARE NO LONGER USED AS INDUSTRIAL BUILDINGS. THERE ARE PRIME PLACES, AS MR. DENNIS IN THE AUDIENCE ALSO KNOWS THAT YOU CAN GO IN AND GUT IT OUT AND REHAB IT IN ORDER TO PUT MORE APARTMENTS IN. RESIDENTIAL USE IS THE HIGHEST INVESTMENT USE FOR A PROPERTY WITHIN THE CITY. THAT IS WHY EVERYTHING THAT IS ANNEXED INTO THE CITY IS AUTOMATICALLY ZONED RESIDENTIAL IN ORDER TO ENCOURAGE PEOPLE TO LIVE IN THE CITY. ELLER STATES WHAT THEY ARE DOING IS A GOOD THING BY TRYING TO PROVIDE HOUSING. AS FAR AS THE TECHNICAL AND HOW THE PROPERTY GOT TO BE THE WAY THAT IT IS, ELLER CANNOT ANSWER. HE DOESN'T KNOW. ELLER SAYS HE DID ASK FOR THE PREVIOUS BUILDING PERMITS AND WAS TOLD THEY COULDN'T FIND THEM. HE STATES THAT HE IS NOT GOING TO STAND THERE IN FRONT OF EVERYONE ON A LIVE RECORDING AND AS A LAWYER AND LIE TO ANYONE. ALL HE CAN TELL THE BOARD IS WHAT HE HAS ALREADY TOLD THEM, THEY WENT THROUGH THE WHOLE NINE YARDS WHEN THEY PURCHASED THE PROPERTY. A LOT OF TIME AND ENERGY HAS BEEN SPENT ON THIS ISSUE. TOO MUCH TIME WAS SPENT ON JUST DETERMINING WHERE THE BOUNDARY LINES ARE CONSIDERED TO BE. AS FAR AS A CERTIFICATE OF OCCUPANCY, ELLER IS NOT SURE IF THAT CAN BE EVEN DONE. AT THIS TIME, NO DOCUMENTATION HAS BEEN FOUND WHERE IT WAS ALLOWED TO BUILD EVEN THE SINGLE-FAMILY HOMES THERE. ELLER IS UNSURE IF A CERTIFICATE IS EVEN ALLOWED FOR SOMETHING THAT IS PROHIBITED ACCORDING TO THE CODE. THE QUESTION REMAINS, WHAT ARE WE GOING TO DO ABOUT IT? THEY ARE NOT AND CAN'T EVICT THE SINGLE-FAMILY RESIDENCE OWNERS. THEY HAVE NO INTENTION OF KICKING THEIR TENANTS OUT. IT IS NOT AN OPTION. WITH BOTH CASES, THE PEOPLE ARE INNOCENT. ELLER IS FINE WITH A CERTIFICATE OF OCCUPANCY AS LONG AS IT CAN BE DONE WITHIN THE LAW.

AMANDA WOODARD ASKS THAT IF THE CITY ATTORNEY SAYS IT WILL BE LEGAL TO DO SO, WOULD THAT BE SUFFICIENT? ELLER IS NOT WILLING TO GIVE AN OPINION ON WHETHER ANOTHER ATTORNEY'S OPINION IS LEGAL. WOODARD THEN ASKS WHO THEN DETERMINES WHETHER OR NOT IT IS LEGAL. ELLER STATES THAT HE BELIEVES THAT THE BOARD WOULD MAKE A RECOMMENDATION, AND IT WOULD BE UP TO THE CITY COUNCIL TO APPROVE IT. DWAYNE BURNEY AND AMANDA WOODARD ARE CONCERNED THAT EVEN IF THE COUNCIL APPROVES IT, IS IT ACTUALLY LEGAL? WOODARD STATES THAT EITHER THEY OR THE CITY COUNCIL NEED TO ASK FOR THEIR ATTORNEY'S OPINION. ELLER STATES THAT WHATEVER THE CITY DOES IS WHAT HE RELIES ON. WOODARD IS UNDER THE ASSUMPTION THAT THE COUNCIL EXPECTS THE ZONING BOARD TO HAVE VETTED IT OUT COMPLETELY BEFORE IT COMES BEFORE THEM. THAT IS WHY SHE FEELS IT IS NECESSARY TO SEEK THE ADVICE OF THE ATTORNEY. EVERYONE IS IN AGREEMENT.

BOBBY DANFORTH ASKS MR. ELLER IS THAT CONCLUDES HIS PRESENTATION. ELLER STATES HE IS FINISHED UNLESS THEY HAVE ANY OTHER QUESTIONS. LONG SPEAKS UP AND SAYS THAT HE HAS A BRIEF SUMMARY TO MAKE THAT WILL HOPEFULLY BE IN FAVOR OF A RESOLUTION. DANFORTH SAYS IT NEEDS TO BE BRIEF.

BRAIN DENNIS SPEAKS UP TO ASK A QUESTION. TO CLEAR UP HIS UNDERSTANDING, HE ASKS IF ANYTHING THAT IS GRANTED A SPECIAL USE IS ALLOWABLE FOR THAT ENTITY. BUT ONCE THAT ENTITY SELLS THE PROPERTY OR PASSES AWAY, WHAT HAPPENS TO THE SPECIAL USE? THE BOARD EXPLAINS TO DENNIS THAT IT GOES WITH THE PERSON NOT THE PROPERTY. THE ZONING STAYS WITH THE PROPERTY AND THE SPECIAL USE IS ONLY ATTACHED TO THE PERSON REQUESTING. THE NEXT OWNER WOULD HAVE TO PETITION FOR THEIR OWN SPECIAL USE PERMIT. IF THE REQUEST IS DENIED, IT WOULD JUST BE DENIED. THE BOARD REMINDS MR. DENNIS THAT THE ZONING DOES NOT CHANGE IN A SPECIAL USE. THEY ARE ONLY ALLOWED TO DO SOMETHING SPECIAL IN THAT SPOT. MR. ELLER COMES BACK TO REMIND THE BOARD THAT HE HAD BROUGHT UP THAT SPECIAL USE ISSUE BECAUSE B-1 IS THE ONLY ZONE THAT ALLOWS FOR A SPECIAL USE. AND THAT IS NOT AN OPTION FOR THEM CURRENTLY. AS MS. WOODARD STATES, BUT THAT COULD BE DONE IF THEY CHOOSE TO REZONE THE PROPERTY.

ALLEN LONG REAPPROACHES TO SPEAK WITH A ONE-MINUTE TIME LIMIT. LONG STATED AGAIN THAT HE DISAGREES WITH MR. ELLER AND HIS PROPERTY VALUE WILL BE DIMINISHED. LONG STATES THAT IT IS IN THE ORDINANCE THAT THERE ARE LIMITS TO WHAT HE CAN DO. LONG REITERATES THAT HE IS NOT OPPOSED TO THE APARTMENTS, JUST THE REZONING. HE ALSO REMINDS THEM THAT HE HANDED THEM OUT A VERY, VERY SIMPLE RESOLUTION TO THE ISSUE ONCE THE LAWYERS LOOK AT IT. BASICALLY, FIND A WAY TO HELP THESE 2 GENTLEMEN THAT CAN MOVE THEM FORWARD EVEN THOUGH MR. ELLER HAS REQUESTED A MORE PERMANENT SOLUTION. THERE ARE MANY OTHER AREAS IN TOWN JUST LIKE THIS ONE AND LONG SAYS THEY CAN'T GO IN AND JUST START CHANGING ZONING TO ACCOMMODATE ONE MAN. LONG SAYS AGAIN THAT HE IS THERE TO HELP THOSE GUYS, BUT HE HAD TO TAKE AN AGGRESSIVE, DEFENSIVE POSITION. TIME IS CALLED. MR. LONG STOPS WITH ONE LAST STATEMENT, THAT HIS INTEREST IS HIS FAMILY.

IVELYN LAMPKIN MAKES A COMMENT CONCERNING THE ORDINANCE WHERE THE CERTIFICATE OF OCCUPANCY IS LOCATED. SHE IS UNSURE IF IT APPLIES TO THIS CASE, BUT IT SAYS THAT ANY CHANGE IN AN EXISTING BUILDING AS TO USE, CLASSIFICATION, OR ETC. CAN BE GRANTED UPON APPROVAL. THAT APPEARS TO REFER TO ANY ZONE. OTHER MEMBERS AGREE.

MR. ELLER SPEAKS BACK UP AND SAYS THAT HE UNDERSTANDS BUT THE CODE IS CONFLICTING. HOW CAN YOU SAY THAT WHEN THE CODE ALSO STATES THAT RESIDENTIAL IS PROHIBITED IN INDUSTRIAL? THAT IS THE ONLY HANGUP THAT HE HAS GOT.

AMANDA WOODARD COMMENTS TO REFERENCE THE ZONING PROCEDURES LAW FOR THE STATE OF GEORGIA. SHE READS A SERIES OF QUESTIONS THAT ARE MEANT TO BE ASKED WITH ANY PETITION. THE FIRST ONE IS IF THE ZONING PROPOSAL WITH PERMIT A USE THAT IS SUITABLE IN ACCORDANCE WITH ADJACENT PROPERTIES. SHE THEN REMINDS EVERYONE THAT IN THIS CASE, THERE IS ALL TYPES OF USAGE IN THAT AREA. SO, EVERYONE AGREES YES TO QUESTION #1. THE SECOND QUESTION IS IF THE PROPOSAL WILL AVERSELY AFFECT THE USE OF ADJACENT PROPERTY. IT IS AGREED THAT ANSWER IS DEBATABLE. QUESTION 3 IS WHETHER THE PROPERTY TO BE AFFECTED BY THE ZONING CURRENTLY HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED? QUESTION 4 IS WHETHER THE ZONING PROPOSAL WILL RESULT IN A USE THAT WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE TO EXISTING STREETS AND OTHER TRANSPORTATION FACILITIES. ANOTHER QUESTION IS WHETHER THE LOCAL GOVERNMENT HAS ADOPTED A LAND USE PLAN AND IF THE PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN. WOODARD STATES THAT YES, IT IS REQUIRED BY LAW TO HAVE AND THERE IS ONE AND IT IS ON THE CITY WEBSITE. IT WAS ADOPTED IN 2016. THE PLAN BEING REFERRED TO HAS THAT ENTIRE AREA AS COMMERCIAL AND NOT INDUSTRIAL. WOODARD SAYS THAT GOING TO A B-1 WOULD BE IN COMPLIANCE OF THAT. QUESTION 6 IS IF THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE RECENT DEVELOPMENT OF THE PROPERTY WHICH GIVES SUPPORTING GROUNDS FOR EITHER APPROVAL OR DISAPPROVAL. SHE STATES THAT

THESE ARE THINGS TO THINK ABOUT IF THEY CONTINUE TO MOVE FORWARD WITH THE REZONING. SHE ALSO SAYS THAT SHE STILL HAS CONCERNS ABOUT THE CERTIFICATE OF OCCUPANCY. IT SOUNDS GOOD FOR THIS PARTICULAR CASE BUT THERE IS STILL PROBLEMS WITH THE WHOLE AREA.

BOBBY DANFORTH SPEAKS THAT HE IS AWARE THAT THIS PETITION HAS BEEN DRUG OUT SINCE JUNE OR SO. THE BOARD IS ALSO AWARE OF SEVERAL PLACES IN TOWN WITH ISSUES. HE STATES THAT WHAT HE THOUGHT WOULD HAVE BEEN SIMPLE HAS NOT TURNED OUT TO BE. THE BOARD HAS READ AND TAKEN IN A LOT AT THIS MEETING. THEY WOULD LIKE TO BE ABLE TO PLEASE EVERYONE BUT THAT IS NOT ALWAYS THE CASE. WOODARD SAYS THEY WANT TO TRY TO COME UP WITH A SOLUTION THAT IS ACCEPTABLE. DANFORTH HATES TO POSTPONE THIS AGAIN BUT FEELS THE NEED TO DEFER A DECISION AT THIS TIME AND SCHEDULE A WORK SESSION TO DISCUSS THIS SOME MORE. IT WILL ALSO GIVE TIME TO CONSULT WITH THE ATTORNEY ON SOME THINGS. WOODARD AGREES THAT IT WOULD BE GOOD PRACTICE ESPECIALLY SINCE SOMEONE IS THREATENING TO SUE. LONG SPEAKS UP ABOUT DISAGREEING WITH THE WORD THREATENING. WOODARD SAYS AGAIN THAT SHE FEELS THAT LEGAL NEEDS TO BE INVOLVED.

BOBBY DANFORTH MAKES A MOTION TO DEFER A DECISION IN ORDER TO SCHEDULE A WORK SESSION AND GET THE ATTORNEY INVOLVED AND THEN BE ABLE TO MOVE FORWARD FROM THERE. AMANDA WOODARD SECONDS THAT MOTION. ALL MEMBERS VOTE AFFIRMATIVELY. DANFORTH STATES THAT THIS DEFERMENT ALSO POSTPONES THE SECOND ITEM ON THE AGENDA FOR THE SPECIAL USE PERMIT FOR THE SAME PROPERTY.

MR. LONG STATES THAT HE FEELS THAT THE BOARD IS GOING DOWN THE RIGHT PATH BY GETTING THE ATTORNEY INVOLVED TO FIND SOMETHING TO ACCOMMODATE AND SATISFY THESE GENTLEMEN.

DWAYNE BURNEY SAYS IT IS NOT JUST ABOUT THE TWO PROPERTY OWNERS IN ATTENDANCE. IT ALSO AFFECTS THE OTHERS IN THE AREA. MS. JOHNSON HAS ALSO INVESTED SOME MONEY INTO HER FUTURE BUSINESS THERE.

LONG ASKS THE CITY INSPECTOR WHERE MS. JOHNSON'S ACCESS TO HER PROPERTY IN REFERENCE TO THE RAILROAD LIE? MR. WHITE STATES THAT HER ACCESS IS OFF OF NORMAN AVENUE. THE ACTUAL RAILROAD SPUR RUNS RIGHT IN FRONT OF HER BUILDING. LONG ALSO ASKS IF SHE GOT A BUILDING PERMIT FOR THAT. WHITE SAYS YES, SHE HAS GOTTEN AND BUILDING AND ELECTRICAL PERMIT FOR EVERYTHING THAT IS LEGAL FOR HER TO DO. LONG THEN STATES THAT THIS IS WHAT SHOULD BE DONE. YOU GET THE USE BEFORE YOU GET THE PERMIT. THESE ARE THE CANS OF WORMS THAT GET OPENED UP WHEN THE PROCESS IS NOT FOLLOWED PROPERLY. MR. ELLER SPEAKS UP AND RESPECTFULLY SAYS THAT SHE DID NOT NEED TO GET ONE BECAUSE EVERYTHING THAT IS PERMITTED IN A B ZONE IS PERMITTED IN AN I ZONE. MR. WHITE THEN SPEAKS UP TO THE REFERENCE MADE EARLIER ABOUT THE OFFICE SPACE THAT MR. LONG HAS. THE CITY HAS NEVER ISSUED A CERTIFICATE OF OCCUPANCY FOR IT EITHER AND THEREFORE LEGALLY CANNOT BE LIVING QUARTERS. LONG SAYS HE WILL GET WITH WHITE ABOUT THAT PARTICULAR ISSUE. THE ISSUE GOES BACK TO THE WORD RESIDENTIAL.

NEW BUSINESS:

NONE.

ADJOURNMENT:

THERE BEING NO FURTHER BUSINESS, BOBBY DANFORTH CALLED FOR A MOTION TO ADJOURN THE MEETING. AMANDA WOODARD MADE A MOTION, WITH A SECOND FROM IVELYN LAMPKIN, SO CARRIED. MEETING WAS ADJOURNED.

SECRETARY