

STAFFORD COUNTY PLANNING COMMISSION
April 14, 2021

The meeting of the Stafford County Planning Commission of Wednesday, April 14, 2021, was called to order at 4:30 PM by Chairman Steven Apicella, in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center and at remote locations throughout the County.

MEMBERS PRESENT: Steven Apicella (remote), Darrell English, Barton Randall, Albert Bain, Kristen Barnes, Dexter Cummings (remote), Fillmore McPherson (remote)

MEMBERS ABSENT: None

STAFF PRESENT: Jeff Harvey, Lauren Lucian, Denise Knighting, Mike Zuraf, Joseph Valotta, Kathy Baker, Brian Geouge, John Holden, Rick Colbert

Mr. Apicella: This is Steven Apicella, Chairman of the Stafford Planning Commission. I call this meeting to order. I request that Mr. Cummings, Mr. McPherson, and I be authorized to participating today from a remote location here is Stafford. I would ask my colleagues to approve our electronic participation.

Ms. Barnes: So moved.

Mr. Bain: Second.

Mr. Apicella: I will just do a quick voice vote, everybody in favor, please say aye.

Mr. Randall: Aye.

Ms. Barnes: Aye.

Mr. English: Aye.

Mr. Cummings: Aye.

Mr. McPherson: Aye.

Mr. Bain: Aye.

Mr. Apicella: Aye. Okay, thank you. Two more points to make. Voting on motions will be conducted by voice vote. And if we have any technical issues our Vice Chairman, Mr. Randall will take over as Chairman. Today's invocation will be provided by Mr. English and the Pledge of Allegiance by Mr. Bain. Thank you, Mr. Randall and Ms. Barnes. Alright, thank you. Mr. McPherson, Mr. Cummings, I just want to know if you are able to see video? I am not seeing any video in the chambers on my end.

Mr. McPherson: Not yet. I don't see it.

Mr. Cummings: No, I can't see any.

Mr. Apicella: Okay, I am hoping they can fix that issue. In any event, Mr. McPherson will you please call the roll?

*Planning Commission Minutes
April 14, 2021*

Mr. McPherson: Yes. Chairman Apicella?

Mr. Apicella: Here.

Mr. McPherson: Commissioner Bain.

Mr. Bain: Here.

Mr. McPherson: Commissioner Barnes.

Ms. Barnes: Here.

Mr. McPherson: Commissioner Cummings.

Mr. Cummings: Here.

Mr. McPherson: Commissioner English.

Mr. English: Here.

Mr. McPherson: Commissioner McPherson is here. Commissioner Randall.

Mr. Randall: Here.

Mr. McPherson: We have a quorum.

Mr. Apicella: Thank you Mr. McPherson. And I want to apologize, I have a hoarse voice tonight. So, I am going to do my best. Anyhow, are there any declarations of disqualification on any agenda item? Okay hearing none are there any changes to the agenda? Alright, don't hear any. So, I will now open the public presentations portion of today's meeting. The public may have up the three minutes to speak on any matter except on the three public hearing items on today's agenda. There will be a separate comment period for those public hearing items as they come up. Before starting your comments, please state your name and address. The clock starts when the green light appears, yellow means there is one-minute left and red means your time is up. If anyone is in the chambers that would like to speak, please come forward. Again, I am going to advise everyone, I still am not getting any video of what is going on in the chambers.

Mr. Randall: You have nobody coming forward.

DECLARATIONS OF DISQUALIFICATION

None

PUBLIC PRESENTATIONS

Mr. Apicella: Alright, thank you. So, with that I am going to close the public presentations portion of the meeting and move on to agenda item 1, Mr. Harvey.

PUBLIC HEARINGS

Planning Commission Minutes
April 14, 2021

1. COM20153525; Comprehensive Plan Compliance Review - Telecom Tower American Legion Post 290 - A request to review compliance with the Comprehensive Plan, in accordance with Virginia Code Section 15.2-2232, for the placement of a telecommunications facility, consisting of a monopole, including ancillary equipment, on Tax Map Parcel No. 37-48A, located on the west side of Mountain View Road, approximately 2,100 feet south of Kellogg Mill Road, within the Hartwood Election District. Cellco Partnership d/b/a Verizon Wireless is the applicant. **(Time Limit: June 13, 2021)**
2. CUP20153524; Conditional Use Permit - Telecom Tower American Legion Post 290 – A request for a conditional use permit to allow a communication facility (Facility) within the A-1, Agricultural Zoning District on Tax Map Parcel No. 37-48A (Property). The proposed Facility consists of a 128-foot tall telecommunications monopole with ancillary equipment. The Property consists of 28.43 acres, located on the west side of Mountain View Road, approximately 2,100 feet south of Kellogg Mill Road, within the Hartwood Election District. Cellco Partnership d/b/a Verizon Wireless is the applicant. **(Time Limit: July 23, 2021)**

Mr. Harvey: Thank you Mr. Chairman. Mike Zuraf will be presenting items number 1 and 2, in a combined presentation.

Mr. Zuraf: Good evening Chairman and members of the Planning Commission. Mike Zuraf with the Planning and Zoning Department. If I could have the computer please. Thank you. So, the first two items, it's two different applications for a telecommunication tower at the American Legion Post 290. And this would be a Comprehensive Plan compliance review and a Conditional Use Permit. So, the two requests... first it would be a review to determine if a 128-foot tall telecommunications facility is in compliance with the Telecommunications element of the Comprehensive Plan. 128 feet is the height of the facility as advertised and was the initial... what was initially submitted to the County. You've received some new information that reduced the height of the tower to 113 feet and I will explain why that has happened in my presentation. The second one is a Conditional Use Permit to allow a telecommunications facility in the A-1, Zoning District. It's on Parcel 37-48A, which is... covers 28 acres. The applicant is Shea Beltran, representing Verizon Wireless. And this is in the Hartwood District. And the applicant and their representatives are attending virtually this evening. So, the parcel subject to the application is highlighted in blue. This is the site of the American Legion Post 290. The site is located on the west side of Mountain View Road, approximately 2,000 feet south of Kellogg Mill Road and all of the adjacent properties are zoned A-1, Agricultural. In this area. So, the tower is proposed to be located on the eastern side of the property, adjacent to one of the three baseball fields on this site. It will replace an existing 90-foot tall baseball field light pole and will collocate the ballfield lights on the new telecommunications tower. The tower and adjacent baseball field is located to the rear, or west side of a 9,000 square-foot building on the site. The southern half of the property is undeveloped and wooded. And you can see the residential uses are located around the north, south, and west sides of the property. The closest off-site dwelling is approximately 350 feet from the tower. The General Development Plan depicts how the proposed monopole tower will be developed on the site. The facility will include a 1,226 square-foot compound for the antenna equipment to be located. And this facility will be enclosed by an 8-foot tall chain link fence with barbed wire and screening slats. The tower will be 15 feet outside of the compound to allow for closer proximity of the tower to the adjacent baseball field to allow for appropriate lighting. And then also 227 feet from the closest property line to the east. The Plan also included an elevation view of the 113-foot tall tower. Verizon Wireless is going to locate their antennas at the top of the tower. You can see where the ballfield lighting will be collocated on the tower in relation to the antennas. There will be the potential for the collocation of three wireless telecommunication carriers on this tower in total. At the original 128-foot height, the tower would be required to be lighted due to the proximity to the Stafford Regional Airport. This is required by the

Planning Commission Minutes
April 14, 2021

FAA. Staff is uncertain if the lower tower height will still require lighting. If required, the lighting will consist of a white strobe light during the day and red beacon light during nighttime hours. The application was evaluated for compliance with the Telecommunications Plan. And several criteria within the plan and this Telecommunications Plan in an element of the Comp Plan. There are primary siting criteria noted. The highest priority to collocate on existing buildings or structures. The telecommunications facility replacing an existing 90-foot tall ballfield light pole with the 113-foot tall pole. And also, in doing so, it will collocate ballfield lights on that same pole at the same 90-foot height, that you saw on the image previously. The closest existing telecommunications facility is approximately 2,000 feet to the northwest. The applicant did evaluate the possibility of collocating on that tower, but determined it was not feasible and they will get into more on that as to why it was not feasible for them to collocate there. Siting the tower on agriculturally zoned property also meets one of the location priorities as well. Reviewing the other siting criteria, there are no county historic districts in the vicinity and the NEPA review determined no adverse visual impacts to... upon historic districts or other properties. There are no major power transmission line corridors in the vicinity to provide opportunity for collocation. Although there are residences surrounding the site, the rural nature of the area would not classify this area as that of residential concentrations. A priority is to locate interior to a parcel. It is noted the tower is located 227 feet from the closest property line. And on the last point, the NEPA Review process determined the facility would avoid impacts to Wetlands. One of the siting recommendations is that new facilities be located an appropriate distance away from existing facilities. This image represents the existing Verizon signal strength in the vicinity of the site. Basically, their network around the area. Blue represents the highest signal levels, and coverage, with red being the lowest. The proposed site is in the red area in the middle of the image. So, this you can see the next image here represents the proposed signal coverage with the proposed tower. This was prepared for the 128-foot tall antenna. We have not received a coverage map for the lower elevation. But you can see how this, the antenna in this location fills a gap in coverage. So again, this is the existing and proposed coverage. So, it looks like there are still other areas that they will need to work to fill in as well. So, another siting criteria recommends facilities not be located near airports where they may interfere with aircraft operations. This was the biggest challenge for the applicant to address. The site is approximately 1 mile to the northwest of the end of Runway 15 at the Stafford Regional Airport. So, this kind of image shows through the red line and circle with proposed tower location is and where the end of the runway is. Right now, where it is marked would be the end of currently active construction project to extend the runway 1,000 feet.

Mr. English: That's in the dark blue Mike? The extended, the new extended... extension?

Mr. Zurf: The extension is basically where the red line end and there's the little line at the end. So, in the beige area is where the current runway is located. And then the extension is basically where the red line stops. So, that blue shading, that shows the site is in the approach pattern, that's the approach pattern to Runway 15. Federal regulations establish airport traffic pattern surfaces that regulate the height of structures to avoid obstructions to air traffic. Also, the County Code includes an Airport Impact Overlay Zoning District, that matching these zones, and that also regulates the height of structures within these areas, and they vary depending on the specific location. The proposed tower was reviewed by the FAA and Stafford Regional Airport Authority and determined that the tower would present no hazard to air navigation. When staff looked further at the FAA notice, they discovered... we discovered that the tower would encroach into the approach surface by 15 feet. The FAA permits encroachments into airport surface under certain conditions and they did so in this case. However, the County's Overlay Zoning District does not permit any structures to encroach into these surfaces. So, at 128-foot height the tower would not be in conformance with the County's Overlay District. So, this detail was discovered following the advertisement of the application for the hearing. Staff notified the applicant of this issue. And the applicant evaluated the ability to lower that tower height and the new radio frequency signal levels and they determined that the lower height would meet their coverage objectives. And so that is

Planning Commission Minutes
April 14, 2021

why they able to modify the application and you received the new plan information. The Main Comprehensive Plan document does include recommendations regarding airport compatible land uses. And due to the site being within the approach pattern of the runway, the Land Use Plan identifies vertical infrastructure, which would... this tower considered. It is identified as not compatible in this location. So, although the Comprehensive Plan identifies telecommunication towers as not compatible, a reduction of the proposed tower height by 15 feet further avoids any potential impacts with airport... aircraft operations. The Telecommunications Plan also recommends tower setbacks from property lines and adjoining dwellings in agricultural and residential districts be equal to the height of the telecommunication facility, or greater. This image represents the setbacks from the tower location to the property line and closest residence. So, you see both distances exceed the height of the 113-foot tall tower. The Plan includes several facility design guidelines, which focuses on the details of the tower and compound. The Plan recommends towers be designed to accommodate up to 3 providers to avoid the proliferation of towers across the landscape. This tower is designed to do that and accommodate 3 providers. However, staff does note that a now shorter tower may be challenging for the additional antennas and additional providers to be located and collocated on this tower. Because they are going to have to be at an even lower height. So, we may not see 3, but it's... it would be allowed if the providers can make it work. Also, certain lighting is discouraged to minimizing impacts to migrating birds, however lighting will likely be required due to the proximity to the airport. The Plan does recommend facilities be designed to minimize visual impacts on the surrounding area. The proposed tower will be screened from the adjacent residential properties by the existing mature trees around the site. And also, stealthing is being utilized by locating the tower among several other ballfield light poles, thus minimizing the overall visual impact. The applicant submitted photo simulations of the tower from several points around the site. The area where the tower may be most visible would be looking south along Mountain View Road, that is what this image shows. The tower will be screened from most other surrounding properties by existing tree cover. You will note that the visual impacts are minimized by the other ballfield light poles. Also, the image was revised to reflect the proposed... this reflects the proposed 113-foot tall tower. So, with the overall evaluation of the Comp Plan review, the proposed facility is generally consistent with the siting priorities and the design standards of the Telecomm Plan element of the Comp Plan. Approval of the request will result in enhanced broadband coverage in the neighborhoods along this section of Mountain View Road. The tower is designed to ensure the health and safety of nearby residents. The FAA and Stafford Regional Airport find the tower would not be a hazard to air navigation. And the 15-foot reduction that was recently done would further minimizes potential interference with aircraft operations. The one negative would be, it is inconsistent with the airport compatible land use recommendations in the Comp Plan as I previously mentioned. And overall though, with the changes that were made to the tower, staff does recommend approval, pursuant to Planning Commission Resolution PCR21-03. And just briefly on the second item the Conditional Use Permit, with that we have several conditions recommended, similar to other towers that you have seen. It does limit the telecommunication facility to one tower, monopole type construction, and with a maximum height of 113 feet. Requires the location of the facility on the site shall be in conformance with the latest version of the Plan.

Mr. Randall: Excuse me. Mike just a minute. Who's ever in the back with the computer, can you, can you minimize that so we see the entire proposed conditions, please. We've got half of it cut off and I want to make sure everybody who's seeing this can see the entire conditions.

Ms. Barnes: *Inaudible, microphone not on.*

Mr. Randall: Yeah, that's what I think, trying to hit the button. *Inaudible, microphone not on.*

Mr. Apicella: Mr. Zuraf, while they are working on that, why don't you just read them out.

Planning Commission Minutes
April 14, 2021

Mr. Zuraf: Yes, so just moving forward with that the lights also on the tower shall be limited to those that might be required by the FAA. So, it does... and this would not apply to the ballfield lights, so those can continue as they have. Require security fencing and screening of equipment compound. The tower shall be designed to accommodate at least three 3 carriers. And then other standard language regarding: signage limitations; tower removal once use is discontinued and avoidance of 911 telecommunications. So also, with this the evaluation of the Conditional Use Permit there are several positives. The proposed facility meets the standards of issuance for review of a Conditional Use Permit. Approval of the request will result in enhanced coverage of wireless broadband service to an underserved area. Conditions would off-set any negative impacts. And also, the FAA and Stafford Regional Airport find the tower not be a hazard to air navigation. And then again with negatives, again inconsistent with the airport compatible land use recommendations in the Comp Plan. I did highlight the next point, original proposed tower height would not be in conformance with the Airport Overlay Zoning District regulations, but now that negative point does not apply. And staff recommends approval, pursuant to Resolution R21-125, subject to approval of the Comp Plan Compliance Review.

Mr. Randall: Thanks Mike.

Mr. Zuraf: And that ends the presentation.

Mr. Randall: Mike can you go back to the last... you can.

Mr. Apicella: Any questions for Mr. Zuraf?

Mr. Randall: I do, can we go back to the presentation, to the... yeah right there. So, Mike you mentioned that it was originally at 128...

Mr. Zuraf: 128.

Mr. Randall: And that the FAA would have been fine with 128, correct?

Mr. Zuraf: Yes.

Mr. Randall: And that it was our... it was our own Ordinances that required... we... because we didn't have, let's say an exception for that 15 feet that it was then based on our recommendation. Based on our Ordinances that required it to go down to 113.

Mr. Zuraf: Correct.

Mr. Randall: Okay. So, can we go back to the presentation? Not yet, sorry. So, based on the coverage area, it looked like this coverage area would... is going to be significantly less than other areas where they have towers. Do... is the reason for that because of the lowered height of the tower?

Mr. Zuraf: Most likely. Yeah, and they initially, even before they applied to us, they were looking for an even taller tower...

Mr. Randall: Sure.

Mr. Zuraf: ... and they can confirm that when they come up. But... so, it is limiting just because of the location.

*Planning Commission Minutes
April 14, 2021*

Mr. Apicella: Thank you Mr. Randall, other questions for staff?

Mr. Bain: Yes Steve, I do. Am I right in saying that the tower itself will be outside of the fenced enclosure that has the controls?

Mr. Zuraf: Correct.

Mr. Bain: Okay. What happened if a baseball light goes out? Does the American Legion have permission to get up there and fix it or do they have to call Verizon, and have Verizon send a maintenance person out?

Mr. Zuraf: I would defer that question to the applicant. They may know the details of what kind of agreements they have...

Mr. Bain: Okay.

Mr. Zuraf: ... and how that works. Because I am sure they've done collocations on other types of similar facilities. So...

Mr. Bain: Okay.

Mr. Apicella: Thank you Mr. Bain. Anybody else have any questions? Alright, seeing no one else. Would the applicant like to come forward?

Unknown speaker: (Inaudible, speaking from the audience, no microphone).

Mr. Zuraf: We are not...

Mr. Randall: It will be your time in just a second.

Mr. Zuraf: And the applicant is virtual.

Mr. Apicella: Okay, great.

Mr. Randall: Applicant, you are on.

Mr. Beltran: Yes, I am here. Can you hear me?

Mr. Randall: I can now.

Mr. Beltran: Hi there. How are you guys doing? My name is Shea Beltran, with Network Building and Consulting working, representing Verizon.

Mr. Apicella: Are you able to put on your video as well Mr. Beltran?

Mr. Beltran: Yes. Can you see me?

Mr. Apicella: Can see you now.

Mr. Beltran: So, I do have a PowerPoint presentation. Do you want me to share my screen?

Planning Commission Minutes
April 14, 2021

Mr. Apicella: Sure.

Mr. Beltran: Okay, so again, my name is Shea Beltran, representing Verizon. We are proposing this construction of the 113-foot baseball field light pole with wireless antennas and associated equipment.

Mr. McPherson: You are showing 116.

Mr. Beltran: Yes, I am...

Mr. Apicella: Mr. Beltran, the two slides indicate 116-foot pole. Can you just clarify, is that a...

Mr. Beltran: Yeah, as Mike mentioned, we were not certain yet if the lighting is required. If the lighting is required, the tip of the lights will be at 116-feet. The top of the actual pole is 113-feet.

Mr. McPherson: Wouldn't that exceed our limits for the Airport Overlay Zoning?

Mr. Beltran: No, the tip previously was at 131-feet and we were told that it was 15-feet too high. So, we dropped it down to 116.

Mr. Zuraf: And for clarification, our 128 condition, that did not take into consideration the 3-feet needed for the lighting. So, that was always extra on top of that... the original 128. It would actually be 131.

Mr. Apicella: Alright, thank you gentlemen for the clarification. Feel free to move ahead Mr. Beltran.

Mr. Beltran: Yep. So, as I said the project consist of construction of the new 116 or 113-foot baseball field light pole with six telecommunication antennas at the 112-foot RAD center on the proposed pole, with radio equipment cabinet near the base with chain link fence compound. Again, the tip of the pole will be at 113, 112-feet is the RAD center of the antennas. I have shown a zoning map, it is zoned A-1 here and I have outlined the compound. The red dot right here is... next to the building, that is where the proposed location is. And here is just a zoomed aerial view of the parcel. I have also included the site plan drawing here on the next slide, it will be an enlarged compound layout. So, a proposed monopole here on the left side of the compound. And here is the fenced in compound with the equipment cabinets. I have also included this elevation view, and a little note about what Mike outlined before, due to the tower encroaching into the Stafford Regional Airport runway approach surface. The height of the proposed tower has been reduced by 15-feet. So, here the RAD center of the antennas is 112, with the tip being 113 and the top of the proposed lighting is 116, which is what I referenced on the opening slide. So, we have evaluated this and our engineers have determined that lower height will still meet our coverage objectives. So, we were able to lower that to 112-feet. Next, I prepared photo simulations, here is the location map of where we took all these photos. The first view is on Mountain View Road just outside the compound. And this is the newer, I am not sure if this made it into the staff report, but we were able to adjust our photo simulations to show the lower height of the tower. View 2, further north on Mountain View Road, the tower will not be visible. View 3, even further north on Mountain View Road, the tower will not be visible. View 4, is from the west on Lake Forest Drive, the site will not be visible. View 5, on Kellogg Mill Road to the northwest, the site will not be visible. View 6, on Canine Court, the view is from the south, the site is not visible. View 7, southeast on Mountain View Road, you cannot see the site from here either. View 7, southeast further down on Mountain View Road, site is not visible. Here is view 9 from the north on Mountain View Road, you can see the tower there, in the center. And view 10 from the southeast on Mountain View Road, you can see the tower above the tree line. And I know that we did receive a question from one of the Commissioners regarding if we were able to collocate on an existing tower elsewhere. There is an existing 150-foot lattice tower, and

Planning Commission Minutes
April 14, 2021

ATC tower about, I think it's 2,500 feet to the northwest on 20 Tower Lane. We did explore collocating here, but the only available RAD center is at 95-feet and Verizon determined that RAD center would not allow them to meet their coverage objectives. And they would need to extend the tower to at least 170 feet of height. And the FAA has stated that that extension would result in a substantial adverse effect and would warrant the determination of hazard to air navigation. So, we were able to rule out collocating onto that lattice tower, which is how we ended up in our proposed location. And that does it for my presentation, if there are any questions.

Mr. English: Mr. Beltran, I have one.

Mr. Apicella: I was just going to jump in real quick, I am sorry. So, one of the Commissioners asked the question about the ball lights that will be on the tower. How would that work if one of the lights went out? How would the whoever was working... *inaudible*... get in touch with Verizon and get it repaired?

Mr. Beltran: I will need to discuss that with our leasing consultant. I don't believe he is on the call right now, but I can get that answer for you as soon as possible.

Mr. Apicella: Alright, thank you. I am sorry, somebody else was going to ask a question. Please go ahead.

Mr. English: Yeah, its me Steve. Mr. Beltran, what about, is there any long-term effects or anything like, for livestock or anything in the area. Would that cause any damage or anything to them that you know of?

Mr. Beltran: No. So, the FCC regulates those RF levels and Verizon stringently make sure that they are below these levels, which the FCC has determined that they are safe. There are no long-term effects on livestock or people.

Mr. English: Do they come out with some sort of device to measure that or anything? How does that... how is that determined?

Mr. Beltran: I can look into that and get that answer for you. I do not have that off the top of my head.

Mr. English: Okay. Thank you.

Mr. Bain: Yes, I have a question. Is this a... and pardon me I am not a telecommunications expert. Is this a 4G tower or a 5G? Or does that not apply? Is it some other rating?

Mr. Beltran: This is not a 5G tower, this is for LTE and 4G service.

Mr. Bain: Say that again, I'm sorry.

Mr. Beltran: This is not a 5G tower. This is for LTE and 4G coverage.

Mr. Bain: Okay, alright. Thank you. I... the reason...

Mr. Apicella: So....

Mr. Bain: ... I asked there was a ...

Planning Commission Minutes
April 14, 2021

Mr. Apicella: If you don't mind Mr. Bain, I am going to springboard off of that. So, what would be necessary to accommodate 5G? Would you need a different tower? Or different equipment on that tower?

Mr. Beltran: I am not... I can defer to our RF engineer, Diego, who is on the call right now. But as far as I know, 5G antennas will require different antennas that supplement existing macro antenna towers. So, if there were 5G plans in the future this tower would be necessary to accommodate that.

Mr. Apicella: Right, my point is you would not necessarily need a new tower, you would just need to change the equipment on the tower. Am I saying it correctly?

Mr. Beltran: No, we would not change the equipment here. Diego, if you want to chime in.

Mr. Reyes: Hi, this is Diego, RF Engineer with Verizon Wireless. Yeah, we only require to change the equipment to use 5G in the low band. There are two flavors of 5G, medium air... *inaudible*... and 5G on low band. *Inaudible*... use 5G on low band. Actually, you can use 5G on low band. *Inaudible*... yeah, sorry to be so technical here. So, yeah but we can install 5G here, just changing the equipment.

Mr. Apicella: Okay, that is what I was hoping for. Thank you. Other questions for the applicant? Alright, last call. Alright, thank you gentlemen, I appreciate it. So, I am going to open the public hearing on this item. This is an opportunity for the public to comment on this particular... on these two items, items 1 and 2. Before starting your comments, please state your name and address. The clock starts when the green light appears, yellow means there's one-minute left and red means your time is up. So, if anyone is in the chambers who would like to speak, please come forward.

Mr. Herriott: Can I demask? Good afternoon everyone., evening. I am Dave Herriott, I am the landowner on Canine Court and I have been there for 37 years. The environmental impact on our A-1, Agricultural... I am speaking for my landowner neighbors as well. We have been slowly getting crushed to the middle of the donut. We are now at, the migration birds, the woodpeckers, the red hawks, we had a black bear last week, we have deer, everything is getting pushed. We've got no where to go. So, my question is was there an environmental impact study done? Like, I have 41 years of Federal Government, we've done an impact study on all our towers, all the Department of the Army, and I haven't seen an environment impact study. So, my concern is with all the migration of the animals and everything that is coming into my land, my little 1.47 acres. You wouldn't believe how many deer and animals I have since now they are starting 46... Augustine of me, they are starting another Augustine development. WE now have Abel Lake Forest, Water Edge... I've got like 30 estate developments around my circle in a ten-mile radius, alright? So, everything that is livestock or animals are all coming here to the center of Canine Court. And we are just curious what type of environment... and you guys answered the aviation safety problems we have and one of the problems we have. We have a lot of flight traffic, a lot of flight traffic. A lot of low bearing airplanes that come over all the time. So, I am concerned about that and I am glad Verizon and the applicant addressed that. I didn't hear much about the health concerns as far as the reports from Chesapeake Maryland on cancer for existing cancer patients where the emission radiation coming off of the towers is still being studied. So, that was one of the other concerns from my adjoining landowners. And then the safety of the ball players and the audience from lighting strikes. I don't care how you ground it, how you do it. We have had lightning strikes. I had a flag pole at Fort Myer, I got four MPs hit by lightning. And that was a grounded flag pole, less than 128-feet. So, I just wanted to make sure we're addressing those concerns and as a homeowner, landowner, and loving Stafford for almost 40 years. So, those are my big concerns, basically the environmental impact study, health concerns, I hate to see another earthquake and a big old tower come down and land on a bunch of ball players. So, I was Field Security for the Department of Defense for 38 years, now I am at the

Planning Commission Minutes
April 14, 2021

Kennedy Center as a Field Security Office. So, I have been very familiar with the towers and technology. I know we need technology because my Kennedy Center phone does not work because it's on Verizon, but my Sprint one does. But I think we just got our concerns about what we are doing to Mountain View Road. Mountain View Road is actually no more A-1, Agriculture. It's becoming more and more of a cluster. Thank you.

Mr. Apicella: Thank you sir. Is there anybody else in the chambers who would like to come forward? Okay, seeing no one, Mr. Harvey, is there any written comments not from the previous speaker?

Mr. Harvey: Yes sir Mr. Chairman, we did get one comment via email, and I will proceed to read it if it's okay.

Mr. Apicella: Please.

Mr. Harvey: It starts off, who it may concern: I am a property owner adjoining the American Legion land where this proposed telecom tower is to be built and am adamantly opposed to this effort. I have a farmette with horses, donkeys, and dogs and feel this would be a health issue with not only us and my animals. This would also impact the resale value of my property in the future when I plan to relocate. The tower would also be close to the Stafford County Regional Airport. We have planes coming over this whole area well below FAA limits while landing and taking off which would create a real flight hazard. Please take all this into consideration when making your decision. Thank You, Mr. Scott J. Henning.

Mr. Apicella: Thank you Mr. Harvey. So, seeing no other comments either written or anybody in the chambers, I am going to close the public hearing on this item and bring it back to the Commission. Mr. Beltran, I am going to ask you if you have any further comments or you can respond to any of the comments that were made by the public. But before you do that, can you give us back the screen?

Mr. Beltran: Yes.

Mr. Apicella: Great, thank you. So, you heard some public comments, some of which were environmental issues. Do you have anything further to say about that? Or any other comments that were made?

Mr. Beltran: Yeah, well first off, I wanted to address the point about maintenance on the lights on the ballfield. I did hear back from the leasing consultant. And those lights are well below the antennas, so the Legion would be able to access those lights if they need to preform any maintenance. But additionally, to address the environmental impacts, we did do a NEPO report and it was deemed fully compliant.

Mr. Randall: Mike, is that part of our staff report?

Mr. Beltran: I am sorry, I didn't hear that.

Mr. Randall: No, I just asked if that was part of the report, that you had presented that to the staff and the staff had presented it to us in our summary documents. So, we could see that.

Mr. Zuraf: No, that was not...

Mr. Randall: It was not presented?

Planning Commission Minutes
April 14, 2021

Mr. Zuraf: There was a brief kind of like summary, NEPA document included. Not the full report...

Mr. Randall: Sure.

Mr. Zuraf: ... that you might see. But it was submitted in, and I don't think we have it here in this... in the application.

Mr. Randall: But it did get presented to you and you had it and had a chance to look at it?

Mr. Zuraf: Yes.

Mr. Randall: Verify that was the case?

Mr. Zuraf: Yes.

Mr. Randall: Okay, very well.

Mr. English: Mr. Bel... Mike... Mr. Beltran, again, you said this is just a... this is for the applicant, I am sorry. This is not G5, right, what you are saying.

Mr. Randall: No, it's 4G.

Mr. Beltran: Correct, this is not 5G.

Mr. English: Okay, 5G, I am sorry. Okay, thank you.

Mr. Apicella: Thank you sir. Again, this is an item in your district Mr. English. Any further comments or thought on how to proceed on this one?

Mr. English: Yes sir, I would like to make a motion that we approve COM2015325.

Mr. McPherson: Second.

Mr. Apicella: Alright, there has been a motion to recommend approval of the Comp Plan compliance review Telecom Tower, American Legion Post 290. Seconded by Mr. McPherson. Anything further to say Mr. English?

Mr. English: No, I think that they have address some of the questions and concerns, I think and they have lowered the tower and they are meeting the airports conditions. And again, I don't think... I think it's going to be... it is not being seen, they showed us a bunch of locations where it's not going to be seen, just a couple on Mountain View Road. So, I think that is not going to be an issue. So, that is the reason I am going to approve it.

Mr. Apicella: Thank you Mr. English. Mr. McPherson?

Mr. McPherson: I agree with what Mr. English said. Given the distance of that tower from the airport, I am not at all concerned about any aviation safety concerns.

Planning Commission Minutes
April 14, 2021

Mr. Apicella: Alright, thank you Mr. McPherson. Anybody else? Alright seeing nobody else, there is a motion to recommend approval of COM... I am sorry. Was there somebody that wanted to talk? Motion to recommend approval of COM2153525. Mr. Bain, how do you vote?

Mr. Bain: Aye.

Mr. Apicella: Ms. Barnes?

Ms. Barnes: Aye.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: Aye.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes

Mr. Apicella: And Mr. Apicella votes aye. So, the motion on that item passed unanimously. Mr. English, the second item is also in your district.

Mr. English: Yes sir.

Mr. Apicella: How would you like to proceed?

Mr. English: Yes sir, I would like to make a motion to approve CUP2015324.

Mr. Apicella: Thank you Mr. English, is there a second?

Mr. Randall: Second.

Mr. McPherson: Second.

Mr. Apicella: I heard Mr. McPherson, so I am going to give him that one as well. Mr. English, anything further to say on that?

Mr. English: No sir.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Nope.

Planning Commission Minutes
April 14, 2021

Mr. Apicella: Anybody else? Alright, there is a motion recommending approval of CUP20153524, Conditional Use Permit Telecom Tower American Legion Post 290. Mr. Bain, how do you vote?

Mr. Bain: Aye.

Mr. Apicella: Ms. Barnes?

Ms. Barnes: Aye.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: Aye.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes

Mr. Apicella: And Mr. Apicella votes aye. So, the motion on that item passed unanimously. Thank you everybody. Moving on to item number 3, Mr. Harvey.

3. RC21153747; Reclassification – The Garrison at Stafford - A proposal to amend proffered conditions on 44.5 acres zoned P-TND, Planned-Traditional Neighborhood Development Zoning District on Tax Map Parcel Nos. 20-AC-1-1 through 20-AC-1-13 (Property). The Property is located on the south side of Garrisonville Road, across from its intersection with Travis Lane, within the Garrisonville Election District. **(Time Limit: July 23, 2021)**

Mr. Harvey: Thank you Mr. Chairman. Item 3 is a proffer amendment for the project called The Garrison, and Joe Valotta will be making the presentation for staff.

Mr. Valotta: Good afternoon Mr. Chairman, Planning Commissioners. Joe Valotta of Planning and Zoning. This is The Garrison at Stafford, a minor proffer amendment and the request is to amend proffered conditional in order to reallocate the construction phasing for the already approved 453 multi-family dwelling units, of which there are 453. And I will explain all of what that entails in about two or three slides. But before then, some project statistics. This is a 44.5-acre site located in the Garrisonville Election District. Geoffrey Pence is the applicant and Clark Leming, Leming is the agent. The site is located on the south side of Garrisonville Road across from Travis Lane. It is zoned P-TND, Planned-Traditional Neighborhood Development, with proffers and it is partially located within the Highway Corridor Overlay. Surrounding zoning districts include B-1 and B-2 to the north, B-2 and R-1 to the east, R-1 and R-3 to the south and to the west. This project was originally approved in 2015, when the site was rezoned with proffers from R-1 to P-TND. The approved development reflects 500,000 square feet of commercial space and 453 multi-family dwelling units. A site plan for the first phase of

Planning Commission Minutes
April 14, 2021

development was recently filed with the County. It proposes the development of buildings 1, 2 and 3, that are shown on the screen. All of which would be single story commercial buildings

Mr. Bain: Are those the buildings right along the roadway?

Mr. Valotta: Yeah, they are the three buildings on the north end of the site, closest to Garrisonville Road.

Mr. Bain: Thank you.

Mr. Valotta: And this GDP... excuse me. The site plan is reflective of this GDP that displayed on the screen. It shows 13 buildings in total. Building 13 which is the H shaped building in the southeast corner is anticipated to be residential, and then the other 12 buildings are anticipated for varying degrees of mixed use. This GDP was included as a part of attachment 1 in the packets you received tonight. It includes a development summary chart that lays out the use, square footage, residential units, and number of stories that are anticipated at each building. And then this phasing chart is included in the proffer statement. It makes the construction phasing relatively easy to follow. So, there's 453 already approved units associated with the project, 100 of those would be mixed-use units above commercial and 353 would be standalone residential units. The proffers stipulate that the 100 mixed-use units can be built and constructed at any time. Whereas with the stand-alone residential units, construction of 200,000 square feet of commercial is required before the first phase of the standalone units can be built and occupied. And then additional 100,000 square feet is required before the second phase of the stand-alone residential units can be occupied.

Mr. Randall: Excuse me Joe, could you show us on the GDP where the stand-alone units will be built. Or where we expect them based on the GDP.

Mr. Valotta: Yeah, sure. Yeah, I will need to defer to the applicant, but I am expecting them to be in building 13, which is the H shaped building in the southeast corner. It's the one that the GDP designates specifically for residential.

Mr. Randall: Okay, so basically then I have... I need 200,000 square-foot of commercial and then they can put residential and building 13?

Mr. Valotta: Sure, yeah...

Mr. Randall: And then they get more commercial and they get more residential?

Mr. Valotta: Correct, yeah.

Mr. Randall: Okay, thank you.

Mr. Valotta: And so, the request that is being considered tonight is to reallocate the approved units, such that the multi-family units would increase from 100 to 136 units. And then as a result the first phase of stand-alone units that can be built would decrease from 353 to 317. And then that reduction of units from 353 to 317 is mirrored in the second phase of residential units that can be built. And also, the second phase of residential units can be occupied. And again, no additional units are being proposed with the proffer amendment. It's just reallocation of the phasing. And so, looking at the Comprehensive Plan recommendations the site is... or excuse me, the Future Land Use map identifies the property within the Suburban, Commercial Corridor and Resource Protection land use designations. Suburban areas are where suburban scale of development is most appropriate. Commercial Corridors are where commercial

Planning Commission Minutes
April 14, 2021

activity is recommended where there are adequate transportation facilities. And then the Resource Protection reflects the location of environmentally sensitive areas. This project which has already been approved is in general conformance with the Comprehensive Plan recommendations. Moving to the staff evaluation, staff notes positively that the project... or excuse me the proffer amendment is generally consistent with the land use recommendations in the Comprehensive Plan. It does not alter the established development pattern along Garrisonville Road. Allows for the development to adjust its residential offerings based on changing needs and it should not increase the impacts of an already approved project.

Mr. Apicella: Mr. Valotta, I think Mr. Cummings has a question.

Mr. Valotta: Sure.

Mr. Apicella: Mr. Cummings, did you have a question? Alright, maybe not. I am sorry Mr. Valotta.

Mr. Valotta: Okay, so and then staff note no negatives and recommends approval of the application with proffered conditions pursuant to O21-34.

Mr. Apicella: Thank you Mr. Valotta. Mr. Cummings, if you have a question, you might want to turn off your mike for the moment. Any question for staff?

Mr. Bain: I have one. The three buildings that you mentioned in the phase 1, how many square feet do those represent? Do you know or...

Mr. Valotta: I don't have that information on hand, I am sorry.

Mr. Bain: Okay, I will ask them.

Mr. Apicella: Anybody else? Alright seeing nobody else, would the applicant or their agent like to come forward?

Mr. Leming: Good evening Mr. Chairman and members of the Planning Commission, I am Clark Leming. I am here on behalf of the Pence Companies. I have with me tonight Mr. Geoff Pence, who has been working on this project all along. But tonight Mr. Bob Pence, this is his first visit to a Stafford hearing since returning from Finland and completing an Ambassadorship there. So, he is back on the development trail now. I believe that Mr. English and Mr. Apicella were probably the only two Commissioners here when this, I don't think you were here yet Mr. Randall, but when this came through in 2015 and then a proffer amendment in 2016. So, a big project. And there have been some issues preventing moving forward as fast as they would like to with the recent one being COVID. We are getting some kind of feedback from somewhere.

Mr. Cummings: *Inaudible.*

Mr. Bain.: Dexter! Dexter! Dexter!

Mr. Apicella: Mr. Cummings, we can hear your, please turn off your mic. Sorry about that Mr. Leming, please go ahead.

Mr. Leming: Was it you? Okay, I am just glad it wasn't me. It's okay. But, would you like me to start over? We are here tonight, in the overall scheme of things, and I realize some of you don't know much

Planning Commission Minutes
April 14, 2021

about what's happened in the past. But, the Staff report, I think, gives you a pretty thorough overview of what's been accomplished and where this is going. This is a minor tweak in the overall scheme of things. The most important thing, I think, to bear in mind is that number one, this is a... we qualify for a minor proffer amendment here. I am trying to think if I have ever had a minor proffer amendment. But, this one is one. But, the most important thing is that all of these units are over commercial. So, this represents the same commitment there from the get go. What happened along the way is they found that they had extra space in one of the buildings. And market considerations and financial considerations all coming together to... that lead to the request of the additional units. Now, there is a question about square footage but, one important thing to focus on here is that there is a lot of thought that goes into this and there are limitations on the types of units. How many 2-bedroom units, how many 3-bedroom units, how many other units, such that you are getting the product that you originally negotiated for and none of that changes. I think there was a concern originally that there would be too many 3-bedroom apartments, and too many large families. So, there is an absolute restriction on those, that doesn't change one bit. So, we are here, that's the... that's really the entire matter that is before you tonight, in a nutshell. But, we are happy to answer questions that you may have about the project and of course about what we are requesting that you act on this evening. Which would be going up to 136 units in that first building, which is the first major building beyond the, oh I don't remember what number it is. But, on the left as you are going down the major... *inaudible*... and that would be the first commercial building on the bottom floor and then the residential would be just above that. Okay, can I... can we respond to any questions that you have? Do you have a further question about square footage Mr. Bain?

Mr. Bain: I was just want... the reason I was asking, I was wondering if that equaled the 200,000 square feet that would allow additional residential to be built. And I don't know if you know that or is it far short of it?

Mr. Leming: Well, the residential is capped at 453 units.

Mr. Bain: I understand that, I am just thinking about the timing. Are you going to be able to build more... the residential unit, building 13 once those three store fronts are built along Garrisonville Road?

Mr. Leming: I think what you are saying is...

Mr. Bain: It's not, it's not a big issue Mr. Leming.

Mr. Leming: Okay,

Mr. Bain: I was just curious.

Mr. Leming: Okay. Would you like to answer Geoff? I think what you are saying is did we run out of room somewhere else.

Mr. Bain: Oh no, no, no.

Mr. Leming: Okay, let Mr. Geoff Pence, come on up...

Mr. Randall: You can come up.

Mr. Leming: ... here Geoff.

Mr. Pence: So right now, the...

Planning Commission Minutes
April 14, 2021

Mr. Randall: I am sorry. If you could state your name and...

Mr. Pence: Geoff Pence.

Mr. Randall: ... for the record. Thank you.

Mr. Pence: And right now, with our buildings 1, 2 and 3, our envision is restaurant uses. And they are going end up being anywhere between 15 to 20 thousand feet total between the three of them.

Mr. Bain: Okay.

Mr. Pence: And building 5, which is what we are talking about tonight, is 40,000 feet of commercial on the first floor and 4-stories of residential. So, it will be, you know, it will be about 80,000 square feet with this phase completed.

Mr. Bain: Okay. Let me just ask then, you are shifting those residential units from the stand-alone housing unit, which is building 13. Will that change the foot print or the height of that building or the rooms... the apartments just going to get larger because you aren't changing either?

Mr. Pence: No, I'm sure it's eventually going to change anyway when we get the stand-alone units over there. That was almost a placeholder, because we knew it was going to be a while before we could build those. So, right now, in this building, the block 5, it's... the way it's designed we are about 15% of the way through the plans, it's 93 one-bedroom units and 43 two-bedrooms. So, we make it a point to stay away from the three-bedrooms on our first go here. Because we are really trying to attract, you know, the young professionals...

Mr. Bain: Right.

Mr. Pence: ... with what we are trying to build here.

Mr. Bain: Okay. That's good. Thank you.

Mr. Pence: You are welcome.

Mr. Apicella: Any further questions for the applicants?

Mr. Randall: Yeah, I have a couple of questions. Being from the Garrisonville District, this is an interesting topic that gets talked about a lot. So, I would be remiss if I didn't ask at least a couple of questions.

Mr. Leming: I know what's coming.

Mr. Randall: So, I won't ask those kinds of questions, but I do have a couple of questions concerning this. So, now that we are back on track, and thank you for your service, by the way, over there. What's our, what's our overall plan? You talked about being 15% through site plans, what... without holding you to too much of a day and hour type thing, what's our, what's our move forward progress on this? I know 1, 2 and 3 you have talked of site plan developed. I know we have 200,000 square-foot of residential before we can even start building, you know, the stand-alone unit. But, what are we looking at? What can we talk about as far as how we are going to see progress on this.

Planning Commission Minutes
April 14, 2021

Mr. Pence: Well, our plan is still to build exactly what we have been talking about building.

Mr. Randall: Sure.

Mr. Pence: Obviously, we are frustrated as well, that it has taken this long. But it is what it is.

Mr. Randall: It is what it is.

Mr. Pence: But this really allows us to get started. And I really believe once we get started with a building like this, I think it will be a lot easier to bring other high-quality commercial uses to the project. So, I am hoping that once we start here we'll be able to fill out the rest, a lot quicker. We still do have a lease with Regal. Obviously, the status of the film industry is, you know, it's starting to come back. Hopefully, it will come back. And I am still in contact with them and we are planning on them being here. I just don't know when, because no one really knows how...

Mr. Randall: Right.

Mr. Pence: ... the industry is going to rebound. But, our plan is still to build it out exactly as we have been talking about all this time.

Mr. Randall: In two separate phases?

Mr. Pence: As fast as we can. You know, it may be...

Mr. Randall: Sure.

Mr. Pence: ... three or four. When we built Stafford Marketplace, I think we had about eight different site plans submissions. So, we will build it as quickly as we can and as long as we keep doing it the right way.

Mr. Randall: Alright, yeah. I really appreciate that process that you have been talking about. I know that you are as interested in getting this done as we are. I know... anything we can do to help, I would, you know, ask please, you know, we can do that. But I really think that, you know, so you are going to work on the first three restaurants there. Will then you build... will then the next process be to build building 5, where the residential units will be?

Mr. Pence: That is our plan. If we...

Mr. Randall: Okay.

Mr. Pence: ... get ultimate approval to do this, then I will still do the plans right now and get that going as fast as possible.

Mr. Randall: Okay, so then we will have some commercial, but we will also have some residential on to... above that commercial that will be available.

Mr. Pence: Yes sir.

Mr. Randall: Alright. And your intent is to put a parking garage... a parking structure?

Planning Commission Minutes
April 14, 2021

Mr. Pence: Right.

Mr. Randall: Right in there, in the back?

Mr. Pence: Four levels, which obviously the first level and a half will support the retail...

Mr. Randall: Sure.

Mr. Pence: ... and the remainder will be for the residential.

Mr. Randall: The residential, okay. I really appreciate you being here and giving us that information. Thank you.

Mr. Pence: You are welcome.

Mr. Leming: One thing that may be of some solace and consolation to Planning Commissioners and Board members too, is that this is our second... Stafford's second P-TND. The first one being Aquia Town Center, which didn't go so well. And ended up in separate... a residential component and a commercial component that has never happened. So, by the time we get here, things are done right. So, there is the balance, there is the phasing built into the proffers, none of which happened at the other location.

Mr. Randall: And it is interesting that you mentioned that Mr. Leming, because we... as we talk about this and as I talk about it, literally every person that I talk to when they... you're from Garrison... what about ... what's going on over. Right? I am very specific about reiterating the differences between what they see and what they will see. And the fact that there is a very strong level of commercial built into this and so that we will be doing this in tandem, not one and then hope to have the other one. But we will get both of these together. And so, I think that's an exciting part of this project.

Mr. English: Mr. Leming, I have a question.

Mr. Leming: They did not... they were not involved in Aquia Town Center, correct?

Mr. Leming: Only me.

Mr. English: The Pence project...

Mr. Leming: Not them, no.

Mr. English: Just to let the Board know... could you let the Commission know that they are also... they did Aquia Town... I mean they did Stafford Marketplace and...

Mr. Leming: Yes.

Mr. English: ... and the other ones that they have done here in the past.

Mr. Leming: That's exactly right.

Mr. English: Yeah...

Planning Commission Minutes
April 14, 2021

Mr. Leming: And thank you for pointing that out. Stafford Marketplace is their product and they are proud of it. This is number 2 in Stafford County for the Pence's.

Mr. Pence: And we have a 70,000 square-foot office building behind Stafford Marketplace as well.

Mr. English: Didn't you do the Woodbridge thing too? Where the Wegmans is up there? Didn't y'all build that?

Mr. Pence: We did not.

Mr. English: You didn't have anything to do with that one. What was the other one that you had?

Mr. Pence: The office building behind Stafford Marketplace.

Mr. English: No, I am talking outside of Stafford.

Mr. Leming: Dulles Expo Center.

Mr. English: Okay, yeah. I just the thought there were a couple of them that they have done. Just what your projects look like.

Mr. Leming: They have a list, a long list actually.

Mr. English: Yeah, because you did... when you did it before you kind of let us know what they did and it was very impressive. That is why I was just letting the new Board people know.

Mr. Leming: Mr. Pence Sr., would you like to say anything to this group here? We have a couple of Board candidates, well one... two, two now. Oh, are you... you announced? Okay.

Mr. Pence Sr.: Clark, you are never supposed to put me in front of a microphone.

Mr. Leming: Okay, well let me get out of the way then.

Mr. Pence Sr.: Good evening.

Mr. Randall: You can remove your mask.

Mr. Pence Sr. Oh thank you. Good evening, my name is Robert Pence. Freshly back from Helsinki, right below the Artic Circle. We've... in my career which stated in 1968, we've done, I've done with my partners, 35 projects. Southern California, Nevada, North Carolina, here, Virginia, everywhere. Never gave one back to a lender, never defaulted, never asked for any favors. This happens to be like the Dulles Expo Center when we started, oh and by the way we also did, probably worth mentioning, Battlefield Shopping Center in Leesburg, the big Target Center on Route 7, right in... just below the 28.

Mr. Leming: Sterling.

Mr. Pence Sr.: In Sterling on Route 7. The first commercial project, big commercial project in Reston. The first big commercial project, other than the mall, in Columbia. So, we have built in a lot of places where we have been held to a high standard and we have willingly, because we deliver what we promise, although this one is taking a little longer. I thought it would be done by the time I got back. But here

Planning Commission Minutes
April 14, 2021

we are. And so, which we are firmly committed to this, the market is crazy. The market is absolutely bonkers and Geoff was very correct about Regal. Regal wants this theater up, badly. And as you know there is chaos in the movie theater industry, in the motion picture industry and they want to get moving as fast as they can. Now there is a battle between the theater producers, movie producers and steamers on TV, Netflix and what have you. That will get ironed out, I don't know how, but it will get ironed out. Let's suffice it to say we have a lot of interest, but this is a classic situation where everybody is looking at everybody else... hello, good to see you again. It's been a while. Everybody is looking at everybody else to see who is going to go first. Because most people are in the market place are not pioneers, they don't want to be out by themselves. And so, we want to get going and for what it's worth we have about 17 million dollars in cash in this project. That is not an inconsequential number to me, to my family to my partners. So, we want to get going. We have not lessened and we will not lessen the architectural standard that you have seen before this in the proffers. So, our word is still our bond. Thank you. If you have any questions, I will be happy to answer them.

Mr. Apicella: Thank you Mr. Pence. Any further questions for the applicant or the agent of the applicant.

Mr. Leming: Anything else? Okay. Thank you all.

Mr. Apicella: Alright, thank you. I will now open the public hearing on this matter. This is an opportunity for the public to comment on this public hearing item. Before starting your comments, please state your name and address. The clock starts when the green light appears. The yellow means there is one-minute left. Red means your time is up. If there is anybody in the chambers who would like to come forward and speak, please do so now. Alright, seeing no one, I am going to close the public hearing on this item and bring it back to the Commission for further deliberation. Mr. Randall, I believe this is in your district, how would you like to proceed?

Mr. Randall: I would like to make a motion to recommend approval for the Reclassification RC21153747, The Garrison at Stafford.

Mr. Bain: Second.

Mr. Apicella: Thank you Mr. Randall and seconding Mr. Bain. Any further comments Mr. Randall?

Mr. Randall: Yes, just that this is... it's great to get Mr. Pence here, both of them. So, we can hear what the progress is being made. I am happy to make this change. So, we can move forward with this. And work on our partnerships and make this a great addition to the North Stafford area. Thank you.

Mr. Apicella: Thank you Mr. Randall. Mr. Bain?

Mr. Bain: Nothing further to add. Thank you.

Mr. Apicella: Okay, anybody else? Alright, for me personally I appreciate everything the Pence family and their business is doing for the Stafford community. And if you wanted to put more apartments... more of the apartments above the retail and restaurants, I would be okay with that myself. So, there is a motion to recommend approval of RC21153674, Reclassification, The Garrison at Stafford minor proffer amendment. Mr. Bain, how do you vote?

Mr. Bain: Aye.

Mr. Apicella: Ms. Barnes?

*Planning Commission Minutes
April 14, 2021*

Ms. Barnes: Aye.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: Aye.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes

Mr. Apicella: And Mr. Apicella votes aye. So, the motion carries unanimously. Thank you. Mr. Harvey, item number 4, I think we're not ready to take any action on that.

UNFINISHED BUSINESS

4. Amendments to the Zoning Ordinance - Amend Stafford County Code Sec. 28-25, "Definitions of specific terms," Sec. 28-35, "Table of uses and standards," and Sec 28-39, "Special Regulations" in regards to cluster development regulations. **(Time Limit: May 30, 2021)**
(Authorize for Public Hearing by: April 28, 2021)
(Potential Public Hearing Date: May 26, 2021)

Mr. Harvey: Correct.

Mr. Apicella: What is the state of the current time limit?

Mr. Harvey: Mr. Chairman, the current time limit is May 26. I will note that there is an item that will likely be on the Board of Supervisors April 20th agenda, to give the Planning Commission more guidance on cluster development regulations.

Mr. Apicella: Alright, thank you Mr. Harvey. So, with that, let's move on to item number 5.

5. RC21153698; Reclassification – Stafford County Board of Supervisors, Courthouse Road Property - A proposed zoning reclassification from the B-2, Urban Commercial Zoning District to the UD-5, Urban Development 5 Zoning District on Tax Map Parcel Nos. 30-43, 30-43A, 30-43B, 30-43C, 30-43D, 30-43E, 30-43F, 30-43G, 30-44, 30-45, and 30-46, consisting of approximately 16.11 acres; and from B-3, Office, to UD-5, Urban Development 5 on Tax Map Parcel Nos. 30-50 and 30-53, consisting of approximately 13.08 acres, (collectively the Property), to allow for the development of approximately 1,306,000 square feet of mixed use residential, office, retail, entertainment, and civic uses. The Property is located at the southwest intersection of Courthouse Road and Jefferson Davis Highway, within the Hartwood Election District. The Stafford County Board of Supervisors is the applicant for this project. **(Time Limit: July 2, 2021) (History: March 24, 2021 deferred to April 14, 2021)**

Planning Commission Minutes
April 14, 2021

Mr. Harvey: Thank you Mr. Chairman. For item number 5, Kathy Baker will lead off the presentation. We will also be assisted by John Holden. And item number 5 is the rezoning of the County's and JPI Properties for the Downtown Stafford Project.

Ms. Baker: Good evening Mr. Chairman, members of the Commission. Kathy Baker, Department of Planning and Zoning. This is the carryover of the reclassification for the Downtown Stafford project. I'm going to give you a very brief background recap before going into some of the issues that were raised at the last meeting. This will be rezoning 16 acres from B-2, Urban Commercial to the UD-5, Urban Development district. And also rezoning about 13 acres from B-3 to UD-5. There's a total of 29 acres and 13 parcels, and the owners are Stafford County and JPI-Fountain Park, and the County is acting as the applicant. The Planning Commission held a public hearing on March 24th and deferred the application to this meeting. I will note that the Planning Commission did approve a simultaneous Zoning Ordinance amendment, which would accommodate the UD-5 District amendments proposed with this application. The Planning Commission did not approve the Comprehensive Plan amendments during that meeting. So, looking at the rezoning area, about the 29 acres which you see highlighted in red with 23 acres being the County property and about 6 acres being the JPI property that you see in blue. I'll note in the yellow outline is the entire core area of Downtown Stafford, which is about 110 acres, so that leaves approximately 81 acres that are not under the subject of this rezoning application. Just as a recap, the Generalized Development Plan of the properties, this is the County property and the JPI with the County blocks being indicated numbers 1 through 7 and block 9, and the JPI project indicated by block 8. And this is the Fountain Park-JPI project within block 8. And all of these are a mixture of residential, commercial, and office space with open space areas throughout. And then finally, the summary of the residential units. In the overall Downtown Stafford area, there's a proposal to accommodate up to 2,400... not a proposal, but can accommodate up to 2,490 total units with a majority of that being multi-family. Within the rezoning area, there are 979 units proposed, with again the majority being multi-family. That would leave about 1,500 residential units to be developed within the remainder of Downtown Stafford. And within the actual rezoning area, you'll see that 307... excuse me, 673 of those units would be on the county-owned property with the majority of multi-family and 22 townhouse units, and then 306 units on the JPI property. So, about half of what the County property could accommodate. So, I'm going to go over the issues that the Planning Commission raised at the March 23rd public hearing. And the first was transportation and specifically looking at the impacts this area might have on the existing road network. And the Planning Commission requested information from VDOT regarding the HOT lanes extension and how those, the new access to Old Courthouse Road, which you see shown in the large red circle. The traffic from the north and east coming to these VDOT commuter lots and to the access ramp, you'll see about 30% of the volume would come from Courthouse Road... come Courthouse Road if you're looking at the traffic that's coming from the north and the east. And then you'll see in the yellow that 70% of the volume would be looking to access Hospital Boulevard and the new Courthouse Road to reach that point. VDOT's... the two studies that were sent, which I know were very large studies, they were done back 5 or 6 years ago... or was it 2017, I'm sorry. At any rate, they did not provide a lot of information on impacts to any nearby intersections or any future impacts; it really highlighted and focused on the Interstate 95 volumes and timing and impacts to I-95. But I'll note that the estimated projected 2022 daily traffic at the northbound entrance ramp would equate to about 1,800 vehicles per day that would be entering. And then going southbound to exit would be about 2,400 vehicles; that should say vehicles per day, not vehicle per hour. The second topic was the schools' estimation, the student generation rates. There were differences in our last staff report in the Economic Impact Study that was prepared by our Economic Development Department and the Stafford County Public Schools. And I'll note that the 979 proposed residential units, again with 957 multi-family and 22 townhouse units, within the original schools' projections they indicated 646 students total and that was based on the maximum amount of units that would be permitted in Downtown Stafford with Transfer of Development Rights. They also did a second projection of 609 students and that was based on the

Planning Commission Minutes
April 14, 2021

units as shown on the GDP. So, in speaking with the schools and what staff had determined was that they had based those initial generation rates on an average rate instead of breaking it out by unit type. So, staff did revise calculations and we discussed them and received concurrence from the schools, which I'll show in this slide. So, again, the original estimate would have used the rate of .622 times the 979 units to equal 609 students. The revised numbers that were used would have been .54 for townhouse which would equate to a total of 12 students projected. And then the rate at multi-family at .227 would equate to 217 students. So, the new projected student generation would be a total of 229 students across the 3 levels, the elementary, middle school, and high school.

Mr. English: Kathy, I don't know if you have this answer or not, but I called Mike about it. Aquia Towne Center and the apartments down here on Route 1, and the ones right behind those, do you know how many kids that they generated out of those?

Ms. Baker: So, your... the economic impact memorandum that was in your package I believe included that data on the Abberly apartments.

Mr. English: I just want it for the record. Do you know?

Ms. Baker: I'll have to pull it up.

Mr. English: Just pull it up when you get a chance.

Ms. Baker: Okay, yeah, we'll let you know that.

Mr. Apicella: Before you move on, the number of 229 students versus 646 or some number above that, you said the County schools have reviewed this latest information?

Ms. Baker: Yes.

Mr. Apicella: And they agreed that the 229 is the right number going forward?

Ms. Baker: Yes.

Mr. Apicella: Okay.

Ms. Baker: And one thing I'll note before leaving this slide is that, as you saw in the original Economic Impact Analysis, that memo that was done, although they did a completely different methodology for coming to the conclusion on the student numbers, it really came close to those 229 students. They based theirs on the number of bedrooms and so therefore the number of students that may be less than if you were looking at a single-family housing development. And we can talk more about that when Mr. Holden comes up to address you all. So, the next issue that the Planning Commission raised was the impacts to public facilities. And, particularly, since there are no proffers associated with this rezoning since the Board is the applicant, what would be the impact and the potential loss of monetary contribution for the capital facilities. So, the staff did an analysis on our 2015 proffer guidelines and, since we don't go by those guidelines anymore, this is really just an informational comparison for you. But across the six capital facility impact categories, for the 979 units we calculated approximately 18.9 million that could potentially be considered as impact costs. If you look at the breakdown below that pink line, you see out of the 651 units for the County property, that's about 12.5 million, where the JPI site at their 306 units would be about 5.9 million. Before we get into the Memorandum of Understanding, I failed to put on the slide the issue about the parks. And the Planning Commission had asked about 85 acres that we

Planning Commission Minutes
April 14, 2021

were looking at the difference between the increase in the need for parks and recreation. We did... we started looking at that and while we did not identify an 85-acre parcel of land that could potentially be parks, we were looking at what was in the Comprehensive Plan that was adopted in 2016 and looked at parks in the vicinity that, or land that's in the vicinity that could be contributed to parkland acreage. And actually there's about 600, 800 total acres looking at an area around Crow's Nest that have actually been acquired by the County that are looking... that those would be eventually absorbed in, or added to the Crow's Nest Natural Area Preserve to serve with trails and wildlife viewing and serve as parkland.

Ms. Barnes: Kathy, can I jump in here? Do you mind, Steven, if I jump in and ask a question about that? So, we're using the Crow's Nest then as fulfillment for that kind of requirement that we have. What exactly are the recreational opportunities at Crow's Nest? Can you list those because I don't see any playgrounds, I don't see... basically it just looks like hiking and canoeing launch to me?

Ms. Baker: Correct. It's a natural area preserve that's under the Virginia Department of Conservation's system. And it's different from a state park because it is... the primary goal there is to preserve the natural resources. So, it is a passive recreation facility. There are hiking trails, there's the canoe launch, as you mentioned, and wildlife viewing, so those are the primary...

Ms. Barnes: So, the additional land that you guys were looking at to add to that and to be considered as park for this kind of development, it would be the same. It wouldn't be... it wouldn't be anything for kids, it wouldn't be ballparks, it wouldn't be playgrounds or anything like that.

Ms. Baker: That's correct. These particular... this particular property would not be active recreational with fields and such.

Ms. Barnes: Because what I think is lacking, as far as parkland goes, with this kind of development, the kind of parkland I think that would be, you know, probably more appropriate or more useful would be something like the playgrounds and things like that. And, you know, I think that's one thing that I think we should consider.

Ms. Baker: Yeah. I think, um, and if you look at the Comprehensive Plan, it says you're looking at a variety of parklands, including active and passive and trails. And we do have new bicycle-pedestrian facilities, particularly that shared-use path that's along Courthouse Road, that has... is accessible from this propo... from this area. And that also, as we mentioned I believe last time, that's connecting to the new Embrey Mill Park. So, we have that new facility that has the fields and are within the, you know, just a short distance from the Downtown Stafford area.

Mr. Randall: So, Ms. Baker, I have a quick question then to add onto that. Was there any land that you identified outside of Crow's Nest that could be potentially used for active recreation?

Ms. Baker: I mean, there's no county-owned property specifically within the general vicinity of the courthouse that could be developed as active parkland. So, now I'm going to...

Mr. Apicella: Kathy, I'm sorry, I'm going to piggyback off of Mr. Randall and Ms. Barnes' questions. If a developer were to come in with a rezoning for 29 acres, what would be the expectation with respect to parks impact mitigation and how would Crow's Nest factor into the equation?

Ms. Baker: Jeff, can you help me with that?

Planning Commission Minutes
April 14, 2021

Mr. Harvey: Mr. Chairman, every application's reviewed on its own merits. And depending upon the size and scope of that example you gave would be dependent on, you know, what we would ask as a staff perspective as to what type of active recreational amenity should be provided, or have within close proximity to that project that those residents could have access to. In the case of Crow's Nest, Kathy was just giving a general example about acreage, because that's what the Comprehensive Plan says; it's says acreage, it doesn't specifically the types of parkland. And at the staff level, we also talked about the Civil War Park and some other, the community center at the courthouse and some other things that are park related that are in the vicinity but not necessarily active ballfields. Looking at the image that we saw with the concept plan for Downtown Stafford, there were a couple of areas that were active... or green areas where it could be more active-oriented but they weren't designed to be ballfields in particular. So, it would again depend on the nature of the project. If you had something 29 acres in size, it could probably accommodate some sort of ballfield within their complex, depending again on how many dwelling units they have.

Mr. Apicella: Right, and I can't speak for other Commissioners, but I think one way to look at what's in front of us is, how would it compare to somebody else trying to do their own rezoning not being done via the County. So, again, if another applicant was looking at this 29 acres and they wanted to do a rezoning, what would be the... what would be the expectation on the various infrastructure needs that we would look at for that rezoning. So, anyhow, that's just one perspective. Please go ahead Ms. Baker.

Ms. Baker: Okay. Yes, and Mr. Holden is going to come up and talk about the specific elements of the Memorandum of Understanding, as well as the Economic Development Study... or excuse me, the Economic Impact Study that he has submitted the revised memorandum that you all received I believe yesterday. So, I'll turn it over to Mr. Holden.

Mr. Holden: Thanks Kathy. Thanks members of the Planning Commission. It's glad to be here. I apologize for missing the public hearing last time. So, first I just want to point out, and I'll probably reiterate this a couple times, that this project before you, the rezoning of Fountain Park and the County property for that matter, but specifically the rezoning of Fountain Park, it came to us as an economic development project. They did not approach us to seek rezoning. We approached them to develop this project that would be the gateway to the Downtown Stafford. Therefore, proffers were never a part of that discussion. It was, as like other economic development projects, it was in an economic development standpoint getting more economic development out of a project. By-right they could have built four 1-story office buildings. With the plan in front of you, they will build, of course you know it quite well, a number of multi-use buildings. Their project probably would have generated less than a hundred jobs. This project will generate approximately 280 or more jobs. The capital expenditure on the project they could build by-right without this MOU was about 5½ million dollars. This capital expenditure's in excess of 65 million dollars. There's a difference of 550-some thousand dollars in real estate taxes annually that will be generated by this project. So this, first and foremost, has been and is an economic development project. So, to the slide, so again, this is about rezoning their property, you can see all that, and we approached them for that matter. Because when they came to us, they had a plan to build as I just described. That's why there are no proffers because it was an economic development negotiation to come to the MOU that the Board approved. Now, um, the MOU clearly dictates the different responsibilities of the two parties, i.e., the County and JPI. And I want to point out for the county-owned property, that will develop with this rezoning in the same fashion. It will be a mutually agreed agreement that now will, you know, can take into account a number of things this Commission identified, concerns, i.e., proffers, but it won't be proffers. The vision would be a negotiated agreement with the developer that will build a project on the County's acres, because the County will seek that development and have the property rezoned. Frankly, without the rezoning, we likely will not get a developer. We can't seek a developer then they're going to want to rezone. Well, then the whole proffer question comes in. So,

Planning Commission Minutes
April 14, 2021

that's been part of the strategy all along and why the approach to JPI, quite frankly, was... timing was incredible. And I'll tell you about timing in a minute. So, the Memorandum of Understanding does have offsets, as it says on this slide, or costs by both parties. All in all, the... either the cash or the cash being spent by JPI to develop the project or part of the County's property is a little shy of 2 million dollars; estimated at 1.9, it's probably gonna be about 2 million dollars. The MOU, if the zoning is not passed, the MOU will not be executed and the County will have to pay JPI \$300,000 as part of the road widening project. That was a negotiated cost as well. That was well in excess of that figure before we started negotiations. And thirdly, the net tax... just the net real estate tax revenue with the project as rezoned versus not, as I just read earlier, is about \$550,000 a year. So, all of that adds up to numbers that are not proffers but they add up to numbers that address proffers, just not in those specific categories as you're generally used to. Finally, I would just say on that, this is a significant message to the development world, particularly those we want to seek to do projects similar to the one you heard earlier on the County's property, that we're serious about starting Downtown Stafford. I've talked to you before about messaging in Economic Development and it's important that we send that message that we're ready to do the County's property. It will set us back a while if we do not, quite frankly. So, the economic impacts. Again, I did a, to answer a question earlier, I did an earlier assessment. I don't have that earlier one in front of me, but in that memo I did summarize in the Abberly apartments, the... I don't have this in front of me, the figure in front of me but... the projected number of students is I think about 50% less or... the actual number of students is 50% less than the projected students by the schools in that planning district that they call it. It's got a different name but. The schools... theoretically, it's something like, um, the projection was 60+ students; it's 40+. And that's in my original memo that I did the first time.

Mr. English: That's Abberly you said?

Mr. Holden: That's at the Abberly apartments.

Mr. English: And how many apartments does Abberly have?

Mr. Holden: That's in that memo, too; it's 287? Two eighty-seven rings a bell.

Mr. English: Three hundred apartments over here?

Mr. Holden: Two eighty-seven.

Mr. English: Two eighty-seven, right over here.

Mr. Holden: Yes. The majority of those again being one bedroom. Those figures were in my first memo I did prior to the March one. The point of that is, is the assumptions I did in my analysis is that, as you just heard in the other project, the higher demand for multi-houses, multi-unit, is more bedrooms and, it just so happens of course 1-bedroom and 2-bedrooms generate less students than 2+ bedrooms. So, my estimates were based on some other research I did on types of employment by types of industry, i.e., the multi-use, the office. It was also based on eating and drinking. And again, real estate taxes confirmed or talked with the Commissioner of Revenue on and my estimates were based on real estate and business personal property taxes only. So, the estimates I did does not include any estimates on food or other sales taxes which of course will increase the revenue side on the County side. So, all in all, and I did... there is a typo in the last memo I did. I use the 979, not 939 as it describes on I think on page 3. All in all, again, with the adjusted numbers and my... I used a SGF of .23 as opposed to .227 so it's a little bit higher. All in all, it's net positive in terms of tax revenue to the County. And again, that increases if you look at... if you adjust it by bedroom units.

Planning Commission Minutes
April 14, 2021

Mr. Randall: Mr. Holden, this net positive tax revenues, this is per year annually?

Mr. Holden: Yes.

Mr. Randall: Thank you.

Mr. Holden: So, um, summary on economic impacts, the rezoning and development of this project, of both the Fountain Park and the County parcels, is of course as I've indicated a significant step towards Downtown Stafford and an economic development project. Fountain Park, by the MOU, has a majority of 1- and 2-bedroom units. It is phased, as you know. And I would suspect, quite frankly, that the County's property, I know it allows for some townhouse or I would suspect it's going to be more multi-family than townhouse, i.e., generate less in terms of students because they'll be smaller units is what I suspect the market is going to, as you just heard earlier from Mr. Pence. So, estimated net taxes will exceed the cost of those students. But more importantly, frankly, we are doing a lot more in Economic Development the last few years. We're seeing a lot of projects. That's part of the messaging we want to send is that we're positive for, you know, smart economic development. But also, my estimate right now, in the next 1 to 3 years we'll be working with companies that will create between 600 and 1,000 new jobs in Stafford County, primarily the central part of the County. Those are new jobs from new companies. That's not new job growth from existing companies. And we are diversifying the economy and the kind of jobs that we are going after will be people who will look for alternative... aren't necessarily wanting 6 acres or 10 acres out in the country with 5 or 6 bedrooms, right. They want urban environment bedrooms. And, frankly, to improve our economic development marketing, we need to have a range of options for housing for workforce, because workforce is the number one thing that companies look for. I think that, coupled with the fact that this long term vision and develop a place for Stafford called Downtown Stafford I think will be an attractive item for economic development. It won't be the win-all, it's not going to win new companies because of it, but it's going to be an attractive piece that we'll use to market economic development. So, one last item I'd like to mention, of course, I think Commissioner Cummings has mentioned this a few times about the investment in smart technology in Stafford. Just to reiterate, the Center for Innovative Technology has a partnership with Stafford to development smart city technology in what we call the Virginia Smart Community Testbed. That testbed is actually opening on May 25th; you all will be invited to that. The important part of that is that in the last year, CIT has provided state and leveraged federal funds to the tune of a million dollars in R and D and smart technology that's being done in that facility even though it's not open. Some of that is being put into this building. Some of that is the benefit of Public Safety. But also, that's... *inaudible*... a lot of messaging. And we have talked to over a dozen of companies that want to be involved in that testbed and want to be involved in Stafford. And my job is to convert those into companies and that want to be in Downtown Stafford. So, it's an important part of the entire mix of things to be considered in doing that. So, that's my slides and I'll be glad to take questions before I turn it back to Kathy if you'd like.

Mr. Bain: I'd like to ask...

Mr. Apicella: I do have questions, but why don't we let Kathy finish the presentation, unless folks want to jump in now.

Mr. Bain: Alright.

Ms. Baker: That really is the... all of the presentation other than the recommendation which staff is recommending approval of the rezoning. It is in compliance with the Courthouse Area Plan, even though you all didn't adopt the actual new proposed Comprehensive Plan amendments, it is still in compliance with one of our former plans. Also, the approval would, as Mr. Holden said, provide a catalyst towards

Planning Commission Minutes
April 14, 2021

development of Downtown Stafford. So, I'll just note, with the deadline for Board action, again is July 2nd and the contractual obligations for Board action by July 9th. So, we would recommend the Planning Commission take action by the, at least by the May 12th meeting in order for us to have time to schedule the advertisements and such to get to the Board before they have time to take action. So, with that, Mr. Holden, Mr. Harvey, and I can answer any questions that you may have.

Mr. Apicella: Alright, thank you. Questions for staff.

Mr. Bain: Yes, I have a couple, I think. Mr. Holden, in your analysis and in what Kathy presented, \$600,000 of tax revenue per year, that was just for the JPI portion of the development, right?

Mr. Holden: No sir. My analysis was based on combining the JPI and the County.

Mr. Bain: Okay. I was doing some simple math assuming it was JPI and let me explain it. I said JPI is getting a benefit of not paying six million dollars in proffers. Tax revenue is 600,000 a year. Therefore, it would take 10 years of operation before the loss of that proffer amount could be recovered. Now it's even greater if it includes the County property; that's 18 million dollars, almost 19. So, it's going to take a long time to recover that. Then there's the...

Mr. Holden: May I...

Mr. Bain: Okay.

Mr. Holden: ... clarify? So, um, the net difference in annual real estate tax revenue is about \$550,000 a year, positive with the JPI development – exclusively just the JPI development.

Mr. Bain: Okay.

Mr. Holden: Okay. So, uh, in addition, the estimated value of costs they're putting into the project is just about 1.9, just call it 2 million dollars. There's also the fact that the County will have to pay \$300,000 if the rezoning is not part... does not take place by the date. So, that was the, uh, 2 or 3... 3 million dollars, and then 550,000 net just in real estate forward. So, that's the rough math, excluding sales and other taxes of the value of the JPI project if you're just looking at the net tax revenue.

Mr. Bain: Okay. But the point I'm making, it still is going to take quite a few years to offset the lost income by waiving the proffers. Um, the other thing, the cost for student education, \$10,508, we have already said that the... or I have already said that the tax revenue is going to take a long time to offset the proffers. It'll never come close to touching what's required for schooling needs, the children that might be in there. It just seems economically to be a real bad idea, my opinion. Let me ask this – why was it necessary to rezone both JPI and County property at this time? Why couldn't the County property be rezoned later and perhaps even sold to developers with a Memorandum of Understanding that they would request rezoning and pay the proffers?

Mr. Holden: In my opinion, most developers of that kind of project would not be attracted to that RFP, request for proposals. They want to know that the project is ready to go. And there will be a negotiation because the land will be likely sold, so there will be an exchange of value. But, to market County property for the kind of development we're talking about without having it zoned, in my marketing experience with economic development, it's just not done. Developers of the type that I would like to attract to Stafford will not approach us if we have to turn around and say, yeah, then we have to rezone and, by the way, you might have to pay proffers. They will approach us if we say we have it zoned and

Planning Commission Minutes
April 14, 2021

they will understand there's a negotiation to take place that will, uh, result in some kind of exchange in the value which may mirror what you might expect in proffers.

Mr. Bain: Okay, well, I'll go back to the original part of that question. Why was it necessary to rezone both at this time? Why couldn't the County's land have been rezoned later?

Mr. Holden: This has been part of the, the vision and the Strategic Plan of the Board. So, we saw the JPI... if we're going to do it then, we can do the same thing and get both projects moving at the same time. And that's again a kind of an economic development marketing approach is that if you're doing these kinds of things, they build upon each other and will build support for a continuing development in an area.

Mr. Bain: Coming at this from a non-developer...

Mr. Holden: I understand.

Mr. Bain: ... I think JPI is getting a really terrific benefit out of this. They're not paying proffers, they're getting a much higher density, they're going to reap the benefits possibly of long-term rentals or else selling those units to somebody else at a really nice profit. And all we're asking them for is a parking lot and a road access in terms of really money-associated items. So, I mean, any developer would have been crazy not to turn this down. And I'm just... I'm very concerned that when the County sells their portion of the property and does not receive proffers, the schools are the ones... schools, parks, fire and rescue, are the ones suffering, going to suffer because of this approach. It just doesn't... it doesn't add up to me. The revenues, the taxes don't come close to offsetting in my mind the money that we're giving away. That's unfortunate. That's all, thank you.

Mr. Apicella: Other questions?

Mr. Randall: Yeah, I have a quick question Mr. Holden. So, as a focus of economic development, to bring businesses to Stafford County, can I... maybe this is the wrong... can I make the statement that proffers are not a number one priority in that event, in that avenue, in that course of bringing businesses to Stafford?

Mr. Holden: Generally, that is correct. We do not talk about proffers when we're talking about business and economic development. Proffers generally come up with, with residential rezoning.

Mr. Randall: Right, exactly. And so, so to that point, JPI had this property already, correct?

Mr. Holden: Correct.

Mr. Randall: And without your negotiation with them, they were planning to build office buildings.

Mr. Holden: Four 1-story office buildings.

Mr. Randall: Four 1-story office buildings. Which would have provided the County what kind of benefit?

Mr. Holden: Approximately... less than a hundred jobs, probably even about a 5½ million dollar capital expenditure, and resulted in, uh, approximately 5½ million dollars in annual real estate only value as opposed to the 60 or 65 million for the other.

Planning Commission Minutes
April 14, 2021

Mr. Randall: Okay. So, although we... it's tough sometimes to put a, to put a stamp on what is and what isn't, positives and negatives. We see initially that four 1-story office buildings versus what they will have now and the benefit to Downtown Stafford, because this was all included in what you thought we needed for a thousand units to make a viable Downtown Stafford, correct?

Mr. Holden: Correct.

Mr. Randall: There are 300 units?

Mr. Holden: It's part of that piece.

Mr. Randall: Right, it's all part of that.

Mr. Holden: Yes.

Mr. Randall: And so, we would expect that these 300 units would be filled with families that would be using this Downtown Stafford as part of their normal everyday business environment, everyday daily living environment.

Mr. Holden: Correct.

Mr. Randall: Okay. And so, no, I would suggest that maybe, you know, as we get proffers as you get, you know, building occupancy permits, you know, we wouldn't see a lot of this money anyway down the road. Um, but I would suggest that, you know, the long term ramifications for the County are extremely positive and I think that this has... it's a great, it's a great cornerstone especially when JPI is willing to do all these other things that you've negotiated with them. You know, if you look at what we would need to do to even just grade and... level and grade a parking lot, you know, what would the County have to do to do that? The County would have to go get an RFI, they'd have to go get an RFP, they'd have to go award a contract, they'd have to... *inaudible*... overhead, you know, of a couple hundred thousand dollars and then they'd have to go pay somebody to go do it. Well, you've already done all that. JPI is going to do it, you know. And so, I think that those little things add up to some significant levels of benefit to the County where I think this is, this is a positive thing and I think can be definitely a good starting point for the County to move forward. If I could make one point – as you negotiate the County's properties, I need a bigger Fountain Park. I need a bigger park, right. I need... it can't be .47 acres.

Mr. Holden: I wanted to point that out that presuming this goes forward and it's rezoned and we seek out developers, that will be... you know, that plan that you saw for the County's acres is just that; it's a plan and it can be negotiated, and it will be negotiated in terms of where the buildings go and...

Mr. Randall: Are you doing that negotiation?

Mr. Holden: What's that?

Mr. Randall: Are you doing the negotiation?

Mr. Holden: *Inaudible, two talking at once.*

Mr. Randall: I need at least an acre, at least an acre. Let me throw my hat in the ring for another acre.

Planning Commission Minutes
April 14, 2021

Mr. Holden: The point is, really, to the earlier question, you know, when we talk about the park in that area, whatever it is, I assumed it would be more of an urban active school... not school, but, you know, playground or that kind of thing. And another piece I'd add is you mentioned cornerstone; that was a key reason why we approached JPI is that corner, to have that as literally the entryway into the bigger Downtown Stafford, the larger area. It was important and they came forward with the idea of an, albeit small, they only got 6 acres of the park at the corner and then that area. Having that, again, just looking forward to the community side of things, the place making side of things, as four 1-story office buildings was just not the vision.

Mr. Randall: Thank you.

Mr. Apicella: Please, I've got some questions myself Mr. Holden and Ms. Baker.

Mr. Holden: Yep.

Mr. Apicella: So, I have several questions, most are to help us, or at least me understand why rezoning both the JPI property and the County property together at this time best serves the interest of the County and its taxpayers. And I hear what Mr. Randall is saying. I guess I take a different viewpoint. If and when there are no proffers and there are impacts, offsite impacts, and the offsets that occur on the property, will they make up the delta? And when they don't, then taxpayers will be on the hook to make up that difference. I would ask these same types of questions, whether this was a developer initiated rezoning or in this case a County initiated rezoning. So, so, my first question probably is for Kathy. As I understand it, this is a generalized rezoning to the UD-5 Zoning District and it covers both the JPI property and the County parcel, for a total of about 29 acres. Is that correct?

Ms. Baker: Yes, that is correct.

Mr. Apicella: And can you help us understand what the difference is between a generalized rezoning and a specific rezoning?

Ms. Baker: I'm not sure I know the answer to that question. What, what are you...

Mr. Apicella: A generalized rezoning doesn't say how many buildings, how much square feet, the types, specific type of uses, where they're going to go. A generalized rezoning just says that this property is not going from 1 category, 1 zoning category to another zoning category, and anything that can occur under that zoning category are allowed by-right. Is that correct?

Ms. Baker: I mean, we... I guess I'm not follow... Jeff, do you want to help me?

Mr. Harvey: Mr. Chairman...

Mr. Apicella: Jeff, please chime in.

Mr. Harvey: Sure. Any rezoning is generalized so to speak, you're changing one zoning classification for another. The issue that I think you're referring to is zoning restrictions on the property, which we call proffers and proffers are in types of restrictions as far as how the property's used, how the property is developed and/or how are they mitigating their impacts. In those situations with proffers those are offers made by the property owner to mitigate their impacts for their development. In this case the property owner is Stafford County so Stafford County cannot commit to pay itself for proffers. In the case of JPI there's been a memorandum of understanding which is an agreement between the parties as

Planning Commission Minutes
April 14, 2021

to what certain features are gonna be built by who and the timing of it, so that's some of the distinction between this and then if you had an individual property owner who filed to rezone they then could commit to proffers on how many houses, how much commercial square footage, what the buffers are, if they're gonna have any green space, how is it used, they could also commit to other monetary contributions to offset impacts if necessary. Did that help explain that?

Mr. Apicella: It does, I've seen the term generalized rezoning and specific rezoning before but that said, so there's no proffer GDP so all the layouts that we there illustrated and what actually could occur with regard to the specific buildings, where they're located, the uses, where the roads are, those could be different than the descriptions or the illustrations that we're seeing, is that correct?

Mr. Harvey: Mr. Chairman, only on the County's property, the JPI property through the MOU is specifically to committed to the layout and architecture that was presented in the attachments to the MOU.

Mr. Apicella: Can you tell me where the layout is committed to? I didn't see that in the MOU.

Ms. Baker: It was actually an attachment to the MOU, the specific, the JPI Fountain Park plan that you saw earlier on the screen is actually attached as part of the MOU.

Mr. Apicella: So they've committed to that, everything that we see there is going to occur exactly as the illustration that you're referring to demonstrates, no changes?

Mr. Holden: This is John Holden, I would add that the MOU does specify in the MOU portion, the actual cost where JPI was, what roads they're building, what road entrances they're building which match up with the diagram thus they are tied together so yes, I wouldn't say you know 100 percent exactly but what you're seeing in the diagram and it's attached to the MOU is what is expected per the MOU with JPI.

Mr. Cummings: I just want to be clear, so the diagram that we're talking about, the attachment to the MOU, that's the concept right?

Mr. Apicella: Kathy what... on the staff report I'm looking at page 16 of 29 of Attachment 2. I don't know if you have that but could you pull up? I'm looking at the Fountain Park Concept Plan. So, you're saying it's not really a concept plan, it's the agreed upon plan that we've already negotiated with JPI?

Ms. Baker: May I have the computer please?

Mr. Apicella: That one right there.

Ms. Baker: And also, the renderings that I think we saw the last meeting but this is the general layout. And again, it is a, as with all rezonings, it's a general development plan, there are aspects of this that are addressed in the MOU. So yes, there's going to be some variation to this plan, it is not set in stone just like any rezoning we do you're going to get, by the time you get to engineered site plans there's going to be some concessions made as far as what's allowable on the site itself when you get out there and start engineering and putting in stormwater management facilities and such so, still a general plan.

Mr. Apicella: Right but to that point though, I'm going to have 7 buildings, I'm going to have 309 apartments.

Planning Commission Minutes
April 14, 2021

Ms. Baker: Maximum.

Mr. Apicella: Maximum. I'm going to have a Fountain Park, I'm going to have a pool plaza, I'm going to have a dog park, I'm going to have all of those things included.

Ms. Baker: The things that are spelled out.

Mr. Apicella: It may not, right, it may not be exactly, you know. There may be 20 feet this way or 20 feet that way, but basically what I'm looking at, 90% of what I'm looking at is going to be there, is that a safe assessment?

Ms. Baker: What's on the plan and how it's tied to that MOU that says this will be done, this shall be included in the development of this project.

Mr. Apicella: Alright.

Mr. English: They couldn't sneak anymore in there though, right?

Ms. Baker: Pardon me?

Mr. English: They could not stick anymore in there, no more buildings in there, could they?

Ms. Baker: They have a maximum number of units, a lot of that's going to be driven by how much open space, how much parking, landscaping, and everything else that is tied to the UD zoning district so you have all of those factors that are gonna play together in creating what is on this plan.

Mr. Apicella: Yeah I'm gonna have some more questions about this specific slide and I'll get to it in a minute. So, if the UD-5 rezoning is approved for both the JPI property and the County property the Planning Commission would play no further role in the development of either subject parcels, is that correct?

Ms. Baker: There would be site plans submitted that would be the next step if this gets approved, so that is a ministerial act.

Mr. Apicella: Right a ministerial act. So, the only current document that speaks to how development will occur is the MOU and that primarily deals with the JPI property not anything with respect to the County property, is that correct?

Ms. Baker: No there are responsibilities that the County has that's also spelled out in that MOU.

Mr. Apicella: I get that but it primarily speaks to the JPI property, not what's gonna happen on the County's property?

Ms. Baker: Not necessarily because it talks about the excess roads that are off the JPI site, both of those grid sheets that are bordering that, JPI is responsible for one of the streets the County is responsible for the other. I need to pull up the MOU, it's sorry, my fault.

Mr. Apicella: You don't need to pull up the MOU, what I'm speaking to is, we don't know what's going to actually happen on the County property and, to some extent, we believe we know what's going to happen on the JPI property, that's my point.

Planning Commission Minutes
April 14, 2021

Ms. Baker: I mean, there are some things spelled out; what will be going on the County property that is in the MOU. So, yes, there are some things.

Mr. Apicella: So we know how much office, how much commercial, how much residential is going on the County property based on the MOU?

Ms. Baker: No, I'm just saying there's some of the improvements such as the construction of the street, the future parking area, things like that that even the temporary parking lot is on County property, so that is an aspect that's spelled out in the MOU. You're correct there's nothing that is specifically dictating exactly all of the buildings. We have a generalized development plan that's also following the Downtown Stafford concept plan so that is what the Board would ultimately have the decision on how the rest of the County property is going to be developed. There would be similar MOUs developed with prospective developers that are going to dictate what, get into more specific detail on what the development of the County property would look like.

Mr. Apicella: Right, but those aren't in place right now.

Ms. Baker: That's correct. But the County owns the property and has a say over what is going to go on the property eventually.

Mr. Apicella: I get that. How much commercial is anticipated on the JPI property versus how much is required?

Mr. Holden: This is John Holden. I don't have... let's see, I'm reading the MOU in front of me and it's more about how much commercial is required before residential units can be built. I think the GDP actually says, right there, I don't know if you can see all that slide or not, but it's broken up into office and it looks like 30, 100, 60, 150, 200, maybe 300,000 square feet of both office, restaurant, underground parking; so I read a bunch there, there are a bunch combined on this slide, on slide five of the presentation.

Mr. Apicella: So when I look at this slide, just so we're all on the same page, they must do 56,400 square feet of civic, they must do 235,000 – well, I'm speaking just to the JPI property. On the JPI property, again my question is, how much commercial is required versus how much is anticipated?

Mr. Holden: I don't have the total numbers, I have in the MOU in front of me the amount of gross commercial before they start building residential units, I just don't have that figure in front of me right at this moment.

Mr. Apicella: Okay so I'm gonna go back to what I remember seeing when this JPI project was presented, the Fountain Park project-

Mr. Holden: I'm sorry for interrupting, it's there on the slide now.

Mr. Apicella: It's on the slide but it's still... I don't see where they are legally required to do 79,525 square feet of office, 30,760 square feet of number one, number two 60,200. I'm looking at the MOU, okay. The MOU only requires 30,000 square feet of an office and then another 30,000 square feet to get their... to get up to 250 units, so which is governing how much commercial they must do on their parcel?

Mr. Holden: The MOU.

Planning Commission Minutes
April 14, 2021

Mr. Apicella: The MOU. So, what we see here in this picture doesn't necessarily mean what we're gonna get?

Mr. Holden: Well, from a market standpoint it does because they won't-

Mr. Apicella: I'm not concerned about a market standpoint, I would have the same question if I were; and I'm not trying to be combative. I'd have the same question if a private developer came in and showed us an illustrative plan versus what is cast in concrete and I don't, no pun intended, I don't see that these figures here are cast in concrete. It's the MOU that effectively cast certain numbers in concrete, and all I see there is 60,000 square feet of commercial required if they're gonna build 250 units. Am I wrong?

Mr. Holden: I would state that you're correct from the MOU's perspective.

Mr. Apicella: So, again, all they're committed to doing is 60,000 square feet, when you did your economic analysis was it based on the required 60,000 or was it based on these numbers here?

Mr. Holden: It was based on the total buildout that they planned to do, my analysis.

Mr. Apicella: That doesn't answer my question, does it, is it based on what I'm seeing in this slide or is it based on the 60,000 square feet committed to in the MOU?

Mr. Holden: It was more so on the slide, I don't want to commit to the actual division of these numbers because I'm not sure these are the numbers that I used, but it was more so on the full build out of their property as well as the full build out of the County property.

Mr. Apicella: So how much of, what I see in the Comp Plan Amendment, that didn't get passed, there was a total of 115,000 square feet total plus I think some amount for entertainment, I'm not quite sure what that is. So again, my concern is there's a delta between what is required versus how the economic analysis anticipates certain things that may or may not happen.

Mr. Holden: You are correct.

Mr. Apicella: Okay, so again I've asked the same question if a private developer were in front of me so please don't take this as a pejorative question.

Mr. Holden: No absolutely, I don't mean it that way, yup.

Mr. Apicella: What happens to the fiscal bottom line if the projected buildout doesn't materialize or if we hit periods of an economic downturn or another pandemic?

Mr. Holden: Sir, I would respectfully say that's happened a number of times in Stafford County in the past and will in the future as does everywhere. We can't guarantee that these things will develop as they plan at this time. You know there's a few examples I hate to use because they're sore thumbs in Stafford County, but you can't require the private developer to build these things if the market won't support them, you can only plan for them and get the best negotiated agreement or proffers that you can when you allow them to do what they intend to do.

Mr. Apicella: Okay, the economic analysis does it include any capital costs or debt service?

Planning Commission Minutes
April 14, 2021

Mr. Holden: What was the last, capital costs on what?

Mr. Apicella: Does it include any capital costs to the County or the school system, or any debt service?

Mr. Holden: In talking to the school district those student generation figures and those costs per student do not take into account debt service in any way.

Mr. Apicella: Okay and capital costs are generally for land acquisition, site work, and construction, is that correct? Of schools, public safety buildings, roads, parks, etcetera?

Mr. Holden: In general, yes that's correct.

Mr. Apicella: And cash proffers are used to mitigate those capital costs not operational costs, is that correct?

Mr. Holden: Proffers are Jeff's category, but I'll defer to Jeff on that one.

Mr. Harvey: Mr. Chairman, yes monetary proffers can be used to offset capital facility impacts. It cannot be used to offset operating impacts.

Mr. Apicella: And I know it was stated previously, how much is the County losing in foregone cash proffers by being the applicant for this rezoning?

Mr. Harvey: Well Mr. Chairman as the Commission may recall under the state code proffers can only be requested of an owner based on the facility impacts and what capacity we have at the facilities so this slide that we provided from 2015 which was a draft guideline is again as Ms. Baker said, for informational purposes on potential impacts but as far as what actual impacts are, it would be a different number than shown here.

Ms. Baker: But I also want to point out on this particular slide that's up now, if you look at the school amounts which are the highest amounts on this, out of all of them if you notice, if you all looked at the staff analysis that we did that was in your package it actually shows that if this were to be built today there's an excess capacity at the schools so the proffers would not be a reasonable contribution to be made because there's not an impact to the school system for the 229 students if it were to be built and figured today so if this was another developer coming in and using these guidelines we wouldn't be able to ask for that so just wanted to point that out.

Mr. Apicella: Right and therein lies the caveat, if this were done today by a private developer, we don't have a private developer doing this today, we might have a private developer next year, 2 years, 5 years, 10 years from now when the capacity levels might be different.

Ms. Baker: I'm just saying if the developer came in to rezone this today, they would not be bound to these to any proffers for schools because of the excess capacity.

Mr. Apicella: So again, not to belabor the point, but at the last meeting my concern was, and still is, how much commercial do we need on these 29 acres to offset all of the impacts, again roads, schools, parks, fire/rescue, etcetera, that we're not getting by virtue of not receiving proffers? Do we know that answer yet? And those things would accrue whether or not the partner or partners do other work on the sites. If they build roads on the site or entrances, those are onsite impacts. I'm talking about the offsite impacts.

Planning Commission Minutes
April 14, 2021

Mr. Harvey: Mr. Chairman, we do not have an analysis of what the offsite impacts would be in totality. And then we would... if we did, then we could look at what potential revenue we might get from potential development. Part of it would be the type of commercial development that we would have there, and what revenue it would generate. Generally, retail generates the highest, but we know in this area we're probably going to have some retail, but also office space. So, number one, it would be a lot of speculation as to what those impacts were and what revenue we would have to have to offset it. So, staff at this point in time is not in the position to be able to give you... give an estimate of what that number would be.

Mr. Apicella: I'm not following you, Jeff, because we know... we have a projection here of how many units there are going to be, residential units. How could we not say what the offsite impacts will be? For example, the staff report indicates that 80% of station number 2's capacity is going to be eaten up by this project. So, at some point we're going to need another fire station to accommodate other growth. Um, who's paying for that?

Mr. Holden: Again, this is John Holden. Again, part of the approach for the County property is that we will negotiate with the developer a price and that price will be not only the value of the land and the value that we see appropriate to the County as terms of the land and the development value, but also perhaps include some of the costs that we would expect to have, both capital, on and offsite, that need to be, um, contributed to that transaction. It's not called a proffer; it's called a negotiated agreement. But we will take that into account as we seek a developer for the County's acres.

Mr. Apicella: Well, just to be fair, we didn't get that on the JPI property, and the MOU associated with the JPI property.

Mr. Holden: As Mr. Bain said, I think that's, um, again, his opinion was the same I guess of that. My opinion would be different.

Mr. Apicella: Alright, just a few more questions, and I'm sorry to keep going down this path. Again, I have to look at this from the context of if we don't get the proffers we need, we don't get the mitigation we need, who's going to be stuck with the bill? So, why didn't the County pursue an MOU or MOUs up front with a developer or developers for its parcels before pursuing a rezoning on this property? Just like it did with the JPI property.

Mr. Holden: Because we feel that we will get a better developer and be in a better negotiating position if we have the zoning in place to market the property for the kind of development that I envision we need and desire in Stafford.

Mr. Apicella: Okay. So, so this question is more of a planning question, maybe a legal question. Could the County still seek MOUs first conditioned on a developer seeking a UD-5 rezoning and the County's approval on that rezoning?

Mr. Harvey: Mr. Chairman, I've had a discussion with Mr. Holden and Ms. Lucian about that. And unfortunately, an MOU's not a vehicle that we can use in general terms for rezonings. This is a unique situation where the County is the property owner. Again, as I mentioned earlier, proffers are voluntarily arrangements offered by a property owner. So, in the case of some other location where some property owner is wanting to rezone, they couldn't enter into an MOU with the County for them to pay money to the County for something that they already own. And maybe I'm not describing it clearly, but also too, state law prohibits contract rezoning where you're actually entering into an agreement that the County will rezone somebody *if* they give us X dollars. Um, that's considered to be, in my opinion, unlawful exaction of property from somebody.

Planning Commission Minutes
April 14, 2021

Mr. Apicella: So, help me understand then, Mr. Holden says that we're going to seek MOU's after this get rezoned from developer A, B, and/or C, and in the purchase price of the property it's not only going to include the cost for the land, but theoretically we're going to include the impacts associated with offsite needs. How is that legally permissible?

Mr. Harvey: Well, Mr. Chairman, it would go back to what we can negotiate with the purchaser. Say, for instance, we decide that we want to sell the County's property for 20 million dollars, and the Board of Supervisors believes that we need to be able to generate 5 million dollars to offset impacts to that proposal. So, a likely scenario would be that the owner might sell it for... or buy it for 20 million dollars but we'll have to use that 5 million to offset the impacts somewhere. So, there'd be somewhere like a net benefit to the County of 15 million dollars.

Mr. Holden: Again, the primary difference... *inaudible, two people talking at once.*

Mr. Apicella: *Inaudible, two people talking at once...* let me see if I can see it. You're saying the cost of the property is valued at 20 million dollars – I'm not trying to put words in your mouth. The cost of the property would normally be 20 million dollars, but we're really going to sell it for 25 million dollars and 5 million dollars is going to go towards the external impacts; is that what you're saying?

Mr. Harvey: If that's what we wanted as a net value out of it, 20 million as a net, yes. I was referring to 20 million as the gross sale price where the County's essentially netting 15 because we're utilizing 5 towards offsetting capital facilities. And then, again, it's the Board of Supervisors' decision on how any proceeds from a sale of property gets used, whether they use it for capital facilities, they use it for some other one-time cost that the County's incurring.

Mr. Apicella: Alright. So, then here's my, here's my last question. How do we negotiate those MOU's or MOU without knowing what those external impacts are up front? When is that going to happen?

Mr. Holden: Well, speaking for myself, we'll certainly take into account the dialogue that's happened over the last few months, and tonight even, on the things that are concern, right? We'll look at that as a negotiating part of that potential negotiation, right. And that is all taken into account when we will foreseeably enter into that negotiation and ultimately that agreement. You know, I absolutely respect the input I've heard here tonight and the last couple months as well knowing that we're in a position where we might possibly be looking to negotiate these 28 acres, 29 acres. So, we'll have to take that all into account when we start that process is all I can say. I know that's not an exact answer.

Mr. Apicella: Alright, I appreciate that Mr. Holden. I'm sorry to my colleagues for asking so many questions. Are there any other questions?

Mr. Randall: Mr. Chairman, I have a couple of questions, follow-on questions. Could you go back to the plan, the concept plan that we were talking about before?

Mr. Holden: Is this it?

Mr. Randall: I don't know where it was. We looked at it there for a little bit. Right there. Okay, so, just so I'm looking at this, building number 1, the total square-footage of that building, all 4 stories, the total size is 30,000 square feet – roughly.

Mr. Holden: Correct.

Planning Commission Minutes
April 14, 2021

Mr. Randall: These are all estimates, right?

Mr. Holden: Correct.

Mr. Randall: And we expect the first floor to be all commercial... or all... this is an office space, never mind. So, let's go to number 2. So, it's 80,000 square-foot for the entire second building, that's all 5 stories.

Mr. Holden: Eighty thousand.

Mr. Randall: Eighty thousand, and we expect the first floor to be the office space.

Mr. Holden: Sure.

Mr. Randall: Right?

Mr. Holden: Yes.

Mr. Randall: Do we expect that the office spaces will incur... move into the second or third floors?

Mr. Holden: It may or may not.

Mr. Randall: May or may not. But it could be.

Mr. Holden: It could be.

Mr. Randall: But they still have to get their 307 units in.

Mr. Holden: *Inaudible, two talking at once...* units of office and commercial first before...

Mr. Randall: Right. Do we expect that there could potentially be some residential on the first floor?

Mr. Holden: It could happen. I wouldn't expect it from a market standpoint.

Mr. Randall: Right. Who would want their house... who would want their apartment on the first floor when you're surrounded by retail, correct?

Mr. Holden: Correct, correct.

Mr. Randall: Okay. And that's the same for every one of these, right, so we really don't know what the commercial amount will be other than the... other than the first floor of every building that has residential, or has mixed use.

Mr. Holden: Some are designated at residential with parking underneath exclusively.

Mr. Randall: Sure.

Mr. Holden: But the mixed ones I would absolutely expect the bottom floors to be the commercial office and maybe leaking into the second floors... *inaudible, being talked over.*

Planning Commission Minutes
April 14, 2021

Mr. Randall: Right, that would be the normal scenario. Okay. Alright. Um, and then you mentioned before, another comment that you mentioned that if we have the property, is the intent to sell the property or is the intent to lease the property? Do you know offhand?

Mr. Holden: I think we're... that's open for discussion.

Mr. Randall: Open for discussion, still available.

Mr. Holden: We're going to see... we've got a draft of, actually a request for qualifications ready looking for developers that would include all kinds of things, but it doesn't get into those kinds of things. It's like, would you be interested in helping us develop this property in partnership.

Mr. Randall: Sure. Okay. And, what you said before was that if you were to sell the property unzoned, unzoned, not rezoned, do you think that they would... that that would be attractive to a company?

Mr. Holden: It would be much harder to...

Mr. Randall: Much harder to take care of.

Mr. Holden: ... to sell...

Mr. Randall: Much harder to sell.

Mr. Holden: ... or... *inaudible, being talked over*... if it's not zoned.

Mr. Randall: If it's not zoned. And that's based on your experience with what...

Mr. Holden: Correct.

Mr. Randall: ... economically.

Mr. Holden: Correct.

Mr. Randall: Okay. Alright. And then to Kathy's point, no school proffers. Kathy, based on your experience, and Jeff, this goes to you, how much of proffers that we normally get are school proffers? What's the percentage?

Mr. Harvey: Commissioner Randall, I don't know the specific percentage, but when we look at most rezoning cases, proffers for schools are the highest dollar amount category that we have of any type of category. State code limits us to schools, parks, fire and rescue stations, and also transportation.

Mr. Randall: Right. And that segues into my next question. So, transportation impact fees – wouldn't that be a part of this for these units? Or is that still a requirement based on the code?

Mr. Harvey: Commissioner Randall, it's still a requirement because it is a code requirement.

Mr. Randall: Sure.

Mr. Harvey: Anybody that develops residential projects in the County has to pay the transportation impact fees.

Planning Commission Minutes
April 14, 2021

Mr. Randall: So, each of the, each of the JPI residential, each of the County residential will all be paying the transportation impact fee of \$2,999.

Mr. Harvey: Correct.

Mr. Randall: Okay. So, based on the fact that, you know, maybe transportation's a little more, I don't know... I mean, I looked back... you know, I would say the most we ever paid non-school related transportation, non-school related proffers or, you know, \$5- or \$6,000 a residence. You know, we've paid up to \$20,000 just for schools, you know. And so, if you look at, you know, a \$5,000 proffer that we would be getting without a school impact, for JPI you're talking 1½ million dollars; for our County property you're talking 3½ million dollars, lost proffers without a school, without school impacts. So, and even if you doubled it to 3 million and 6 million, that's a far cry from what we've talked about before. And yes, we are not getting that up front with building... with buildings and occupancy permits, but I think, based on the conversations we've had, those are far easier... far more... far easier to mitigate than the numbers that we've been talking about being that schools are not included in those proffers given the low number and the capacity availability currently in those schools. That's all I have. Thank you.

Mr. Apicella: Any other questions for staff?

Mr. Cummings: I have a couple and... *inaudible, audio not clear*... pull back the filter a little bit on this just to get me to understand it, the process and where we are. So, the... I wanted to go back to the Stantec plan and... *inaudible, audio breaking up*... I guess you can call it the concept plan, right. They're both concept plans. Am I correct? This is for staff I imagine, staff or Kathy.

Ms. Baker: Yes, both of these are conceptual plans, general development plans. They have not been engineered; they're designed to show what the proposed use would look like.

Mr. Cummings: And the difference is, the... *inaudible*... the area that it covers, the two plans cover, right, one encompasses the other. The small area plan that we're calling it includes the JPI plan, right. Correct?

Ms. Baker: You're referring to our Comprehensive Plan?

Mr. Cummings: No, not the Comprehensive Plan. I'm talking about... what I'm looking at... let me ask this question. So, how does... is there a connection and what is the connection, right, between the – and I asked this question before, I'm not sure I understand the answer – between the Stantec plans and the JPI-Downtown Stafford Plan.

Ms. Baker: Is the computer on? Can you see the visual on the screen?

Mr. Cummings: Yes, I can, yes.

Ms. Baker: So, this is the generalized development plan prepared by Stantec which includes the County property and the JPI property, which is indicated in the block where the number 8 is. So, then you look at the Fountain Park plan, which is the JPI, this is that corner. So, the two are really very similar. This one just goes into a little more detail with landscaping and such.

Mr. Harvey: And...

Planning Commission Minutes
April 14, 2021

Mr. Cummings: And the Stantec plan was developed with a little bit more... *inaudible*... am I correct?

Mr. Harvey: Mr. Cummings, the JPI's concept was stitched into the County's plan that Stantec put together. And both documents have specific recommendations or numbers associated with the building footprints as far as square-footage, dwelling unit numbers, and parking space requirements and things of that nature. This diagram that you see on the page also shows proposed street alignments. There was some discussion earlier about townhouses and why there was townhouses on the concept, and that's partly a factor of the configuration of the County's property.

Mr. Cummings: And so, the question I had for more to one of value, right, and assessing value because, I guess, that would have factored into the evaluation and the MOU that was struck between Jarrell Properties and the County, right? Because again, those same numbers that you're quoting should have some sort of value with expected impacts... *inaudible, audio breaking up*. But what I'm hearing is that we don't really have those numbers and we can't necessarily tell what those impacts are in connection with the... *inaudible*. And that, that, like with Mr. Apicella, causes me to pause. And I don't understand why that's... *inaudible*... as possible.

Mr. Harvey: Well, Commissioner Cummings, I guess putting a planning answer to part of this, is that we're talking about projects that will take multiple years to build. And working with Economic Development and my knowledge is that markets do change, so there will be some adjustments to what actually gets built on these properties. It may be with JPI it is sliding one building one direction or another, and maybe one building gets larger and another gets smaller. But, on the County's property, it's still somewhat of a blank slate even though we have a picture right now. Ultimately, as Mr. Holden said, we'll have to negotiate what happens on the County's property. But this image also speaks to again creating the vision for Downtown Stafford where we will have a grid network of streets, we will have at least where item number 7 is in the vision a town plaza where we can have gatherings for the community and there can be other activities going on. And also, with number 9, acknowledging that we need to have a parking garage to serve in the ultimate condition the County's property, including the government complex where we're at today, because we know we need additional parking in this area. And this road network will spin off into the larger concept of Downtown Stafford and set the town for Downtown Stafford.

Mr. Cummings: Okay. So, so I think that's my disconnect. Actually there's two... there's sort of a muddled sort of approach to valuation, right, and value and property. And there's the impact fees which is one of clear planning, right, and trying to... *inaudible*... not only how certain impacts from the development or the... *inaudible*... zoning will need to be mitigated or how much it will cost to mitigate them but what it would also do. And then there's a value question related to the overall valuation in the market place, the... *inaudible*... of this area which... *inaudible*...are thrown in. And I think that the muddling of these two... *inaudible*... sort of a disconnect between, and there is a disconnect between the two plans, which I think is what everyone's been asking questions has been alluding to. And, but, my major point is, is that because we don't know what these impacts are, right, and so let me ask this other question for example, with respect to the wetlands mitigation strategy. Can you speak to a little bit about that in this plan or this area?

Mr. Holden: Kathy just pointed out I was going to pull out the study but she knew ahead of me. So, that is part of a cost that JPI will initiate when this MOU is finally executed. They will do that wetlands study.

Mr. Cummings: Okay. And to... *inaudible*... what type of a method are they planning to use to mitigate, does it say?

Planning Commission Minutes
April 14, 2021

Mr. Holden: I don't know that it... I'm not one that would know the type of one wetlands study or another. But I'm sure it will meet the requirements we need for minimum statute. I'm scrambling to look at the MOU; I'm pretty sure it doesn't say what kind of wetlands study it is.

Mr. Harvey: Commissioner Cummings...

Mr. Cummings: And, uh... go ahead.

Mr. Harvey: Any proposed impacts to wetlands has to follow the Federal Clean Water Act. If there's more than a tenth of an acre of impact, we'll have to have a more rigorous permit through the US Army Corps of Engineers. And often times that involves payment of mitigation fees for buying credits within a mitigation bank.

Mr. Cummings: And do we have any idea of how much potential area there is?

Mr. Harvey: No sir. At this point in time, to my knowledge there has not been a jurisdictional designation as to where all the wetlands on the County's and JPI's property.

Mr. Cummings: Okay. And as it relates to that train of thought, with respect to sustainability and resiliency, if anyone can tell me how they... this plan fitting in or meeting the requirements of sustainability and hopefully resiliency which we hope to include later on, but just to the sustainability... *inaudible*.

Mr. Harvey: Commissioner Cummings, there's not a requirement on the MOU that I'm aware of that requires lead certified building construction. But if that's something that the County wants to pursue on its own property, that's maybe something we could negotiate with a potential purchaser. Um, with regards to other aspects of sustainability, typically from a County service provision standpoint, higher density development can be more readily dealt with from an infrastructure standpoint than lower density development. With regards to resiliency, this area is not within a floodplain so there should not be any concerns with regards to flooding, other than if, for some reason, some storm drain or something is clogged, it doesn't convey all the proper water it's been designed for. But stormwater management will have to be addressed with any development projects, whether it's on JPI or the County's property. As kind of we're getting into a lot of discussion of details which is typically at the site plan level, not at the zoning level which we're at right now.

Mr. Cummings: Yeah, but we are talking about what the... we know what the density is going to be on this property, right. And so we know what potentially comes with that and where it's extrapolating based on those density numbers. And you mentioned something as far as... *inaudible*... stormwater runoff... *inaudible*... and that's going to be implicated by or impacted by your development plan, am I correct? The larger concept plan.

Mr. Harvey: The stormwater will have to be addressed on a site by site basis. and it's based on detailed engineering calculations based on impervious cover. The developer can do many things to kind of soften that impact. They can provide more green landscaped areas on their site; they can provide green roofs, things of that nature, where it absorbs some of the stormwater runoff. But again, those are kind of details that we have not gotten into at this point in time because we're still somewhat at the thousand-foot level with discussing the zoning rather than the ground level for how the property will be engineered.

Mr. Cummings: Alright, thank you.

Planning Commission Minutes
April 14, 2021

Mr. Apicella: Thank you Mr. Cummings. Anybody else on the Commission have any questions for staff? Alright, thank you everybody. So, we're at the point, um, where we want to bring this back to the Commission. Mr. English, this is in your district; how would you like to proceed?

Mr. English: Yes sir, I'm going to make a motion to deny this. I think this is a bad project. I think the County's going to... it's going to cost the County too much money in the long run and I just don't see it. I think also my concerns are the schools, my concern is the traffic. And I think with those apartments, 900 apartments coming in here, and like I said, over the weekends the traffic has been so bad as it is here passing, you add another 900... it's probably another 1,800 cars in this area and then you've got all the development going on Wyche Road with these new businesses, again, this is just bad, a bad idea and that's the reason I'm going to deny RC21153698.

Mr. Apicella: Okay, there's a motion to recommend denial of RC21153698, Reclassification of Stafford County Board of Supervisors Courthouse Road Property; is there a second?

Mr. Bain: Second.

Mr. Apicella: Okay, anything further to add to those comments Mr. English?

Mr. English: No. Again, I don't even think this is the area to be developed right in here with this... until we can get the traffic under control and get some new roads or something.

Mr. Apicella: Thank you Mr. English. Mr. Bain?

Mr. Bain: I have no further comments, thanks.

Mr. Apicella: Anybody else?

Ms. Barnes: Chairman Apicella, if I could...

Mr. Cummings: I mean, I'll take a stab at it. So I do think I don't necessarily agree with Mr. English, but I... because I do think this area is an area that's right for redevelopment and I think the Economic Development's point that it's a great marketing opportunity and also an opportunity for Stafford to bring some new companies in and create diversity in jobs and workforce, but I don't think we've leveraged all the tools in our toolkit necessary in order to do it in a smart way. And I think that I would recommend and I suggest is that we look at adapting and looking at getting some tools that will allow us to be able to have some of these answers... these questions answered and then we can have the kind of development that we want.

Mr. Apicella: Thank you Mr. Cummings. Ms. Barnes?

Ms. Barnes: Yes, thank you Steven. We've had a lot of talk about I think the proffers so I think that's really, that's really I think commanded a lot of our thoughts on this. But my, my issue with this has been more conceptually. Having this kind of density in urban development right down here. When I talk to people and talk about the vision that, you know, we want to have, none of that comes up, that kind of residential, that very urban, very dense residential kind of community. That's not necessarily what I think a lot of people want when they come to Stafford. So, my problem with this has been mostly conceptually. And then again, I do want to echo what Mr. English said with the traffic. I mean, I just don't see how... I mean, it's... we're getting back to pre-COVID levels; it is unbearable and I don't

Planning Commission Minutes
April 14, 2021

know how in the world we can make it any better. And I don't think this is going to help. Um, I don't know how we get around that. So, I'm going to support Darrell's motion.

Mr. Apicella: Thank you Ms. Barnes. Mr. McPherson?

Mr. McPherson: Yes. While I do not disagree with Commissioner English's comments about traffic, Stafford traffic problems are not going to be due and are not currently due to our Downtown Stafford creation. As everybody knows, traffic is very bad right now. It's based on that we are on I-95 between Richmond and Virginia, and although that is a bad thing to have bad traffic, the Downtown Stafford is not going to be the cause of our worse traffic. And I do kind of appreciate our building of economic development and we can always come up with solutions later. So, while the issues that have been brought up are not improper, I don't think they're solely on our Downtown Stafford. So, I will not support this motion.

Mr. Apicella: Alright, thank you Mr. McPherson. Anybody else?

Mr. Randall: Yeah, Mr. Chairman, I have a couple of comments. How do you do a traffic in Stafford County? You know, I would just tell you... my suggestion is that the majority of US 1 traffic at 4 o'clock in the afternoon comes off the highway, you know. If I'm... they're currently extending HOV lanes all the way down to 126, you know. That will significantly change the traffic on US 1 because it's, as you know, as you watch, you know, New York, Maryland, New Jersey, pretty much the whole gamut of people trying to get out of 95 traffic, well I would tell you that my suggestion would be that 95 traffic pretty much goes away in this area when that HOV lane moves all the way down and they open it up in 2022, long before, long before we have the first occupancy permit for Downtown Stafford. And so, I think there's a significant increase in our... significant decrease in our level of traffic, especially in the US 1 corridor which is really what we're talking about. You know, people talk about Stafford as a commuter county. You live here, you don't play here. You live here, you don't work... you don't recreation here. You live here, you don't eat here. You go somewhere else. You go north. You go south. This is the first step, I think, in making Stafford a stay at home county, where you come here, you can eat here, you can go recreation here, you have an ability for younger families to actually live here. They don't have to live in a 40-year apartment. They don't have to try to worry about how they're going to afford a \$500,000 house. They can come in here and they can stay here and they can start their family here in these types of environments, right. This is a great step. You can argue with the location, but this is the next step for a County that wants to go and be somewhere and be something, right, and not be a commuter county. Every place... everybody I talk to, boy, it'd be nice if I could do something in Stafford County. It'd be nice if there were some things to do. It'd be nice if I could bring my kids and my kids could grow up here, go to college, and come back and live here in Stafford County. Well, they can't, because there's no place for them. This is the place that they're going to be living with their small kids, starting their family. I think this is a great idea. Okay, there may be some little things here or there. But to throw out 20% we don't like with the 80% that are great for Stafford and the way we want Stafford to move forward – at least my vision of Stafford moving forward – I think if we do it now then we may never get another check at this and 10 years from now people will be like, yeah, we're in the same condition we were 10 years ago. So, I think that this has some things that need to be improved on. I don't think anybody would argue with that. But I think the overall concept of this is something we absolutely need in Stafford moving forward. So, I'll be voting to... against the denial. Thank you.

Mr. Apicella: Thank you Mr. Randall. I've got a few comments myself. So, I wish that the rezonings for the JPI property and the County property would have been bifurcated into two separate items for us to consider. I still believe there's a great deal of uncertainty associated with the generalized rezoning of the County's parcel, and I don't think that we're going to get everything that has been put in front of us

Planning Commission Minutes
April 14, 2021

with regard to the JPI property. I tried to call that out in my discussion about what's actually in the MOU versus what may happen on the JPI property. I think it would be better to have the developer or developers seek a rezoning on the County's parcel so that the impacts can be fully assessed and mitigated. Alternatively, I think it would have been more... *inaudible*... to seek an MOU or MOUs with developers before rezoning the County property if that's the objective in trying to solicit folks to come into the County and do something that they want greater assurance would get passed. Our Comp Plan states that TGA development should be physically balanced to mitigate any increased tax burden on County residents. I think at this time we haven't fully identified all the impacts and how much we need to offset those impacts in the absence of proffers. So, it appears to me that we may be getting ahead of skis. We don't have all the information that we need to make a fully informed recommendation and for the Board to make a fully informed decision. The bottom line, from my vantage point, is and continues to be I'm concerned about how development of Phase 1 of Downtown Stafford will affect County schools, our roads, our parks, our public safety community, and without any mitigation in the absence of concrete proffers, again knowing what those impacts are going to be up front before we do the rezoning. So, for these reasons, I'm going to support the motion to recommend denial of RC21153698. I think everybody for all their work on this, staff, Commissioners, the owner for the JPI property; it's been a long road and I hope, at the end of the day, and however the Board chooses to go forward, then it turns out to be the best decision for County residents and taxpayers. With that said, Mr. Bain, how do you vote on the motion?

Mr. Bain: Aye.

Mr. Apicella: Ms. Barnes?

Ms. Barnes: Aye.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: Aye.

Mr. Apicella: Mr. English?

Mr. English: Aye.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: No.

Mr. Apicella: Mr. Randall?

Mr. Randall: No.

Mr. Apicella: And Mr. Apicella votes aye. So, the motion to recommend denial passes by a vote of 5 to 2. Again, thank you everybody. Mr. Harvey, I believe we're onto New Business, item number 6?

NEW BUSINESS

6. Amendment to the Zoning Ordinance - Amend Stafford County Code Sec. 28-25, "Definitions of specific terms" and Sec. 28-35, "Table of uses and standards," to establish a definition for

Planning Commission Minutes
April 14, 2021

family subdivision and to exempt family subdivisions from the gross density requirement in the A-1, Agricultural Zoning District.

Mr. Harvey: Thank you Mr. Chairman. Item number 6 is discussion of a referral from the Board of Supervisors regarding the potential to exempt family subdivisions from the gross density requirement for the A-1 zoning classification. And Mr. Brian Geouge will lead the presentation for staff.

Mr. Geouge: Good evening Mr. Chairman, members of the Commission, Brian Geouge with the Planning and Zoning Department. So, as Mr. Harvey stated, this is a proposed amendment to Sections 28-25, Definitions of specific terms, and 28-35, Table of uses and standards, to establish a definition for family subdivisions in the Zoning Ordinance, and also to exempt family subdivisions from the A-1 density requirements. So, as you know, on March 2nd of this year, the Board established a gross density in the A-1 zoning district of one dwelling unit per 6 acres. Comments received from the public during that process had resulted in desires to exempt family subdivisions from the new density requirement. So, also on March 2nd, Resolution R21-37 was approved by the Board which directs the Planning Commission to draft an ordinance to provide such as exemption. The ordinance drafted by the Planning Commission would then be referred back up to the Board for further consideration, and then they would decide from there if they want to send it back down to the Planning Commission to initiate the public hearing process. So, old background, family subdivisions are regulated by the Code of Virginia, somewhat, as well as through County code. Regulations in County code include a requirement that the property be owned for at least 5 years prior to subdividing, and also, for 5 years afterwards before selling to a non-family member. There are other plats submittal and content requirements in the County code as well, and there's also a, um, a regulation that allows the Board to reduce or even illuminate the 5-year ownership requirement to alleviate any extraordinary hardship caused by the restriction. Family subdivisions are currently allowed within all residential zoning districts where single-family dwellings are permitted; however, the majority of them occur in the rural areas on A-1 zoned property. We looked back over the past 10 years on application volumes and note that, on average, there are four applications received per year and about 7 new lots created per year through the family subdivision process. Um, about 84% of those applications were on properties that are zoned A-1, with A-2 zoned properties coming second with about 9% of applications. The... roughly half of those applications proposed one new lot, and about 30% of them proposed two new lots, and the remainder three or more. So, as I noted, the proposal is to amend the Zoning Ordinance. Staff did draft the amendment for the Planning Commission's consideration. The amendments would establish a definition for family subdivisions in Section 28-25, Definitions of specific terms. The proposed definition mirrors the existing definition that's in the Subdivision Ordinance, so it was just a direct carryover. It would also modify the Zoning Ordinance Section 28-35, Table of uses and standards, to specify that family subdivision lots in the A-1 district must have a minimum of 3 acres, and also exempt them from the density requirements that were recently established. The end result would be that family subdivisions could continue as they have in the past with just meeting the minimum 3-acre requirement. Staff does note that the Planning Commission can make any adjustments that they deem necessary, and this doesn't have to be strictly adjustments to the Zoning Ordinance; it could also be adjustments to the standards in the Subdivision Ordinance. So, in conclusion, the... again, the resolution directs the Planning Commission to draft it and then it could be sent back down. The resolution gives the Planning Commission a hundred days from the date of the resolution, so this would have to be completed by the June 9th meeting. And that concludes my presentation. And we'll take any questions.

Mr. Apicella: Thank you Mr. Geouge. Questions for staff?

Mr. Bain: I have one. Maybe I'm confused. We're going to allow family subdivisions of 3 acres, but then we're also saying that the density requirement would not apply. Supposed they had 50 acres and

Planning Commission Minutes
April 14, 2021

did 3 family plots; that's 9. What happens to the other 41 acres? We're saying that the density doesn't apply any, any longer. Or should it be that the density of one unit per 6 acres applies to the remainder of the land after the family subdivision.

Mr. Geouge: Correct. So, the intent would be that the creation of the new lots if not subject to the density requirement. The remainder acreage...

Mr. Bain: After the family subdivision.

Mr. Geouge: ... could, could still be subdivided based on the density requirement. However, it's going to be based on that parent parcel acreage as it existed at the time the ordinance was adopted.

Mr. Bain: I think I understand what we're trying to get to, but I didn't think that the wording achieved that.

Mr. English: I think this is just a draft... *inaudible*, microphone not on.

Mr. Bain: Yeah, I'm just... I just wanted to confirm what the thinking is.

Mr. Randall: Yeah, to follow on with that question then, so, I have a 50-acre plot of land and I've got the parents right in the middle. And because none of the kids like each other I'm going to put one of the kids on each, each of the four corners, okay. So, I've got 4 kids, each of them on their own corners; does that classify as a family subdivision?

Mr. Geouge: As long as they're meeting the criteria in the code for...

Mr. Randall: I think the... I want to say I think the confusion lies in calling it a family subdivision, being that, you know, if I have one on every corner and they're, you know, half a mile apart, how does... does that meet the requirement... I mean, how do I justify calling everything else then not a family subdivision if that land is in between each of the family plots?

Mr. English: That would... I think that's going to... it goes back to the family owned subdivision. I don't think they would want to do that because it would bust the whole property up. It probably wouldn't be worth anything at that point. That would... you're just hypothetically saying that, right?

Mr. Randall: Yeah, I'm just hypothetically saying that.

Mr. Geouge: Yeah, from a practical standpoint it might not make sense because of access and other things. But...

Mr. English: But you wouldn't have a say in it. If I wanted to do what he said, they could do it, but it wouldn't be feasible for them to do that.

Mr. Geouge: Most likely not but, in theory, it could be done...

Mr. English: It could be done, sure.

Mr. Geouge: ... as long as those, those divisions are for... *inaudible*, *several people talking*.

Mr. English: *Inaudible*, *several people talking*.

Planning Commission Minutes
April 14, 2021

Mr. Randall: Right. And so, based on that, how much of the land is determined to be a family subdivision?

Mr. Bain: It'd be all of it.

Mr. Randall: If it's all of it... or is it the rest of it... how do I determine the rest of it? How do I figure out what's going to be subject to the 1 and 6?

Mr. Geouge: So, there's always a remainder. So, you have the new lots created for the family members, and then there's the remainder of the original parent parcel.

Mr. Randall: Does that say that in here? Is that intended or is that explicit or implicit to the wording that we have?

Mr. Geouge: It's not specifically spelled out in this section, but it's just normal practice of how we go about things.

Mr. Randall: Well, it is, but when you say family subdivision, some people I think would define a family subdivision as not just a lot, but anything around it. Then it goes to a lot of I have 3 here... I have a house here, 5 acres over I have a house there, 5 acres over I have a house here. So now, that doesn't meet the requirement of every 6, so now does that mean that the whole 20 acres is now a family subdivision? You know, how do I define that? Right? So, my feeling, based on this, is I would just take family subdivision out and I would deal with family lots. Family lots are defined as, and take subdivision out and then I think it negates the confusion that may possibly arise by putting the word subdivision in there. So, anyway.

Mr. English: *Inaudible, microphone not on.*

Ms. Baker: *Inaudible, microphone not on.*

Mr. Apicella: Other questions for staff?

Mr. Randall: It is the same thing, but.

Mr. Bain: Just one, because I'm thinking of my own situation. Years ago, my wife's father and his brother subdivided the property that constituted the farm. When they passed away, we fortunately inherited the house and an adjoining field. The house has 2 acres, the field is 50 acres. Can we subdivide, do family lots on that 50 acres even though our house does not reside on it? Or is, does the house have to be on the 50 acres in order to call it a family subdivision? Just curious.

Mr. Geouge: It's purely who owns the property.

Mr. Bain: Who owns the property.

Mr. Geouge: It doesn't... the house being there or not doesn't have any bearing on it.

Mr. Bain: Doesn't have any effect, okay.

Mr. English: Because you could have a house on one side of the road and own 50 acres on the other side.

Planning Commission Minutes
April 14, 2021

Mr. Bain: That's exactly what we have. So, I could get a family subdivision on the 50 acres. And if I owned another 50-acre parcel, I could get a family subdivision on that assuming that my children could live 5 years here and then 5 years there, we could keep hopping around? I don't know.

Mr. Geouge: Yeah, there is a code section that stipulates that you can't basically do this over... the same person can't...

Mr. Bain: Over and over again, okay.

Mr. Geouge: If you own multiple properties, you can't do it multiple times.

Mr. Bain: Okay, that's good.

Mr. Randall: Mr. Chairman, I have one more question. So, what was the 3 acres based on? Why not, why not 1 acre? So, if I have somebody with 7 acres, they would only be able to, with their house, if a 3 lot, 3-acre minimum, they would only be able to put, what, 1 lot on it? Because they would have a 3-acre minimum for theirs?

Mr. Geouge: Yeah.

Mr. Randall: So, then there would be 4 acres minimum and they could only do 1 more house.

Mr. Geouge: Right.

Mr. Randall: Is there, is there some way we could go down based on the size of their lot to a 1-acre minimum and not a 3-acre minimum? Because I think most of them, as we went through that process, I think 80-85% of the A-1 parcels that we had out there were between 6 and 20 acres. You know, if they've got 5 kids, 4 kids, you know, and they've got 10 acres, we still haven't helped them here. This doesn't, this doesn't give them, you know, leeway to build because it's a 3-acre minimum. So, if there a way we'd say, you know, more than 20 acres is a 3-acre minimum, less than 20 acres we can go down to 1? Would that be an option given the fact that I may only have 15 acres but I've got 4 kids and it doesn't fit?

Mr. Geouge: Um, I suppose it's possible. The state code does permit localities to establish the recommendation or the guidelines for family subdivisions. The 3 acres was purely, you know...

Mr. Randall: Sure.

Mr. Geouge: ... what was done before the minimum acreage requirement for conventional subdivisions currently, even with a new amendment. Of course, you have the density requirement on top of that.

Mr. Randall: Right. No, no, I'm only thinking... it's in Garrisonville and I don't have very many but I've got an A-1 property that's got, I think they have 11 acres and they've got 3 kids, right. And so, if you take away their property area, that would only make 7 or 8 acres, and that would then be hard to put 3 kids on 3 acres each. And so, if you took it down to 1 acre, that would I think, unless you have 12 kids and only 20 acres, you know, that would alleviate I think most of the concerns that people would have and preventing leaving anybody out.

Mr. English: I don't think... I mean, that's always been the rule though. Three acres has always been.

Planning Commission Minutes
April 14, 2021

Ms. Barnes: Yeah, that's what I was going to say... *inaudible*... get it back to what it was for them.

Mr. Apicella: Can I chime in here? I don't think the intent of the Board's proposal for us to revisit this is to allow property owners to give lots to everybody who's part of their family. I think it's to, as Mr. Geouge was indicating, for those people who want to do a family subdivision and are eligible to put them back to where they were prior to the March 2nd decision such that they would still be able to have the same number of lots to develop and provide to their family post March 2nd as they would have been able to do prior to March 2nd. Am I characterizing it correctly, Mr. Geouge?

Mr. Geouge: Yes, Mr. Chairman.

Mr. Apicella: So, I'm going to ask a slightly different question; I know the answer but. So, let's just say somebody has 21 acres and they want... and they have 6 kids. Could they have a total of 7 lots? Seven 3-acre lots? Assuming that all other requirements in the Subdivision Ordinance are met.

Mr. Geouge: Yes.

Mr. Apicella: And, alternatively, if they have 21 acres, they can carve up a couple of lots for their family members, let's just say 3 lots, 9 acres, plus their own, so that's 12 acres, and the remaining portion would be subject to the new rules. Is that correct? So, there'd be a family subdivision... there'd be a total subdivision and within that subdivision, there's a portion that's the family subdivision and a portion that's not part of the family subdivision. Does that make sense?

Mr. Geouge: Yes.

Mr. Apicella: Okay. So, I just want to ask a couple of questions. Um, when you say that we have the ability to make some other changes, including changes to the subdivision ordinance, what would those changes possibly be? What, what would we still want or need to do in order to achieve the Board's objectives that are not embedded in the proposed change here?

Mr. Geouge: Just to purely achieve the Board's objective per the referral resolution, staff doesn't feel that anything additional would be necessary. But we just wanted to mention that there is a potential of modifying those other regulations if, if the Planning Commission saw something that they wanted changed or improved.

Mr. Apicella: To do what though? I mean, what... I'm just not quite sure how broad this referral is for us to revisit the Subdivision Ordinance. What... just give me an example of what we could do. I'm not holding you to it, but I'm just trying to understand.

Mr. Geouge: Just throwing it out there, you could potentially say that, um, the ownership requirement is 10 years, not 5 years. Something along those lines. Or... correct, yeah.

Mr. English: What did you say?

Mr. Geouge: Or perhaps widening the, uh, the access easement that would be required to serve the family subdivision lot.

Mr. Apicella: So, along those lines, I have a couple of questions. What is the County's... does the County's definition of family members include aunts, uncles, nieces, and nephews as we have the discretionary authority to do under the state code?

Planning Commission Minutes
April 14, 2021

Mr. Geouge: I do not think so, it's just parent, child, sibling, spouse, grandparents.

Mr. English: So, immediate family.

Mr. Geouge: Immediate family, yes.

Mr. Apicella: Right. But the state code does allow us to include aunts, uncles, nieces, and nephews if we chose to do that.

Mr. English: Does it?

Mr. Apicella: Am I correct?

Mr. Geouge: I would have to confirm that.

Mr. Apicella: Right, it does.

Mr. Geouge: Okay.

Mr. Apicella: But, I mean it's in the information in the staff report and that's why I asked the question. Uh, the requirement that the road be paved to a 20-foot amount for the internal road, is that... where did that come from and is that necessary?

Mr. Geouge: Well, it's not a paving requirement. There's an easement width requirement based on the lot size. So, if you're under 5 acres, you need a 20-foot easement with a 10-foot roadway within that easement. I'm just going to read off the definition of immediate family member in the Subdivision Ordinance. It's any person who is a natural or legally defined offspring, step-child, spouse, family member spouse, sibling, grandchild, grandparent, or parent of the owner of the lot.

Mr. Apicella: Okay, so it doesn't include aunts, uncles, nieces, and nephews, just to be clear.

Mr. Geouge: Correct.

Mr. Apicella: So, that's again, one thing... I'm not saying we do it, but it's one thing we could consider as a change to the Subdivision Ordinance.

Mr. Geouge: Yeah, I think it would, it would actually cover that because it speaks to, um, spouses, children.

Mr. English: My thing is if you, just hypothetically again, if you've got... if you were... your parents passed and there's an aunt or somebody that raises you and they want to give her property, you know, then that would... they would not be allowed to be there because they're not immediate family.

Mr. Geouge: Yeah.

Mr. English: So, I think we need to address that.

Mr. Geouge: I mean, it does mention siblings as well as, you know, children and what not, so I don't think those are necessarily intended to be exclusive of one another...

Planning Commission Minutes
April 14, 2021

Mr. English: Right.

Mr. Geouge: ... but they could be.

Mr. Apicella: But we could clarify it.

Mr. Geouge: Right.

Mr. English: Yes.

Mr. Apicella: Okay. So, so, we have a couple of options. We could proceed forward. Let me ask this question – well, I think you already answered it. We could go forward today with the language that's proposed and meet what the Board's objectives are, if we chose to. We could take a pause and revisit the Subdivision Ordinance to see what, if any, changes we might make to those requirements. So those are kind of our two paths, right?

Mr. Geouge: Correct.

Mr. Apicella: So, again, I think it's at least worth considering whether we should clarify and propose to the Board whether or not aunts, uncles, nieces, and nephews could be included under the definition of family members. And also, just to take another look at the Subdivision Ordinance, I'm not sure that was in our package, to see what if any other changes might be worth making at this point in time. It's not going to a public hearing; it's just to go to the Board and the Board can decide within the recommendations that we put forward, what if any additional changes they might want us to further consider and put to a public hearing. So, what do our Commissioners think we should do? What's the kind of the will of the Commission?

Mr. English: I would like to look at the family subdivision ordinance and then, if we leave as a family member, I don't know, we don't want to refer back to the state code; I think maybe we should... I don't know if we could redefine that family ordinance, I mean, what a family is or we just leave it family and not make any changes in that. Because, again, we could run into problems where you have an aunt that's lived there and they want to give their aunt property or something like that, and then didn't have any siblings. So, I don't... that's how we have to I guess address that.

Mr. Apicella: Okay. Other folks, feel free to chime in. Alright, so I'm just going to... *inaudible*... I'm just going to propose that we take a pause, ask staff to provide us some more options on the Subdivision Ordinance or at least walk us through the Subdivision Ordinance as it relates to family subdivisions at our next meeting, and to see what, if any, changes we might want to further explore and potentially make recommendations to the Board on. Does that sound like a way ahead?

Mr. English: Yes, yes.

Mr. McPherson: Yes. Do you think we need a subcommittee, Steve?

Mr. Apicella: We could. We could need a subcommittee. I'd still like to for staff to walk us through it so I understand, we all understand, what some of the parameters are, and then maybe we could form a subcommittee after that. How much time do we have? A hundred days?

Mr. Bain: Yes, a hundred days. It said in the staff report.

Planning Commission Minutes
April 14, 2021

Mr. Apicella: And when would that be? I don't have the calendar in front of me. When would that be... when would our deadline be?

Mr. Geouge: It is June 9th.

Mr. Apicella: So, we have a little bit of time. Again, we can start by getting an additional briefing from staff at the next meeting, and choose a path forward from there. Again, does that work for everybody? I heard from Mr. English. I heard from Mr. McPherson. Anybody object to...?

Ms. Barnes: I'm fine with it Steven.

Mr. Apicella: Okay, great. Alright, so we're not going to take any action tonight. Did we provide enough direction to you, Mr. Geouge?

Mr. Geouge: Uh, yes. Just one quick note; the current regulations in the Subdivision Ordinance, it's in Section 22-5(a), that was provided as Attachment 4 of your packet tonight.

Mr. Apicella: I apologize. I'd still like you to walk us through it next time.

Mr. Geouge: Will do.

Mr. Apicella: Uh, alright, next item on the agenda is item 7, amending the Zoning Ordinance for A-2 uses. Mr. Harvey?

7. Amendment to the Zoning Ordinance - Amend Stafford County Code Sec. 28-35, Table 3.1 "District uses and standards" regarding uses in the A-2, Rural Residential Zoning District.

Mr. Harvey: Thank you Mr. Chairman. Kathy Baker will lead the discussion, but we also have Doug Morgan here in case there's any specific zoning-related questions.

Ms. Baker: Alright. Talking about the A-2 zoning district uses, the A-2 Uses Subcommittee presented its recommendations to the Planning Commission at the March 24th meeting, and the PC raised some further items for further consideration. And those issues were under the golf course, the committee recommended moving from by-right to conditional use permit for a golf course. And then the PC further requested adding a minimum lot size. And after discussing that, we looked at what typically is required for a standard golf course size; generally between 100 and 200 acres. So, we don't feel a minimum lot size is necessary, but certainly the PC can recommend a minimum size on that.

Mr. Randall: Question for you, Ms. Baker. What constitutes a golf course?

Ms. Baker: I'll have to look at the definition.

Mr. Randall: Do we have a definition of that that I missed?

Ms. Baker: Do you have that offhand, Doug?

Mr. Randall: I want to know that if I buy an A-2 lot that I can't put one tee box, one green, and one, you know, a hundred yards in my backyard and not have to pay the CUP fee to do that. Because it's not considered a golf course per se.

Planning Commission Minutes
April 14, 2021

Ms. Baker: And so we'll have Doug be looking at that as we go through the rest.

Mr. Randall: Absolutely. Tag team is always best.

Ms. Lucian: I actually have it.

Mr. Randall: Oh, look at that.

Ms. Lucian: It's defined as attractive land for playing golf, consisting of at least 9 holes and may include a clubhouse, driving range, and putting green.

Mr. Randall: Perfect. The 9 holes was all I needed. Thank you very much.

Mr. Apicella: So, before we move on, Ms. Baker, what would be the downside of having a minimum acreage requirement, let's say of a hundred acres?

Ms. Baker: I'm not sure there is one, I don't know. You may ask the committee members who made that suggestion.

Mr. Randall: It depends. I wouldn't need a hundred acres if I was going to build a 9-hole executive course that would be just par 3's. I guess if we could do a minimum lot size if we looked at the lot size requirements for an executive 9-hole short course and what that would be, we could probably do that. But I wouldn't just arbitrarily pick a hundred thinking that this is going to be a full-size. Over.

Mr. Apicella: Yeah, I, I'd be okay with that, but again, I'd need to know what that threshold would be. And so, I'm sorry. Please go on and we can revisit it. Again, I'm going to have questions as we go through each one of these; I'm sure folks will as well.

Mr. Bain: If I can just bring up a point.

Ms. Baker: Let me... can I... let me just clarify. I'm going to do the presentation and the Zoning Administrator, Doug Morgan, to further discuss all of these intense questions that you are going to have because he will be able to give you the more direct answers than I can. So, I promise my presentation is very short and you all can be compiling your questions and get ready for him. [Laughter] I'm just trying to save time in the long run for all of us. So, moving on, Recreational Enterprise; the committee recommended moving from conditional use permit to a by-right use and require a 3-acre minimum lot size. The Planning Commission had concerns regarding the use by-right and so the Commission can certainly consider leaving it as a conditional use permit. The third issue was Commercial Kennel; the committee recommended adding it as a use by special exception. And then the PC requested adding a minimum lot size. So, again, that is certainly something the Commission can decide to add. And, based on a recent similar application that we have gone through with the similar items through the Board of Zoning Appeals, staff would make a suggested recommendation of 3-acre minimum lot size. And lastly, the Club/Lodge/Fraternal Organization; the committee recommended moving from conditional use permit to a special exception. The PC requested establishing limits such as hours of operation and type of events allowed. And under a special exception, the Board of Zoning Appeals can set limits similar to how limits are currently set under a conditional use permit. So, the Commission can make adjustments to the committee recommendations at their discretion, and the Commission should report their findings back to the Board again prior to establishing, or conducting a public hearing. And there was no time limit specified with this. So, with that, Mr. Morgan will be happy to address any of your concerns.

Planning Commission Minutes
April 14, 2021

Mr. Morgan: Thank you Ms. Baker. Mr. Chairman and members of the committee, fire away.

Mr. Apicella: I'm just going to piggyback off of Bart's, Mr. Randall's question; do you have a sense of what an executive 9-hole golf course size would normally be?

Mr. Morgan: Yes sir. An executive size golf course, of course, includes the greens, waterways, different kinds of obstacles. Um, when you're developing something like that, they're 150 to 200 acres for a normal size golf course. With those type of golf courses, other provisions have to be met for runoff stormwater management and making sure they're capturing the phosphorus removal and the chemicals of a golf course. So, a minimum size of a golf course, um, it's certainly something the PC can request doing. But a normal 9 hole to 18 holes, like Kathy said, run between 100 to 200 and sometimes even quite a bit larger.

Mr. Apicella: So, so do you have a recommendation there based on what Mr. Randall was asking as a minimum threshold?

Mr. Morgan: Yeah, my recommendation would not to be have one. The use itself would generate the minimum lot size. And if you had 120 acres and you didn't have enough area to capture your stormwater management, your BMPs, your phosphorous controls, your removal lot size for parking, then you would definitely generate into a larger lot. So, just establishing a minimum lot size, um, it's going to generate... the use itself is going to solve its own problem.

Mr. Apicella: Okay. Any further questions on that one or recommendations?

Mr. Bain: Just a... I don't know if this is a legal question or not. Under the definition of community use, it had some examples and it included golf courses.

Mr. Morgan: It does.

Mr. Bain: Could I then propose a golf course and call it a community use and not require a CUP?

Mr. Morgan: If it met that definition. If you look further in that definition for community use, it outlines what they are and they're basically for communities. Like Augustine Golf Course is a little bit different than The Gauntlet. Augustine was actually built for a community golf course much like the one was in Aquia Harbour, but when you get it to a stand-alone golf course, it is a stand-alone golf course; it's not actually a community use.

Mr. English: *Inaudible, microphone not on.*

Mr. Morgan: Correct.

Mr. Bain: Why would it... why would you differentiate? What is the purpose for the CUP as applies to a private golf course that would not also apply to a community use golf course?

Mr. Morgan: I agree. This is the committee recommendation.

[Laughter]

Ms. Barnes: What is your recommendation then?

Planning Commission Minutes
April 14, 2021

Mr. Morgan: Trying to make a consensus with the Planning Commission and vet it fully.

[Laughter]

Mr. Bain: He wants to go home.

Mr. Morgan: I agree... no, no, certainly, no, that's not it. I certainly think that, you know, you raise a valid point and that was part of the discussion. And, you know, leaving it as it was, um, you know, making it a conditional use permit, um, it's a discretion of the board, you know. When you're developing a golf course, um, not... my opinion would be to leave it as it is.

Mr. Bain: Mm-hmm.

Mr. Apicella: Mr. Morgan, going to, and it's not something that is within the purview of the resolution, is taking another look at community use something we should consider and make a recommendation to the Board that they give us the authority to take another look at that? Again, it wouldn't be part of the A-2 uses changes, but maybe a broader look at the community use definition and see if it needs to be tightened up or further clarified.

Mr. Bain: Or else... or else make golf course move from by-right to special exception to be consistent with the community use one.

Mr. Apicella: I didn't capture all that; one more time Mr. Bain?

Mr. Bain: Change the golf course, instead of moving it from by-right to CUP, move it from by-right to special exception, which would be consistent with what we're proposing for community use, to also move it from by-right to special exception, so that they would be consistent one way or the other. Either leave them as by-right, or move them both to special exception. Or to... *inaudible, being talked over.*

Mr. Apicella: Anyone else have any thoughts about that?

Mr. McPherson: Different acreages.

Mr. Morgan: And I think that that, I mean, that's a, that's a good point and I think that that's a good approach. It still has the ability to be reviewed and vetted through the Board of Zoning Appeals. There are still provisions there that are intact that would allow them to, um, require conditions upon approval.

Mr. Bain: Fillmore, you said different acreages; how do you see that?

Mr. McPherson: Golf course versus just some other various community things.

Mr. English: Are you talking like a driving range?

Mr. Bain: But a community use golf course... no, driving range is different. A community use golf course, like Doug said, you know, it's a golf course with a community built around it, but it's still the same acreage allocated to the golf course, as I understand it.

Mr. McPherson: Well, the things we can talk about, but that's why there wasn't an acreage, you know, setup for the golf course.

Planning Commission Minutes
April 14, 2021

Mr. Bain: Yeah. Okay.

Mr. Apicella: Well, I, you know, again, I think it's a fair point, speaking from a BZA member's perspective. There may be circumstances where a golf course gets cited. If you do it by-right, some of the conditions that you really need to, need to generate would not necessarily happen if it's by-right. It's not vetted at all, right. It's just... it goes to the staff and no conditions are established. So, one thing might be the hours of operation, lighting as it might impact neighbors. So, that might be at least the reason to have some sort of vetting on a project of that size and scale, um, versus just allowing it to happen by-right. Does that kind of make sense? So, I'm agreeing with you Mr. Bain.

Mr. Bain: Okay, yes.

Mr. Cummings: I'm okay, I'm okay with doing what Mr. Bain suggested in order to keep the consistency and also what you said, Steven, reaching out and seeing if the Board will allow us to examine community use.

Mr. Apicella: Okay, cool.

Mr. Morgan: Alright, so moving that to PC for moving that to an SC, okay. The recreational enterprise, the committee recommended moving from conditional use permit to a by-right use and require a 3-acre minimum. The PC had concerns regarding allowing the use by-right and, and I think that that was an overall consensus, that one of the Planning Commission's recommendation on what their thoughts were with the A-2 use... *inaudible, being talked over.*

Mr. Apicella: Mr. Morgan, what... what's the requirement for A-1?

Mr. Morgan: It's not permitted. And then it's permitted by a CUP in the R-1 district. So, the step-down would be to require it as an SC possibly in the A-2 as you get more dense, but, um, it was removed from the A-1 zoning district.

Mr. Apicella: Right. So, so, in theory, it still could happen by a CUP...

Mr. Morgan: It could.

Mr. Apicella: ... under the A-1. But my sense is, we should, we should do it as a CUP, um, especially given the variety of things that are captured under the recreational enterprise definition. While some are small, some are pretty significant. So, if we're, if we're effectively requiring a CUP for A-1 and we're doing the same for R-1, it seems incongruous that we would allow it to happen by a special exception... well, first of all, to allow it by-right. But even to allow it by special exception would be unique under the... *inaudible, being talked over.*

Mr. Morgan: Well, just a point of clarification. Um, it was removed from the A-1 district.

Mr. Apicella: Right. But, even something that's removed, it can still happen...

Mr. Morgan: No sir.

Mr. Apicella: ... by a CUP. So, I'm... so, effectively, it's still possible under a CUP for A-1.

Mr. Morgan: No, it's not listed under the conditional use permit.

Planning Commission Minutes
April 14, 2021

Mr. Apicella: Anything that's not, anything that's not listed can still happen via a CUP. Is that not true?

Mr. Morgan: That is not true. Things that are listed under the requirements for a CUP are listed under the requirements for a CUP. For specific uses that aren't...

Mr. Apicella: That is not true. For anything that's not in the code, you can still push forward with it via a CUP. That's a general statement in the Subdivision Ordinance. If it's not listed...

Ms. Lucian: I can clarify it.

Mr. Apicella: ... it's an allowed use and you can do it by a CUP.

Ms. Lucian: Chairman Apicella, I can clarify the question they are asking. I see what you're saying, but it's... that applies to uses that are not defined at all in the Zoning Ordinance. So, if it's a use that doesn't exist in our Zoning Ordinance, then you can get a CUP. So, that doesn't apply to this case because it's already listed in our Zoning Ordinance. So, since it's not included in A-1, you can't do it at all, even with a CUP.

Mr. Morgan: And if that were the case, we wouldn't have require... we wouldn't have that whole list of things under a CUP; it would just be a blanket statement there that says anything that's not listed requires a CUP.

Mr. Apicella: Alright. My fault. Sorry for capturing it incorrectly. Alright, so, what's the will of the Commission on this one?

Mr. Bain: Keep it as a CUP.

Mr. Randall: The question I have is what was the... I was on the subcommittee, so, I mean, you should hear from the subcommittee as to why, what was the genesis for the movement of the CUP to a by-right. Was it... did it have something to do with acreage, the new acreage requirement?

Mr. Morgan: It was, um, it was a discussion about those uses that are, um, becoming different in nature; walking paths, trails, that people have on their property, or uses that may not be... that fall maybe under a recreational enterprise that may not be defined by our ordinance that, um, certainly like, um, if you have a horse path or a bridle path or things to that nature that may not be clearly defined. With a conditional use permit, something that would be so innocuous and may not be a actual business or maybe even someone coming to the site could go through the by-right or, like we just discussed, the special exception process as opposed to the more expensive route of a CUP. Um...

Mr. Randall: Yeah, that's kind of my point is that, you know, if I have, let's just say 3 acres, and I have a horse and I want to build a path through my 3 acres, who's going to determine if that's a recreational enterprise versus I'm out walking my horse, you know.

Mr. Morgan: It depends on if it's commercial.

Mr. Randall: At that point... *inaudible, several people talking at once*... it's a private recreational enterprise, is it considered... is anything that I do privately a recreational enterprise?

Mr. Bain: No, but if you charge somebody...

Planning Commission Minutes
April 14, 2021

Mr. Morgan: Anything that you do privately...

Mr. Bain: ... if you charge somebody to bring their horse...

Mr. Randall: Nope, but they're coming to my... I do riding lessons and they come to my, my business to do riding lessons and they use my path on my property with my horse.

Mr. Morgan: But this is a commercial, um, you know, it's a recreational enterprise.

Mr. Randall: Okay, alright.

Mr. Apicella: So, back to... *inaudible*... definition. It's a recreational establish... enterprise is a commercial establishment providing recreational services, including but not limited to, bowling alleys, skating rinks, swimming pools, tennis and racketball courts, miniature golf, health spas, martial arts instruction, and fitness centers.

Mr. Randall: Those are commercial enterprise; not a private citizen, it's a commercial enterprise.

Mr. Morgan: Recreational enterprise.

Mr. Randall: Right. So, a private citizen can have their own business and it wouldn't be considered a commercial enterprise.

Mr. Morgan: The term we're looking at is recreational enterprise. And if you were having something on your property that was generating traffic, then yeah, it would definitely raise concerns and I'd probably get a call and have the inspectors go out there and we'd have to investigate it to see what was going on. That's how that works.

Mr. Randall: Sure, but the definition just said commercial enterprise.

Mr. Apicella: It says establishment.

Mr. Morgan: Commercial establishment.

Mr. Bain: Yeah, if you're charging somebody to use your personal property, then it becomes commercial.

Mr. Morgan: Because we are having instances where we have disc golf courses coming up. They're popping up all over as ancillary uses to breweries and peoples' private land and people out there playing golf. They don't charge anything, they take donations, when they would be recreational enterprise...

Mr. Bain: I think...

Mr. Morgan: ... so, they'd have to go... they would have to come in and get a conditional use permit.

Mr. Bain: Yeah. I think at least a special exception and require minimum acreage I think would be warranted definitely.

Mr. Morgan: It's at the desire of the Commission.

Planning Commission Minutes
April 14, 2021

Mr. English: We can just keep it as a CUP then, right? I think that so we can move on. Keep it as a CUP?

Mr. Apicella: Yeah, I would keep it as a CUP, especially again since it's not even available to folks on A-1 parcel or parcels and it's not even allowed in A-1.

Mr. English: Right.

Mr. Apicella: A-2 is, is, is more, uh, there's more... there's less area on A-2.

Mr. Bain: Yeah, generally smaller lots and closer to other residential sites. So, I would, I would also agree with keeping it a CUP. But I would also say let's add the 3-acre minimum.

Mr. English: I don't think you can. He says you don't have... it's not necessary.

Mr. McPherson: Um, what's the rule for recreational enterprise for R-1? I can't recall from our subcommittee meeting.

Mr. Morgan: It requires a conditional use permit.

Mr. McPherson: So, both A-1 and R-1 require a CUP...?

Mr. Morgan: It's not permitted in A-1, so it'd be a conditional use permit in the R-1 and in the A-2. And a 3-acre minimum that, I mean, if there's some... not a clear consensus on that, that certainly could be a condition that you put on the conditional use permit if they come in.

Mr. Apicella: I'm with you, Mr. Bain. Let's, let's require a minimum size of 3 acres and a CUP. Can folks live with that?

Mr. English: Yep, go ahead.

Ms. Barnes: Yeah, sounds good.

Mr. Apicella: Alright. Commercial kennel. Again, I'm going to use the example from the BZA we had a meeting a couple of weeks ago where somebody had a 1-acre parcel and they were putting in a commercial kennel. It was on an A-1 property, but because that property had been grandfathered, it was happening on a 1-acre lot. And based on what I can see, that 1 acre was very small and very close to the person's neighbors. So, I would tend to agree with the recommendation that the minimum lot size be 3 acres. Anybody have any heartburn with that?

Mr. Bain: Nope. I agree.

Mr. Morgan: So, commercial kennel would change to, um, requiring a special exception with a minimum of 3 acres just like recreational enterprise.

Mr. Bain: Yes.

Mr. Apicella: Yes.

Mr. Morgan: Alright, club/lodge...

Planning Commission Minutes
April 14, 2021

Mr. Apicella: Well, just to be clear, recreational enterprise is a CUP with a minimum of 3 acres.

Mr. Morgan: Oh, yeah, yes, I got that. Sorry if I misstated it.

Mr. Apicella: Okay, last one, club/lodge/fraternal organization. So, right now it would require a special exception; it would go to the Board of Zoning Appeals to establish conditions. Mr. Bain, I think you raised this as a concern. Is that good enough for you? Or do you have anything else that you want to try and...?

Mr. Bain: Yeah, I'm not sure yet. I raised this question, what do we give up by dropping it from a CUP to a special exception? I'm not sure I understand, but as long as the Zoning Board could protect adjoining uses from any negative impacts, then we can I guess rely on that.

Mr. Apicella: Is everybody okay with, uh, with that, just changing it to a special exception?

Mr. English: Yes.

Ms. Barnes: Yes.

Mr. Apicella: Alright, great. So, I think, Mr. Morgan, we've given you some, some direction with these changes. Would folks like to go ahead and put this to a public hearing?

Mr. English: I make a motion we take it to public hearing.

Mr. Randall: Hold on Steven.

Mr. Morgan: It goes back to the Board.

Mr. Randall: I think it goes back to the Board first and then the Board determines if we're going to do a... if they send it back to us for a public hearing.

Mr. Apicella: Yep, my fault. Okay. So, again, going that route, making these specific changes, along with the other ones that were recommended by the A-2 Subcommittee, are folks comfortable sending it forward with these changes, to the Board of Supervisors?

Mr. English: Yes.

Mr. McPherson: Yes.

Mr. Bain: Yes.

Ms. Barnes: Yes.

Mr. Apicella: Okay, great. So, there you go, Mr. Morgan, that's the consensus of the Commission.

Mr. Morgan: Thank you Mr. Chairman.

Mr. Apicella: Sure. Thank you Mr. Morgan. Alright, um, item number 8, Planning Director's Report.

PLANNING DIRECTOR'S REPORT

Planning Commission Minutes
April 14, 2021

8. Resolution R21-118 requesting the Planning Commission to prepare amendments to the subdivision and zoning ordinance regarding right-of-way and land dedications.

Mr. Harvey: Thank you Mr. Chairman. As you saw in your package, the Board of Supervisors passed a resolution requesting the Planning Commission to re-evaluate our Zoning and Subdivision Ordinance requirements for dedication of right-of-way and other public lands as part of a site plan or a subdivision. Staff notes that there are concerns that are current code may, um, be in conflict with state code. So, staff would suggest that we be able to put together a strawman to bring back to a future meeting to discuss with the Planning Commission.

Mr. Apicella: Okay, any objection to, uh, to Mr. Harvey's recommendation? Alright Mr. Harvey, I think that's the way to go.

Mr. Harvey: Thank you Mr. Chairman. And that concludes my report.

COUNTY ATTORNEY'S REPORT

Mr. Apicella: Thank you very much. County Attorney's Report.

Ms. Lucian: Good evening Mr. Chairman, Planning Commission; I have no report. Thank you.

COMMITTEE REPORTS

9. Uses in A-2 Zoning Subcommittee
Subcommittee Report

Mr. Apicella: Thank you Ms. Lucian. Committee Reports – I think we don't need to talk about A-2 Zoning Subcommittee. Comp Plan 5-Year Update Subcommittee – Mr. Randall.

10. Comprehensive Plan 5-Year Update Subcommittee
Subcommittee Report – April 1, 2021
Next Meeting – April 22, 2021 @ 3:00 PM; Activities Room & Virtual

Mr. Randall: Yes, we had two meetings since we had our last Planning Commission meeting. We are moving slowly but surely through the Comp Plan. We have provided... all but one of us have provided all of our inputs to staff for all 7 chapters of the, of the Comp Plan. We have heard, at our last meeting, we heard from the Fredericksburg Area Builders Association; they came and provided us with some information that we've been able to use in our discussion. And then I believe at our next meeting we're going to hear from the Realtor's Association roughly about the same topic. So, we're moving forward. Our next meeting is next Thursday at 3 o'clock in the Activities Room. All are welcome to participate. Thank you.

Mr. Apicella: Okay. And sorry to be a broken record on this, Mr. Randall or Mr. Zuraf; where are we with respect to our public outreach and input process?

Mr. Randall: I'll turn that over to Mr. Zuraf, who's not here. [Laughter] He is working on... we did not discuss that at our last meeting. I will defer to Jeff if he has any ideas. But, Mr. Zuraf is working on those. I think he's talking about a website that we can give people to talk to. I don't know if he set up any public hearings or public meetings associated with this at this point in time.

Planning Commission Minutes
April 14, 2021

Mr. Harvey: Yes, Mr. Chairman, we do want staff to have a little bit more progress with regard to the Plan document before we start putting it out to the public and seeking input. The next meeting, it's anticipated that we'll have a final draft of Chapters 1 and 2; we're still discussing Chapter 3 with the committee. So, Chapters 3 and 4 will probably have some of the biggest meat within the document.

CHAIRMAN'S REPORT

Mr. Apicella: Alright, thank you Mr. Harvey. Chairman's Report; I've got nothing to say beyond pursuant to our by-laws, I'm hereby authorizing the Vice-Chairman to sign any documents in my absence. Moving on to Other Business; TRC. I think there's some information that has been or will be provided to Mr. Bain for the George Washington District. Last item on the agenda is approval of minutes. Is there a motion to approve the February 10 minutes?

OTHER BUSINESS

11. New TRC Submissions
 - * Rappahannock Landing Section 5 - George Washington Election District

APPROVAL OF MINUTES

12. February 10, 2021

Mr. English: I make a motion.

Mr. Randall: Second.

Mr. Apicella: Okay, great. I'll take a voice vote on that. All in favor of approving the February 10, 2021, minutes please say aye.

All members: Aye.

Mr. Apicella: Opposed? Motion carries and it's approved. Alright, is there a motion on the February 24 minutes?

13. February 24, 2021

Mr. English/Mr. McPherson: So moved.

Mr. Apicella: And a second? Anybody?

Mr. Randall: Great, thank you. Alright, all those in favor of adopting the February 24, 2021, minutes please say aye.

All members: Aye.

Mr. Apicella: Opposed? Motion carries. With no further business before the Planning Commission, I call this meeting adjourned. Thank you everybody.

Mr. McPherson: Have a good evening everyone.

Planning Commission Minutes
April 14, 2021

Mr. Apicella: You too.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 8:22 PM.