

**STAFFORD COUNTY PLANNING COMMISSION MINUTES**  
**July 22, 2020**

The meeting of the Stafford County Planning Commission of Wednesday, July 22, 2020, 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.

Mr. Apicella: Before we get started with today's agenda, I have the following statement to read. This is Steven Apicella. I will be participating remotely here in Stafford and would ask for the Commission to approve my electronic participation for today's meeting. So, if we could take a vote on that, I would greatly appreciate it.

Mr. English: So, I'll make a motion to.

Mr. Randall: Second.

Mr. Apicella: Okay. To get this rolled off, I'm going to do a roll call vote. Mr. Apicella votes aye. Mr. Bain?

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: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes.

Mr. Apicella: Thank you. I believe Mr. McPherson also has a statement to read.

Mr. McPherson: Yes. I'd like to make the exact same request as Chairman Apicella. I'm also attending remotely and I would like the Board to vote to approve that they're okay with that. Planning Commission, sorry.

Mr. Apicella: So, is there a motion?

Ms. Barnes: So moved.

Mr. Apicella: Second?

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Mr. Cummings: Second.

Mr. Apicella: Okay, I'll take a roll call vote again, starting with myself. Mr. Apicella votes aye. Mr. Bain?

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: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes.

Mr. Apicella: Okay, thank you very much.

Mr. McPherson: Thank you.

Mr. Apicella: I have two more points to make. Tonight, when we vote on an item, we will do it by roll call vote which will be administered by our Planning Commission Secretary, and that's Mr. Randall. Additionally, if we have any technical issues, Mr. English will take over as Chairman.

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

MEMBERS ABSENT: None

STAFF PRESENT: Jeff Harvey, Lauren Lucian, Stacie Stinnette, Mike Zuraf, Kathy Baker, Amy Taylor

DECLARATIONS OF DISQUALIFICATION

Mr. Apicella: Are there any declarations of disqualification on any issue? Okay, seeing none, are there any changes to the agenda? Okay, seeing none, I'm going to open the public presentations portion of tonight's meeting. This is a point in our meeting when members of the public may address any matter they wish to comment on, except the public hearing items scheduled today. There'll be a separate

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opportunity to comment on those public hearing items as they come up. Speakers have up to 3 minutes for their comments. Please state your name and address before you start. The clock starts when the green light appears. Yellow means there's 1 minute left. Red means you need to wrap up your comments. So, if anyone would like to speak, please come forward now. Okay, I don't believe I see anybody coming forward, so I'm going to close the public presentations portion of the meeting and move onto agenda item 1. Mr. Harvey.

PUBLIC PRESENTATIONS

PUBLIC HEARINGS

1. CUP19153087; Conditional Use Permit - South Campus Academy - A request for a Conditional Use Permit to allow a child care center in the B-3, Office Zoning District, on Tax Map Parcel No. 39-16M (Property). The Property consists of 2.15 acres, and is located on the southwest corner of the intersection of Old Potomac Church Road and South Campus Boulevard, within the Aquia Election District. **(Time Limit: October 2, 2020) (History: June 24, 2020 Public Hearing Continued to July 22, 2020)**

Mr. Harvey: Thank you, Mr. Chairman. Mike Zuraf will be providing the update for this continued public hearing.

Mr. Zuraf: Good evening Mr. Chairman, members of the Planning Commission. Can everybody hear me?

Mr. McPherson: Yes.

Mr. Apicella: Yes.

Mr. Zuraf: Okay, great. Okay, so I'll be providing an update on item 1, which is a Conditional Use Permit for South Campus Academy. This is a continued public hearing. This is a... if you could... thank you. So, this is a request for a conditional use permit to allow a child care center use in the B-3, Office Zoning District. It's on parcel 39-16M. It's on a 2.15-acre property in the Aquia Election District. And I'm just going to go briefly through the background and not full-scale evaluation and everything. The property is located at the southwest corner of the intersection of Old Potomac Church Road and South Campus Boulevard, approximately 1,500 feet east of Jefferson Davis Highway. The site is highlighted in blue, generally in the middle of the screen. The property is zoned B-3, as mentioned. Surrounding zones include B-2 to the east and B-3 zoning to the north, south, and west. The Generalized Development Plan illustrates the site layout for the childcare center use a single-story building of 10,000 square feet, as proposed. There are covered outdoor areas shown on the north and east sides of the building. There are two playground areas also shown on the north and east side of the building as well. Playground areas are proposed to be screened by a fence with a maximum height of 4 feet. There is sidewalk proposed along South Campus Boulevard frontage of the property. The existing entrances are off of Old Potomac Church Road and Creek Ridge Drive that will provide access into the property. The proposed conditional use permit conditions require the site shall be developed in general conformance with this General Development Plan. So, this initial public hearing was held at your last meeting in June, and there were two main issues that came up that led to the continuation of the public hearing. First was a question about what monetary amount should be established for the security payment required by condition number 12. This is related to proposed conditions that require the applicant to install curb, gutter, and sidewalk along their frontage on Old Potomac Church Road if it's not constructed by others.

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County staff did estimate a construction cost of approximately \$125,000 for the 338 feet of road frontage. Staff has re-evaluated the proposed condition, and is no longer proposing that condition number 12, which would have required a security be posted for the curb, gutter, and sidewalk. It's staff's opinion, a conditioned security payment would constitute a cash proffer, and the legal aspects of proffers require that they must be voluntary by the applicant. Furthermore, these improvements are also deemed to be offsite road improvements. An offsite road improvement cannot be required unless a need for it is substantially generated by a proposed use. The transportation impact of the childcare center does not generate a substantial need for the offsite road improvement. Previously, a site plan was approved to develop the existing 40,000 square-foot office building on the property, which would have a greater transportation impact. And the approved site plan for that office did not include a sidewalk or curb, gutter, and sidewalk requirement either in that location. The second point was a concern expressed by one of the citizens. So, the request from the Planning Commission was to try to find out what the present condition of Old Potomac Church Road was, because there was concern about the road sinking. Old Potomac Church Road is a private road, so it is not state maintained. So, VDOT didn't have any specific information on that concern. As we noted previously, there are pending plans for the residential subdivision to the south. It's proposed to improve Old Potomac Church Road along this entire stretch to meet VDOT standards. The improvements will include curb, gutter, and sidewalk along the property frontage of Old Potomac Church Road, and those improvements would be required in order for Old Potomac Church Road to be able to serve that subdivision. And redevelopment of the road would resolve any hazards in its present condition. And as a reminder, staff did recommend approval of the application with the revised conditions pursuant to Resolution R20-112. And that concludes my presentation.

Mr. Apicella: Thank you, Mr. Zuraf. Any questions for staff?

Mr. Bain: Yes, I'd like to make a comment if I could, Steven.

Mr. Apicella: Sure.

Mr. Bain: I take issue with the statement that the sidewalk, curb, and gutter would be an offsite improvement. The parcel that we're talking about has a property line. The sidewalk, curb, and gutter could be built on the applicant's property inside that property line. Now, I understand that that may not align with the future improvements for the roadway and that... for that reason, I think it might be reasonable to suggest to the applicant that they postpone that work but provide some sort of security that it will be done in the event that the proposed development further down that roadway would not be done or other things came up. I don't like the idea of having an entrance from that road with no curb and gutter or sidewalk. There's sidewalk on the other portions of the property. I think it should be continued. I think it could be postponed in light of the future development, but I don't think it should just disappear if that development does not come along. That's my comment. Thank you.

Mr. Apicella: Thank you, Mr. Bain. Does staff have anything to say with regard to Mr. Bain's comments?

Mr. Zuraf: Not at this time.

Mr. Apicella: Okay, thank you. Any other questions?

Mr. Randall: Yeah, Mr. Chairman, this is Mr. Randall. I have a couple questions for staff. So, where does the property line come up in regards to... it's a little along the lines of Mr. Bain's comments. Mr. Zuraf, where does the property line of that property come up with regards to Old Potomac Church Road?

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How close to that road does that line come to? Because, we talk about landscaping and that landscaping of that area, you know, next to the road. And I'm assuming that landscaping is going to be on their property. So, how close is that property line to the Old Potomac Church Road?

Mr. Zuraf: According to the General Development Plan, it shows that the landscaping is on the property, but then it does show... it appears that the way things are aligned that the curb, gutter, and sidewalk would be within the future right-of-way.

Mr. Randall: So, because it's not in their property... not within their property lines, it's considered offsite?

Mr. Zuraf: Correct.

Mr. Randall: Even though the road going to that is being used as an entrance into their facility.

Mr. Zuraf: Yes.

Mr. Randall: All right. So, the next question I have is you mentioned that the development of Old Potomac Church Road to transfer to the VDOT system is pending. Could you provide a little more guidance on pending? Is that pending next year, pending 10 years from now, pending till we find money; what exactly does that mean to me?

Mr. Zuraf: I would estimate probably the next year or two, because the residential project that we've referenced, that has already received preliminary plan approval and currently the construction plan has already been submitted, first review comments have already been received by the applicant and, according to the applicant, they anticipate resubmitting second rounds of comments pretty soon; they think possibly in the next week or so at the earliest. So, you know, assuming that the construction plan gets approved, that can proceed with the improvements within the next several months.

Mr. Randall: Okay, so that road development to turn over to VDOT is part of that development?

Mr. Zuraf: Yes, because that development will have public streets and, in order for those streets within the development to be public, they have to have full public street access. And so, that means that they're going to have to upgrade Old Potomac Church Road to a public...

Mr. Randall: Okay, does that determine... determine is the wrong word... does that ensure that I have a sidewalk on both sides of the street? Can I mandate that that sidewalk's on the side of the street where the... where we're talking about the childcare center?

Mr. Zuraf: I believe sidewalk is planned there. I cannot speak for what is planned on the opposite side of the street. I'd have to actually look at the plan.

Mr. Randall: So there could... so you could conceivably say that we'll have a sidewalk on the far side of the street with the new development, but there would not be a sidewalk on the side of the street closest to the childcare center.

Mr. Zuraf: I believe it's planned on this side... the side of the street of the childcare center. I'm not certain about the opposite side.

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Mr. Randall: Okay. Okay, so you're certain though it's on the side of the childcare center?

Mr. Zuraf: Um, 95% certain. I'm hearing from one other staff person who's more familiar with that plan that yes.

Mr. Randall: Okay, could I get his name please? No, I'm kidding, I'm kidding, I'm kidding, I'm kidding. I'm kidding. Alright. Okay, thank you Mike.

Mr. Zuraf: Okay.

Mr. Apicella: Okay, last call for questions? Alright, thank you Mr. Zuraf. If the applicant's here, would they like to make a further presentation spring-boarding off their previous presentation?

Mr. English: He has no comment, he said.

Mr. Apicella: Okay, great. So, I'm going to ask... so the public hearing is still open. I'm going to ask if there's anybody who would like to come forward and make any public comments about this particular item. Again, anyone wanting to speak has up to 3 minutes. So, if anyone would like to come forward, please do so now. Okay, I don't see anyone, so I'm going to close the public hearing and bring it back to the Commission for further consideration. Mr. McPherson, this is in your district.

Mr. McPherson: Yes, Mr. Chairman, thank you. I would like to make a motion to recommend approval of CUP19153087, the CUP for South Campus Academy.

Mr. Apicella: Okay, is there a second?

Mr. English: I'll second it.

Mr. Apicella: Alright, thank you, Mr. English. Any further comments Mr. McPherson?

Mr. McPherson: Only that having a childcare center in a TGA is always a good thing.

Mr. Apicella: Thank you. Mr. English?

Mr. English: No comment.

Mr. Apicella: Anyone else? Okay...

Mr. Bain: Just... I would like to comment again that I really think there needs to be some way to ensure that that curb, gutter, and sidewalk get constructed in the event that that future development down the roadway does not happen. Consider the fact that the driveway could then just turn into mud if the roadway is abandoned. You know, the current property owners down there are maintaining that road. And if they decide, hey, I can ride on a muddy rutted road, then that access becomes a muddy mess. And I just think that that curb, gutter, and sidewalk are important and I'd like to see it somehow required. It's part of the County ordinance to have the sidewalk, curb, and gutter on the property line, so. That's my comment. Thank you.

Mr. Apicella: Thank you, Mr. Bain. Anybody else? Okay, so there's a motion to approve. Mr. Randall, will you please do a roll call vote?

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Mr. Randall: A motion's been made and seconded. Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: No.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall is a yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: We have 6 yea's and 1 nay.

Mr. Apicella: Thank you, Mr. Randall. Motion is approved. Congratulations. Okay, Mr. Harvey, moving onto item number 2?

2. RC18152428; Reclassification - Vistas at Ferry Farm - A proposed zoning reclassification, with proffers, from the A-1, Agricultural Zoning District to the R-5, Age-Restricted Housing Zoning District to allow for the development of up to 134 age-restricted multi-family, assisted living, or memory care units on Tax Map Parcel Nos. 54-79, 54-79A, 54-80, 54-80A, and 54-81 (Property). The Property consists of 7.118 acres, located on the south side of Kings Highway and north side of Naomi Road, within the George Washington Election District. **(Time Limit: September 16, 2020)**
3. CUP18152429; Conditional Use Permit - Vistas at Ferry Farm - A request for a conditional use permit to allow increased residential density of up to 19.0 dwelling units per acre in the R-5, Age-Restricted Housing Zoning District on Tax Map Parcel Nos. 54-79, 54-79A, 54-80, 54-80A, and 54-81 (Property). The increased residential density would allow up to 134 age-restricted multi-family, assisted living, or memory care units. The Property is subject to a concurrent zoning reclassification request. The Property consists of 7.118 acres, located on the south side of Kings Highway and north side of Naomi Road, within the George Washington Election District. **(Time Limit: September 16, 2020)**

Mr. Harvey: Thank you, Mr. Chairman. Staff will be presenting items 2 and 3 concurrently. They deal with a zoning reclassification and conditional use permit for a project known as Vistas at Ferry Farm. And Mike Zuraf will be making the presentation.

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Mr. Zuraf: Okay, Good evening again, Mr. Chairman and members of the Commission. So, I will be presenting items 2 and 3 concurrently for a project known as The Vistas at Ferry Farm. This is a reclassification and conditional use permit. So, this a... these two requests involve a reclassification from the A-1 Agricultural Zoning District to the R-3 Age Restricted Housing Zoning District, to develop up to 134 age restricted multi-family, assisted living or memory care units and then a conditional use permit application to allow increased residential density of up to 19 dwelling units per acre in the R-5 Zoning District. The site covers seven acres, the applicant is Doug Janney with Charlie Payne as the agent. This is in the George Washington Election District. So, for some brief history on October 9<sup>th</sup> of last year the Planning Commission initially acted on this... on these applications. And the application then was... in advance of going to the Board of Supervisors public hearing, the application was sent back to the Planning Commission as a result of adjustments that were made to the project. On June 24<sup>th</sup>, the Planning Commission reviewed those changes and voted to schedule a new public hearing for these cases. So, for rehashing this situation and where it is, there are 5 parcels subject to the application, they are identified in the blue outline. The Property is located on the south side of Kings Highway and north side of Naomi Road. The adjacent properties to the north and south are zoned R-1 Suburban Residential and R-2 Urban Residential. Also, to the north is B-2 zoned property. Adjacent to the east there is the CSX rail line. The site is partially wooded. Claiborne Run is located to the south of the property, which includes a 100-year floodplain along that stream. The topography slopes downward from Kings Highway to Naomi Road. And there are some pocket wetlands located on the site. There are eight single-family dwellings located off of Naomi Road on the property. The dwellings are in deteriorated condition, and the age of the structures is unknown. And so it appears that some of the units are occupied. Other nearby uses include single-family residential dwellings along Naomi Road. And townhouse dwellings farther to the south off of Dairy Lane. On the opposite side of Kings Highway includes a mix of office and townhouse uses. The general development plan depicts the layout of the proposed development. The primary access to the development is via two entrances off of Naomi Road. No access is provided directly off of Kings Highway. The development includes one 3-story building. In the R-5 Zoning District, the max building... max by-right development density is 15 dwelling units per acre, which would permit up to 106 units on the site. The proposed 134 dwelling units are equivalent to a density of 19 units per acre. So, the concurrent conditional use permit is required to allow the density to go up to 19 dwelling units per acre, and permit the 134 units. The GDP identifies surface parking around 3 sides of the building. And given the sloping conditions of the site there are several retaining walls proposed. There are several amenities proposed, including walking areas, a community garden, and passive recreational areas that include a putting green and bocce area, and a dog park. The GDP also identifies a potential alignment of the Belmont- Ferry Farm Trail across the frontage of this site. The Comprehensive Plan's Future Land Use Map classifies the Property as part of the "Suburban" designation, which is identified in yellow, by the yellow shading on the map. The proposed development is generally consistent with many of the recommended development standards for the Suburban designation as described in the Plan. The site is consistent with infill development policies. It is not in compliance with density recommendations as 19 units per acre which is proposed. The Comp Plan recommends up to 3 dwelling units per acre. This density is... let's skip that. The dwelling units other than single family is also permitted on a case by case basis. The site is surrounded by a nursing home, townhomes and single family homes. The 3 story buildings are consistent with the height of other multi-family buildings in Stafford. The site conditions require the building to be oriented away from the closest single family homes. The Site layout and building design compliments, and is in scale with existing neighborhoods. Sidewalks would be constructed internal to the site and the applicant is committing to constructing a portion of the planned Belmont-Ferry Farm Trail across the road... site frontage, if there is concurrent agreement with the County. And the project preserves the recommended amount of open space that is required. The site is within a Dam Break Inundation Zone, which is associated with the Leeland Dam, located in Leeland Station. The dam is designated as a high-hazard dam by the Virginia



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Department of Conservation and Recreation. This means that any downstream development within the dam break zone cannot be prohibited but may require notification and potential evacuation during significant storm events due to the potential for loss of life. The Comp Plan Policy 4.4.2 discourages development of new buildings and structures within dam inundation zones. This image highlights the location of that DBIZ, that is the area shaded in blue. It does cover the majority of the site. Staff does note that these limits are based on a simplified GIS analysis that does not account for upstream impediments. So, immediately upstream to the right are two separate embankments and culverts associated with the CSX rail line and Kings Highway. Each embankment includes significant fill that also would act as a dam and would control the flow of water in an event the upstream dam should fail. These would likely lessen the downstream flooding impacts on this parcel. The proposed architectural design is consistent with many of the features which conform with the Neighborhood Design Standards Plan in the Comp plan. The proposed proffer would require the buildings be constructed in conformance with the styles and materials depicted on the architectural renderings that have been provided. So, staff has evaluated how this request will impact these listed public facilities. It would also note the rezoning is subject to the July 1, 2019 proffer legislation. The applicant had the ability and did choose to opt-in to this legislation as it provides more flexibility to provide additional off-site proffers that the County would be authorized to be able accept. Under this state law, generally proffers to mitigate off-site public facility impacts are limited to transportation, public safety, schools, and parks and recreation public facility types. The proffer can only be tied to a need that is in excess of existing public facility capacities. So, staff report evaluates if public facilities would be determined to be adequate, in a deficit, or undetermined, as a result of the project. Looking at the adequate facilities the age restricted housing would not impact the County school system. With parks, the staff has determined that there is adequate park capacity in this location, based on a prior Park Utilization Plan. And Libraries are identified as having an adequate level of service through the buildout of this project. The Comp Plan projects future needs and does not identify the need for a new library until at least the year 2023. Looking at facilities that may have deficits that includes, Public Safety, sites within the first response area of the Falmouth Fire and Rescue Station. It was determined that current service level deficits exist, and any additional homes will further add to the current service level deficit. In this case, it would be reasonable to receive a proffer to mitigate fire and rescue impacts. The impacts would be mitigated with cash proffer that are proposed by the applicant. Also, with the general government category includes facilities such as the County's Government Center and Courthouse complex. Staff has determined that a deficit does exist with general government services based on current capacity issues with the Courthouse. To address this, the County's CIP includes construction of a new Courthouse facility, although that is not scheduled to be completed in year 2030, several years after buildout of this project. In the Undetermined Category is Transportation. A transportation impact analysis was not required with the application since the estimated trip generation is less than a thousand trips per day. And in this location, the Comp Plan does not recommend any additional improvements to these roads. Staff does not anticipate significant traffic impacts with the development, lower traffic generating uses that do not require a TIA are less likely to have a negative impact on levels of service. And also note that a Transportation Impact Fee of approximately \$3,000 per unit would apply in this case. Reviewing the proffers that are proposed, the development will be required to be as generally depicted on the GDP. There will be a limit to the number of units, to 134 age restricted multi-family, assisted living, or memory care units. The architectural design has to be in accordance with renderings provided. It requires building materials that ensure fire safety. It requires cash contributions of \$484.65 per unit. Requires covenants to ensure all units are age restricted. Requires construction of several outdoor amenities, limits the vehicle access to the entrances off of Naomi Road and establishes maximum building height of 3 stories, with no underground parking permitted. And requires coordination with VDOT to acquire additional right-of-way that VDOT does not need. A few more, it does require construction of a portion of the Belmont-Ferry Farm Trail, with lighting. Allows for the conversion of the age-restricted multifamily residential units to age-restricted

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condominium units at any time. You did receive a revised version of the proffers. The one change was to specify that the condominiums would also be age restricted. So, that was the one change in the new proffers that you received this afternoon. And requires that all assisted living units be limited to applicable state and licensing requirements. And prohibits parking along Naomi Road and Dairy Lane during construction. Briefly looking at the conditional use permit, again this is allowing an increase of density up to 19.0 units per acre in the R-5 Zoning District. In looking at conditional use permit for increased density, the intent of the use permit... of requiring a use permit for increased residential density is to ensure that development occurs in a manner that minimizes any negative impacts on residents in or adjacent to the site. The use permit would allow 28 additional dwelling units in the project. This equates to half of... approximately half of the units on the upper floor of the building, according to the building plans provided in Attachment 4, which show the potential for 50 units on the upper floor. So, the by-right 106 units would likely still require a 3-story building, however on a smaller footprint might be achieved under that 106 unit concept. The greatest potential off-site impact would be to the adjacent single-family residences on Naomi Road. Staff notes that the shape and conditions of the site require the structure to be located to the eastern end of the site, oriented away from these single-family residences. This should limit some of the visual impacts in those homes. Staff does note that the 3 story building that is proposed is consistent with the height of other apartment buildings, typically found in Stafford County. It could be permitted without a conditional use permit. Also note the apartments are not permitted to be taller than 3 stories in the R-5 Zoning District. And also, there are several conditions recommended to address fire safety, which I'll mention in a moment. So, looking at the propose conditions, again we have a limit to 134 units. Requiring them to provide and maintain an NFPA 13 fire sprinkler system and NFPA 14 standpipe system for fire protection in all multi-story buildings. Provide at least two elevators, each with emergency power provided in the multi-story building. A Stryker chair will be provided in each stairwell. A Stryker chair is basically a chair that would assist somebody who has mobility issues and allow them to be assisted down a stairwell. Also require the site, building, and individual living units to incorporate universal design features, as outlined in the guidelines document submitted by the applicant. Only non-combustible exterior wall materials will be utilized around at least the entire first level above grade. And an emergency evacuation response plan will be prepared and maintained. So, looking at the overall evaluation of the project, there are several positive features. The proposal is generally consistent with the land use recommendations in the Comp Plan, except for the land use intensity. It's consistent with the residential development pattern in the vicinity. Mitigation of public safety impacts are considered reasonable. It's consistent with infrastructure phasing policies in the Comp Plan related to schools, parks, and libraries, and transportation. The site design should minimize visual impacts on nearby lower intensity residential uses. The project is designed in a manner to minimize impacts to sensitive environmental resources. Building design is consistent with architectural design recommendations. It contributes to the potential alignment of the Belmont-Ferry Farm trail and the proposed conditions would help ensure that negative impacts are mitigated. So, a few negative aspects, the development intensity exceeds maximum density recommendations in the Comp Plan. The proposal is inconsistent with Comp Plan policies regarding Dam Break Inundation zones. And inconsistent with infrastructure phasing policies in the Comp Plan related to General Government service deficits. With a recommendation of overall, staff's generally supportive of the zoning Reclassification with the proffered conditions and subject to approval of associated Conditional Use Permit. And with the Conditional Use Permit, staff is supportive of the application with conditions pursuant to Resolution R20-51. And subject to the approval of the Reclassification. And that concludes my presentation.

Mr. Apicella: Thanks Mike. Questions for staff?

Mr. Cummings: I have a question.

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Mr. Apicella: Please go ahead Mr. Cummings.

Mr. Cummings: Thank you. Maybe it's the rain today, but I am kind of concerned that we are building in a dam inundation zone. And so, I really want to see Mike, if you... can you talk a little bit about that? Why we are building there, why we are allowing building there and then what other strategies... risk mitigation strategies or flood mitigation strategies might be employed there.

Mr. Zuraf: Sure. As I kind of mentioned, I think that if this was a site that didn't have those upstream road crossings and the railroad crossing and culverts that kind of act to hold back the flow. I think there would be defiantly more of a concern. So, I think given that that those features really kind of lessen the overall impact. And in addition, the conditions of the site, as mentioned, it kind of slopes up towards Kings Highway from Naomi Road and down where the inundation zone is. So, the way and you can see it on the GDP, there's a series of retaining walls and basically the site is terraced into the hill, and so the elevation of the building actually is going to be raised up. I don't off the top of my head know what that elevation might be in relation to the Dam Break Inundation Zone elevation, but the building itself is going to be raised up because of the conditions of the site. And so, that is another feature that would kind of lessen the oval impact of the Dam Break Inundation Zone.

Mr. Harvey: Commissioner Cummings, as Mr. Zuraf was indicating, the current mapping for the Dam Break Inundation Zone in this area is an approximated map. It's not based on detailed engineering. That is one of the requirements that will be forthcoming in the future once that dam in Leeland Station is brought up to current standards.

Mr. Apicella: Mr. Zuraf and Mr. Harvey, would there be any value in adding a condition that lets owners and residents know that they may be in a dam inundation zone?

Mr. Zuraf: Certainly, that could be a condition. I know we have had different conditions regarding, you know, the Airport Impact Overlays and so I could see this as a similar type of situation.

Mr. Cummings: Okay, and I would like to know the actual elevation. You know...

Ms. Barnes: This is Commissioner Barnes. I... I... that caught my eye too. All I can think about is like the houses and building that you see in the Outer Banks, but everything is built up on stilts. Is that what we are talking about? Or is it... I mean it didn't look like that at all to me. But, that really caught my eye because the other thing to follow up on Dexter's concern is that it seems like there is some off-site mitigations that would minimize the possible effect, but that assumes that those off-site mitigations will be consistent and they are in perpetuity. So, you know, that might be another concern. And also, you know, there would be, I would imagine, if somebody tried to get insurance and it's in a flood zone, that somebody is gonna perk up at some point in time.

Mr. Harvey: And Mr. Chairman, the...

Mr. Bain: I will just point out real quick, it's not in a flood zone. It's not like the hundred-year flood plain. So, there is no insurance issue with this.

Ms. Barnes: Okay, thank you.

Mr. Harvey: This is Mr. Harvey.

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Mr. Apicella: Yes.

Mr. Harvey: I believe the applicant in his presentation may address this issue in some degree. His engineer is here tonight.

Mr. Apicella: Okay, great. Any further questions for staff? Okay, seeing none, would the applicant like to come forward? Thanks Mr. Zuraf.

Mr. Payne: Thank you Mr. Chairman, Mr. Vice Chairman and other members of the Planning Commission. My name is Charlie Payne, I represent the applicant. Thank you very much for your time. I hope you all are safe and well. It is always good to see you in person. I am here, the representative of the applicant is here, Mr. Dan Levy, who is our architect is here and Mr. John Fairbanks is here, who is our civil engineer. So, we will get to the DBIZ question towards the end of the presentation, if that is okay. And we will also address some of the CUP issues, since this is all combined together, if that is okay, as well, towards the end. So, I do have a PowerPoint presentation. Thank you, Mr. Zuraf, I guess I will have to turn my head a little bit. It is not showing on my screen. Is it supposed to be on my screen? Do I need to do anything? Is the power on... maybe? There it is. Perfect, just turn the power on. See I could do that. Stafford High School grad, baby. Again, thank you very much for your time. I appreciate it. And hopefully it is okay if I take this mask off. It is really difficult to talk in it. So, again you guys... this is circa 2019 when we last brought this to your attention. And after that meeting which you denied this application, we went back to the drawing board. We met with the HOA officers at Chatham's Landing, we met with local officials again. We wanted to get more input as to why this project was denied and what we could do to make it better. Because even through, as staff had noted, it's inconsistent with the comprehensive plan. I think it's important to know that when the comprehensive plan was established, R-5 wasn't a zoning district. So, it wasn't, in all fairness to what we are proposing here, the R-5 Age Restricted District, wasn't even part of the contemplation of the comprehensive plan at that time. But as staff noted, there is so many parts of this project, so many components of it that are consistent with the comprehensive plan, including providing housing for our seniors. Which is a large need in our community, which is the main reason why my client thought that this would be a great location. Especially as it transitions, and we will get into the height of the building from Route 3, but it sits up, up against the hill on Route 3. Of course, that will all be leveled. Part of the property on the front does touch the floodplain a bit, but none of the building, none of the improvements will be in the floodplain. So, all of that will be well above. But as you transition from Kings Highway, you transition into townhomes and then to the nursing home. So, from a planning perspective it makes a lot of sense. It's in, you know, along the historic tourism trail between Belmont and Ferry Farm. It's right there near Chatham Bridge, so if folks want to walk, they will be able to walk to the Bridge now and notwithstanding the fact they may go into the City and spend a little money. But they will have an opportunity to take advantage of that historic arena, which we think seniors will like to do. So, sense we last saw you, just real quick highlights. We reduced the density from 170 to 134, we have eliminated two buildings, so now it's all collected into one building. We have also added an assisted living and a memory care component to this. And I know that Mr. Randall has some questions about where those units may be located. Mr. Levy is here to help answer those questions, because he is the expert, not me. But we think it makes a lot of sense given that the nursing home is there, there is a need in this region, in this planning district 16 for additional assisted living beds and memory care facilities. And we are not... and we think, you know, all of that will be licensed by the State. That is not our call. So, the State determines the number of beds and where they will be located in the building. So, Mr. Levy will get into those details as well. I know that Mr. Apicella had some real questions about, you know, is it... with a garage underneath the buildings, is it truly four stories or three stories, so we eliminated that question. It is a mas of three stories, no underground parking. We've got some new

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architectural features, I think you will be very impressed with Mr. Levy's presentation and what he has proposed and again we met with the local community, some of the HOA officers at Chatham's Landing, to get their input, which was positive. And I believe they may have reached out to some of you, as well. That was going well until I tried to push this button... Jeff. Let's see if this does it. Thank you. Just real quick on the applicant, we never really talked a whole lot about Mr. Janney. He is located... headquartered in Stafford County. He is a lifelong resident of the area and has been in the construction and development business for over 35 years. He is teaming with DK Levy Architects out of Knoxville, Tennessee. I have a very good friend from... me and Mr. Bain have a very good friend from Knoxville Tennessee, who claims it's the best town in the county. And I also sent some of you a link to Mr. Levy's background. And our engineering team is Fairbanks and Franklin. Next please, thank you. The property does consist, as staff noted, of over 7 acres and is located south of Kings Highway, as we discussed that transition. East of the intersection of Kings Highway and Chatham Heights Road, right off of Naomi Road. And we are requesting a rezoning from A-1 to R-5, and we will get to a little more detail as to the site itself. And you will see at the bottom there, this is our color conceptual plan with the one building and two access points. The project will include again, no more than 134 senior multifamily and some assisted living and memory care units. The project does fill a community need, as I stated, for senior housing and also the assisted living facility. Proposed use is supported by the Comprehensive Plan, for all the reasons that staff had had noted, to include new infill housing inventory for seniors and those in need of assisted living facilities. Next please. In addition, this contributes to goal of locating 80% of residential growth within Urban Services Area, there is a lot of discussion obviously going on in the County about this very purpose, to make us more centric. It also supports County's affordable housing goals, which includes available housing for seniors, which is key and available housing for them. We are seeing a lot of that transition from single family detached units to more elevated multifamily units, condos. It also provides senior multifamily infill development in a suburban land use district. This is going to be, you know, right now the property is assessed at not a heck of a lot of money, so you are going to get about a 13 to 15 million dollar investment here. So, you are going to get a super surcharge on potential tax revenue. And again, we are preserving 54% open space. Next please. Here is the current property condition, this is what it looks like today. You will see it's undeveloped as staff had noted there is eight homes on this site, two of them currently have residents in it. Next picture, you will see here some of the older more debilitated homes on the site. Next please. And this is what we are planning to do. One building, and these architectural features have been proffered and these were prepared by Mr. Levy, he can give you some more details about it. Everything will be included in one building, including the central location of entry here into the site, into a very nice lobby, tall ceiling, obviously with wings. The various different wings will include the residential units and various different amenities. Next please. Here is the concept plan. You may recall there was a concern about having one entrance, we have in the prior hearings and of course now we have two. Oh, back please. Let me make sure I can do that. Sorry about that. So, concept plan, I am not going to touch this. As you can see there are two entrances here off of Naomi Road. There is a trail that we are proposing, which I will get into a little more detail as a part of our proffers. That trail will be lit, there will be a series of lights along that trail. The building, as you can see is fairly centered into the site, parking around the site, walking paths. You will see the amenity areas, park, small park, a pocket park if you will, areas for walking paths, areas for folks to get outside and to engage in some recreational activities,

Mr. English: Mr. Payne.

Mr. Payne: Yes.

Mr. English: In reference to your walking trail, you said they are going to be lit, correct?

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Mr. Payne: Yes.

Mr. English: Is there anything in there in reference to maybe putting some sort of ...

Mr. Payne: It's on our GDP... our GDP shows where the light...

Mr. English: Right, no, but I'm... see, you know how the college campuses have blue lights in case they need assistance along... is there going to be any... can that be worked in or not? Or is that... the trail will not be that long that you have to worry about it.

Mr. Payne: I would defer that questions, because we are building it and we are going to light it for purposes for our project. But the trails are going to be used by the public. So, I don't... I don't know Jeff, if there is a plan with public works to include any sort of emergency systems over the entire trail. I don't know the answer.

Mr. English: Okay, thank you.

Mr. Payne: I am sorry.

Mr. Payne: Economic Development. As I had stated the property is, you know, the property is assessed fairly low today. There will be about a 15 million dollar investment in this project, so the net benefits, meaning cost verses what the tax revenue that will be generated from the site, for the purpose of real estate and personal property only. That is not even looking at sales tax or meals tax or anything else. Is about \$115,00. So, \$180,000 or so will be generated on site, which would include \$136,000 plus in real estate tax and \$43,000 plus in personal property taxes. Including construction, it will be 190 new jobs created here plus the property will be managed and maintained by employees. And it will be about 7.6 million dollars in permanent employee earnings on the site. Transportation analysis. Decreasing the number of units is obviously decrease the impact so now the new generation is about 25 new a.m. trips and 36 p.m. trips for purposes of 134 units. Again, we do not anticipate there being more than one car for residents who are a couple. We have parked it pursuant to the parking requirements. It is not over parked, as you may recall from our last presentation. Other transportation improvements include two... construction of two entrances from Naomi Road to Property. Improvements to Naomi Road along the frontage on the property, I know there was questions by the community about lighting and expanding that road area and including the trail. We are also proposing to improve Dairy Lane, which is across from this site. There is also no on-street parking during construction. I know that was a concern of a couple of the Planning Commission members. And we do plan to pay... well we don't plan, it is required to pay transportation impact fees. So, every new development in Stafford County has to pay impact fees per unit. So, this project will generate over \$400,000 in impact fees. We are also paying close to \$70,000 in proffers for public safety. All units will be age restricted, so no impacts to schools. Again, there will just one building, no taller than 3 stories. We will agree to construct the of Belmont-Ferry Farm Trail. I know this was something that was very important to Public Works. And it will include lighting, our understanding of the value of the stretch of that trail is about a half a million dollars. And the amenities will include walking paths onsite, including a connection to the new Belmont-Ferry Farm Trail, community garden and passive recreational areas such as a putting green and bocce area or something similar, and dog park. So, if you have any questions at this juncture, because we do have a couple of other comments regarding the SUP conditions... CUP conditions, I am sorry. And then we will answer the DBIZ question as well.

Mr. Randall: Mr. Chairman, I have a couple of questions.

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Mr. Apicella: Sure, go ahead Mr. Randall.

Mr. Randall: I guess we can start with, what's the... can you show me on your drawing where we expect the nursing home portion to be and the assisted living portion to be on your GDP.

Mr. Payne: So, we haven't made that determination yet. As I had stated that is typically done by the State. The State will license the number of beds and their location. But Mr. Levy, do you want to address that question? Because you had a question about why they weren't all in the fir... why wouldn't they be limited to the first floor.

Mr. Randall: Yeah, if I had my druthers you would have three buildings, one building specifically for assisted living, one building for nursing home and one building for everybody else. Because they are all going to be to different standards, obviously.

Mr. Payne: Yes.

Mr. Randall: So, the other thing is... my concern is that are they going to be partitioned off from... will the nursing home be just randomly throughout the unit.

Mr. Payne: Just so we are clear, there is no nursing home.

Mr. Randall: Okay.

Mr. Payne: So...

Mr. Randall: Assisted living...

Mr. Payne: Assisted living and memory care are really the same. They are same licensure, they are really assisted living...

Mr. Randall: Okay.

Mr. Payne: ... memory care is a little more care.

Mr. Randall: Sure.

Mr. Payne: There is no nursing home, just so you know.

Mr. Randall: Well you said memory care, I didn't... why use both if they are the same?

Mr. Payne: Because they are different... even though they are licensed the same they have different care applications. Memory care is obviously for folks who a, you know, who's lives are transitioning into dementia category, etcetera. But they are really getting assisted living care.

Mr. Randall: Sure.

Mr. Payne: But, and I will let Mr. Levy talk a little bit about it. But also important about why they are all in the same building, although they may be in different wings, and I will let him explain that, is families aren't separated that way. If husband and wife are in one unit and then the wife, let's say, or

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the husband need to be in the memory care/assisted living unit, not in the independent living unit, they can still be in the same building.

Mr. English: Is it sort of like the one at Falls Run?

Mr. Payne: A little bit different...

Mr. English: But it's still in that line?

Mr. Payne: Very similar.

Mr. English: Okay, I got it.

Mr. Payne: Mr. Levy, do you want to address the question?

Mr. Levy: It's a great question. And again, the goal is to...

Mr. Apicella: Mr. Levy, can you just announce who you are?

Mr. Levy: Yes. Daniel Levy, architect. And thank you for the opportunity to speak before the Commission too. Senior living is our passion. We have done over 80 communities like this throughout the southeast. And we are really excited for the opportunity to work here in your community. So, thank you. The goal of creating this, kind of overlap between what we call independent living, assisted living and Alzheimer/dementia care is to keep residents in their home and not have to deal with a moving transition to another building. It can be pretty traumatic, especially when you are experiencing some of the effects of dementia, to go into transition into a separate building. So, we really like the idea of being able to provide a place where you can age in place and stay in your home. So that is the idea of the care that we provide, from a life safety standpoint. We want to go ahead and design this building to a higher standard than the code minimum that would be required. And we want to make sure that it can accommodate that. But if we... how do I... do I just hit the arrow button? I want to go to the site plan. Okay, so in this lower right hand corner of the quadrant, that is the area, I don't know if I can point, yeah, right in that L shaped area there, to the right of the main kind of core amenity area is where see the assisted living/memory care residence taking place. And the reason for that particular location is it has a nice secure connection to the outdoors, where we would have a separate area but we would still have an opportunity for some green space. Because it is important for that connection to the outside.

Mr. Randall: Okay so, for my benefit then, I am moving in and I am living on the left quadrant.

Mr. Levy: Right.

Mr. Randall: Okay? And I have been there for five years, my wife gets Alzheimer's/dementia and she need something in memory care. So, you are saying then that we would then have the opportunity, if there is something available to move from the left quadrant to the right, in the same location...

Mr. Levy: Yes.

Mr. Randall: ... but in a different apartment within the same building. But I wouldn't be able to do memory care/assisted living in the current place that I am at?



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Mr. Levy: Correct. The way it works through State licensure, you would have certain requirements for that exact portion. And it would actually be partitioned and fire rated off, to separate...

Mr. Randall: That was my other question, how much of a partition it would be...

Mr. Levy: Yes.

Mr. Randall: ... from one section to the next.

Mr. Levy: It is a one-hour condition between those two occupancies.

Mr. Randall: Is it coded? So, people can't get in or out unless they have the code?

Mr. Levy: You have credentials and it would be access controlled. So, it's essentially called a secured unit.

Mr. Randall: Absolutely. Never be a guard there? (Inaudible) when you say access controlled.

Mr. Levy: There would be a care station...

Mr. Randall: Okay.

Mr. Levy: So, there would be a... it would be monitored from the staff and the State requires a certain staff to resident ratio. So, that would be... but beyond that you would have the technology and access control to get into that unit.

Mr. Randall: Absolutely, alright. Thank you.

Mr. Payne: Don't go too far.

Mr. Randall: No, don't go too far.

Mr. Payne: So, it... unless you have some other questions for Mr. Levy, we are going to jump into...

Mr. Cummings: I do.

Mr. Payne: Okay.

Mr. Cummings: I need him to make me real comfortable about this dan inundation.

Mr. Payne: He is not the person to answer that. That is Mr. Fairbanks.

Mr. Cummings: Alright, so maybe he can.

Mr. Payne: And just real quick, and I will give you some quick background on DBIZ. And I will let John then fill in blanks, because I am practicing right now as an engineer. DBIZ are not necessarily unique in Virginia, but fairly new in regards to how they impact development. As staff had noted, it doesn't prohibit development. So, if you look at DBIZ area, it's really a projection, there has been no study in regards to this lake. Basically, Leeland Lake is out of compliance and it's up to the property

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owner of the lake to do the study, to determine whether it is in DBIZ, and that has not happened. So, what the County has to do, it gets in the GIS and it projects okay, this is where we think the DBIZ may be, if it did fail. At the end of the day, once it is in compliance it is not going to be a DBIZ, okay. It's also four miles away to the north and as staff had noted there is significant infrastructure between us and it. Not to mention lots of development between it and us. That would likely prevent it from getting to our location. Let's also not forget that where we are is already townhomes, like 75 townhomes, there is a nursing home, they are in the DBIZ as well, including all of the development that follows it to the north. So, it doesn't prohibit development, but it does, as staff had noted, you know, it does raise a comp plan question of making sure that residents who live in that... not making sure, but it's a recommendation that residents who live in that property should be informed that there could be a potential issue. That is really what it is, it is not meant to be an alarming component of this, but John I will let you talk about, a little bit more of that to the extent that I am wrong, but also the height of the building and how the building sets away from the street level.

Mr. Fairbanks: Good evening, I am John Fairbanks with Fairbanks and Franklin, we are the civil engineer for the project. I guess let me start by saying that the building sits at an elevation that is over two feet above the hundred-year flood plain, so it is elevated, it is outside any floodplain whatsoever. That has always been the plan and that is the requirement under the floodplain ordinance. In terms of the DBIZ what I really want to stress here is that this is really not a true dam break inundation zone, it's a potential dam break inundation zone because there is not the mapping or modeling in place. It's really a placeholder that has been put into the GIS system, which is arbitrary. It's frankly a 100-foot offset. It's a fringe, a hundred-foot fringe from the 100-year floodplain, which is a significant amount of land and it far exceeds, in my opinion, what would actually be any sort of inundation area whatsoever. And as Charlie said, the only reason that there is a dam break inundation zone, the only reason we are really talking about this issue is because the upstream dam at Leeland Lake is out of compliance and has been out of compliance for quite some time. So, that is why the County has assigned the potential DBIZ, which is the offset. But what I want to say is...

Ms. Barnes: Can I ask, what do you mean by out of compliance?

Mr. Fairbanks: What I mean is that DCR requires that the dam stay in compliance because it is a regulated dam under the dam safety regulations. And that means that it's either over 25 feet high or it impounds a certain amount of water.

Ms. Barnes: So out of compliance does not necessarily mean in disrepair?

Mr. Fairbanks: No.

Ms. Barnes: Okay.

Mr. Fairbanks: What it means is that the owner of the dam has not followed through on their obligation to maintain the compliance. It doesn't mean that there is anything in disrepair necessarily, it just means that they are not in compliance through State regulations.

Mr. Payne: *Inaudible, no microphone.*

Mr. Randall: could you use the microphone please? I am sorry.

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Mr. Payne: What I have found with other clients who have smaller dams is, they are deemed out of compliance because they haven't done any analysis... any engineering analysis to confirm there are no issues. Even though they have had...

Unknown speaker: *Inaudible.*

Mr. Payne: Right. So, so... even though they have experienced no issues, right?

Mr. Cummings: You guys have the misfortune of me having looked at water supply and dams in local environments around the entire country. And it's a mess. And so I am not... I just wanted to make sure that it was considered...

Mr. Payne: Sure.

Mr. Cummings: ... and that you know what mitigating strategies, if any, were undertaking a design. I understand where it sits. I am comfortable with where it sits. I live at Leeland Station, so I am familiar with the area. And so, so I you could just continue to speak about that, that would be good.

Mr. Fairbanks: Yeah, I will. I think that the only other things that I want to say are that, you know, it is in Leeland Station, which is approximately four miles upstream, so we are talking a considerable distance upstream. And any sort of flood, if a dam does break it attenuates as it goes down stream, it's reduced. And this is a considerable distance and this is not a large lake. It actually barely meets the dam safety requirements. It's only a three-acre lake. We are not talking a large impoundment. And so, you know, when this goes downstream if there is an increase in flow, if there is a dam break condition, there is actually a culvert under Route 3, and the embankment of Route 3 is a significant height and it's such... we have actually looked at this because we wanted to be prepared. You know when this question came up, we have actually looked at how much storage there is behind that embankment on Route 3. And it's not a large culvert under Route 3. It would actually throttle back the flow considerably. You can store the entire lake behind Route 3, that embankment. So, it's going to be stored there and throttled out of that culvert so it's a much slower rate coming out. I am not concerned, I guess that in summary I just want to say that I think that the potential DBIZ line greatly exaggerates any impact from the dam upstream. That is the bottom line and it really should not be a point of concern.

Mr. Cummings: Were there any design elements to the building itself... the structure? I just want to, if you considered, because it is in this plain. Just yes or no.

Mr. Fairbanks: Well what has been done, it's been elevated, you know, over 2 feet above the 100-year floodplain. So, there is actually a 2-foot buffer in vertical height between the 100-year floodplain and, you know, where the building floor elevation would sit. So, there already is a significant, you know, buffer in elevation there.

Mr. Cummings: Okay.

Mr. Fairbanks: Yes.

Mr. Cummings: Thank you.

Ms. Barnes: Thank you, that was very helpful. And now I understand the difference between a DBIZ and a flood zone.

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Mr. Apicella: Charlie.

Mr. Payne: Yes.

Mr. Apicella: Before we move on...

Mr. Payne: Yes.

Mr. Apicella: ... going back to the Comp Plan requirements.

Mr. Payne: Yes.

Mr. Apicella: Again, would you guys have any opposition to a condition that essentially indicates perspective renters and owners be provided notice that they may be in a Dam Break Inundation Zone?

Mr. Payne: I don't think we have any issues with that as a condition.

Mr. Apicella: Okay. Great. Any other points that you wanted to highlight?

Mr. Randall: I have one quick question. You mentioned in the trips per day, 25 in the morning and 36 in the evening. Your assumption then is that this... these independent living group will not be working. Can I make that assumption, based on the fact that they are so low? That is pretty low for...

Mr. Payne: We use...

Mr. Randall: ... independent living... yeah, group.

Mr. Payne: We use the ITE standards from VDOT. We don't get to throw in sort of what we think is going to happen with the analysis, based on who is living there. So, we use the senior living ITE, which is basically their model for similar types of developments, what the number of trips would be for that purpose.

Mr. Randall: Would you... well based on your opinion of who would be living in there, do you think that is low.

Mr. Payne: I think it is high quite honestly. And I will tell you why. With the assisted living/memory care component added to this, I don't think you are going to see a lot of people in their 50s living there. I think you are going to see people later stages in their lives, just like it's happening at Falls Run. You are seeing people later stages of their life seeing a step process. So, the independent living, you know in their late 60s or early 70s and then the memory care and assisted living facility as they get older. So, I quite honestly don't see folks in their 50s living there.

Mr. Randall: If they are... Right, if this is a retirement community where they retire, I would agree. Independent living, just over 55, then I would strongly disagree.

Mr. Payne: But I don't think this environment is conducive for people like you and I to live there.

Mr. Randall: Are you assuming I am over 55? You are, aren't you?

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Mr. Payne: I am just throwing myself in there because I am 55.

Mr. Randall: Yeah, you pointed at me. I got you, alright, alright. Thank you.

Ms. Barnes: Mr. Payne, I just have one quick question out of curiosity...

Mr. Payne: I know Mr. English is...

Ms. Barnes: ... you said 54% of the, it was open space in that calculus. Are you using the parking lot? Or are you using... is that actually green open space? 54%?

Mr. Payne: Green open space. I don't think you can use the parking area.

Ms. Barnes: Okay, thank you. Just checking.

Mr. Payne: Okay, so is it any other questions on sort of the basic presentation? Because we want to get to the conditions. Most of the conditions are fine. But in talking to Mr. Levy, who is really the expert here on design standards for the conditions that go to the design standards of the building, I wanted him to weigh in. So, I am just going to go through these and then Mr. Levy can jump up and add some more color to them. Condition number 2, which talks...

Mr. Randall: These are for the conditional use permit, correct?

Mr. Payne: Right.

Mr. Randall: Okay.

Mr. Payne: Condition number 2, and I am not sure what page it is on your packet, but it is condition number 2. The requirement for the NFPA 14 standpipe system, is typically required for 4-story buildings and not 3. Having it for a 3-story building will add significant cost to the project. So, I will let Mr. Levy add a little more color to that in just a second. Condition number 3, we do plan to have...

Mr. Randall: Charlie, I'm sorry. Could you hold a second? Let me find your conditions.

Mr. Payne: Sure.

Mr. Randall: We don't have the conditions right in front of us. So, give me one second.

Mr. Payne: Sure.

Mr. Apicella: If you go to the staff report, Mr. Randall, it's on page 9 of 11.

Mr. Randall: Yep, I got it now. Thank you.

Mr. Payne: Okay, condition number 3 which talks about having 2 emergency power elevators. Of course, they are on different ends of the building, would require 2 generators. We do anticipate having a generator on site. We don't think two are necessary, in fact it would add significant cost over... about a hundred or a hundred and fifty thousand dollars in additional cost. Of course, part of this project is, you know, making sure it also is affordable to our users. So, the more expensive the project gets, the

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more... the higher our cost impacts are. But we can talk a little bit... Mr. Levy can talk a little bit more about that. But why one would be sufficient. Condition number 4, this is the Stryker chairs. And this is something Mr. Levy will elaborate on as well, given the design of the stairwells, we think the Stryker chairs would not be used or utilized ever. But I will let him talk about that, even during emergencies. And condition number 6, can we change the language to include exterior finishes verses the wall materials will be that are non-combustible. You know, we've got part of that outside frame work, internally there's wood components, but they are protected by non-combustible material. We wouldn't want to prohibit us being able to utilize wood components... *inaudible*... construction.

Mr. Apicella: Hey Charlie.

Mr. Payne: I'm sorry.

Mr. Apicella: Before you move on from item number 6, tell me exactly how you proposed changing that language.

Mr. Payne: We are proposing that the non-combustible apply to exterior finishes, specifically.

Mr. Apicella: So, do you have the actual staff report in front of you?

Mr. Payne: I don't have it in front of me, I have it in my file though. I got it.

Mr. Levy: Just the word finish.

Mr. Payne: So, Mr. Apicella number 6 says only non-combustible exterior finishes. Wall finish material.

Mr. Randall: Finish material, rather than the wall material.

Mr. Payne: Yep.

Mr. Randall: Is that standard?

Mr. Levy: It is.

Mr. Randall: Okay. We would not expect the 2x4 to be non-combustible. Is that what you are saying?

Mr. Levy: Yeah.

Mr. Randall: Okay. Fair enough.

Mr. Apicella: So, we are just adding one word?

Mr. Payne: Yes. And we are removing wall, right?

Mr. Randall: Well it's replacing wall with finish. So, it's non-combustible exterior finish materials.

Mr. Payne: That is right. Do you want to just up and talk about... here are the conditions...

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Mr. Randall: And the first level, I am assuming, is the first floor, all the way up to 10 or 12 feet, where that first floor would end?

Mr. Levy: Correct, it would be the finish floor elevation of the next level. It's about 12 foot 2.

Mr. Randall: Twelve foot... alright perfect.

Mr. Levy: Dan Levy, architect. So, yeah, just going through these just briefly, if we start at number 2 and we look at the NFPA145 standpipe requirement and the intent of that code, it's for fire truck apparatus to be able to fight fires at levels that exceed the ability of the apparatus. So, what we have done, and you can see this on our site development plan, we have provided the required 150-foot hose lay from any point of either on the site. So, that is access from either Naomi Road or any part within the parking lot. So, we really feel like we have a safe building and a safe site and so the standpipe requirement which would kick in if you have a mid-rise/ high-rise type requirement, which would be fighting a fire from a level that is 30 feet above grade. Which is typically a four-story building. So, our highest level is in that 24- or 25-foot finished floor elevation. So, we are well under that requirement and it's easy to...

Mr. Randall: Excuse Mr. Levy.

Mr. Levy: Yes.

Mr. Randall: Am I, do we have fire sprinklers system in this building?

Mr. Levy: Yes.

Mr. Randall: So, there is sprinkler system in this building as well.

Mr. Levy: Yes, and I want to address that too. Because the... when you have independent living in a residential type structure like this, you are actually allowed to use a 13-R sprinkler system. We have chosen to upgrade that to the full NFPA-13, which means your concealed spaces, your attic spaces, the entire building has protection. So, this building will have a dry sprinkler system within the attic spaces. So, that is just another level of kind of raising the bar on the life safety. We all want a safe building here.

Mr. Apicella: Okay, Dan. So, before we move on, I just want to be clear on what you are asking to be changed here. You would like us to remove from that sentence, and NFPA standpipe system.

Mr. Levy: Correct.

Mr. Apicella: Is that correct?

Mr. Levy: Yes.

Mr. Payne: Yes.

Mr. Apicella: Okay, please go on.

Mr. Levy: Number 3, in regards to the elevators and the emergency power. So...

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Mr. Randall: First off Mr. Levy, could you show me on the site plan where those elevators are going to be?

Mr. Levy: Yes, so if you are looking at the site plan, it's kind of in each core quadrant of where these two extensions of the building wings are down towards the south. So, you basically...

Mr. Randall: You should be able to draw on there.

Mr. Levy: Oh, I can draw.

Mr. Randall: You should be able to draw.

Mr. Levy: Well that's weird... *inaudible*.

Mr. Randall: You should be able to draw. I am hoping.

Mr. Levy: I usually am pretty good at this, but...

Mr. Randall: Hold fast for 10 seconds. Oh, you have to energize the button.

Mr. Levy: Ahh. There we go.

Mr. Randall: Okay so, okay so, I understand. So now draw me the security line between the assisted living and the regular living and if that is were it's at... okay so you are saying the assisted living will be that entire site, not just that wing. Which is different from what I anticipated.

Mr. Levy: So, we anticipate it just being at grade level. So, no one necessarily in our initial concept on these upper floor levels would have assisted living/dementia care. However, the entire building from a design standpoint, will be designed to assisted living standards.

Mr. Randall: Right.

Mr. Levy: So that in the future if it... it has flexibility.

Mr. Randall: Totally agree. So, I am living on the left hand side.

Mr. Levy: Yep.

Mr. Randall: Which of these do you expect to get emergency power?

Mr. Levy: So, the entire building will be powered by a generator

Mr. Randall: Which of the elevators...

Mr. Levy: ... with certain life safety features...

Mr. Randall: Which of the elevators...



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Mr. Levy: We would... I mean I haven't put too much thought into it, but I am selecting this one because I don't want people exiting through the secured unit, if we lose power.

Mr. Randall: Well they wouldn't be able to get to the secured unit. Correct?

Mr. Levy: Well if... and the elevator, you know, it's going discharge on that... either through some kind of corridor here or what not. But...

Mr. Randall: Because right now, what I am looking is I am looking at an elevator for the assisted living portion and the elevator for the standard independent living portion. That they are not going to be able to go back and forth between each of the elevators because of the security that you have already said between the assisted living and the independent living.

Mr. Levy: Right. And right now, we just anticipate it on the ground floor for the assist... so that no one in that secured unit will be utilizing the elevator. Because they would be on grade.

Mr. Randall: Okay. So ,although it's not... although you have driven, you have drawn the line with the second and third floors wouldn't be.

Mr. Levy: Correct.

Mr. Randall: They would still need... they would be assisted living, they would still need to be able to get to that elevator.

Mr. Levy: Yeah, the advantage to having the emergency generator for the upper floor independent living apartments is obviously if there is a power event or someone is more frail and doesn't feel comfortable using the stairs, there is an option. You know, you have...

Mr. Randall: Well...

Mr. Levy: ... you wouldn't have the entire...

Mr. Randall: ... we have talked about this being a retirement community, not an independent living community. And if they are going to be 65 and 70, so that they move in so that they can easily transition to an assisted living location without having to buy a big truck and move...

Mr. Levy: Sure.

Mr. Randall: Right?

Mr. Levy: Yeah.

Mr. Randall: That there may conceivably be a fair amount of people on the second and third floor that may have some mobility issues, not assisted living, but mobility issues. My father would be one of those, you know, sharp as a tack, doesn't get around very well. I would have a hard time putting him down three flights of stairs to get out in a fire.

Mr. Levy: Absolutely.

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Mr. Randall: So, my case, you look at this and you say well if he's... depending on where he is at, you know, he might be standing in line for ten... eight, nine, ten minutes waiting for the elevator to go up and down three times for everybody else to get done. Which is why the push for emergency power for all the elevators. Right? Especially if you tell me that with his mobility issues, I won't be able to put a Stryker chair there and help... and have somebody help him get down the stairs.

Mr. Levy: Yeah, so to kind of tie those together. So, in a true emergency, especially in a fire situation the elevators will not be utilized and so we would design the stairs to have what we call an area of refuge within them. So, its and area where you have safe waiting, two-way communication with emergency professionals and a place for that assistance to come and get you. And so, in those area of refuge, we've got our stair width designed, handrail to handrail for it to accommodate fire officials to come and assist with and evacuation for someone who is not comfortable utilizing the stairs. The problem with Stryker chairs in our experience is that really not many people know how to use them and they impede on the ability to actually safely bring someone down the stairs. So, what happens is, you have a resident with mobility issues that has a wheelchair that is waiting in a area of refuge. Fire professionals come up, help the resident, but as they are coming down the landing but now that Stryker chair is... it has reduced that width that they needed to get out of the building quickly. So, it's just... it's a great concept but the chair itself, you know, its cumbersome and its, you know, it's just not been utilized.

Mr. Randall: I am not stuck on a Stryker chair. There are many different versions out there. I just need to get somebody down the stairs in the five or six minutes, seven minutes that it takes for the fire department to get there.

Mr. Levy: Yeah, and that's what the area of refuge and the communication devices within them have really done well. And so, that's, you know, those stair towers have two hours of fire... you would have up to two hours before fire impact that stair tower, so you would wait essentially for two hours within that space.

Mr. Randall: Okay. Well this is the first I am hearing about areas of refuge in our stairwells. So, I guess maybe that is interesting. Okay.

Mr. Apicella: So, before we move on, what... I am looking at the concept plan. You've identified, to my left, where you think the elevator with emergency power would be. Let's just say I'm 65 plus, not fully mobile. I live on a unit that is all he way at the opposite end, what is the distance that I have travel to go all the way to that elevator at the far end?

Mr. Levy: It is going to be about 200 feet.

Mr. Apicella: Okay, as Mr. Randall mentioned, there may be other people... is it going to be one elevator or is it two elevators, like an elevator bank, in each one of these two areas?

Mr. Levy: They are single elevators. And I think, you know, our goal is to provide a safe building and I would like to provide both elevators. I just... in buildings of this size, when we get all the other life saving equipment, emergency lighting, back up receptacles and things. At times when we have two elevators it over sizes the generator to which feasible. So, I am not saying we can't get two elevators on there, I think what we are trying to say is let's do one and if we can get two that's great. But if we exceed, like our threshold of a 500KW generator, it kind of takes us to this kind of impractical level of providing generator service. So, we just want to have the option to provide the one and then if we can get two, that is my desire, if we can get it all to size correctly and operate.

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Mr. Randall: Is that because of...

Mr. Apicella: I appreciate where you are coming from. I mean this is our only opportunity in the conditions to get something locked in place. So, while it may be your desire it may not come to fruition. You just mentioned it's a cost issue. We don't always have fire issue, we get tornados, we get hurricanes, even earthquakes, believe it or not here in Stafford. I don't know what happens with the elevators under those circumstances, but again my... again, using Mr. Randall's example, my dad, god love him when he was alive, he had to use a scooter, he was over 300 pounds. I certainly could not pick him up off that scooter. He needed a lot of help. He probably would take up one elevator, or at least half and elevator by himself. So, when you've got just two elevators it concerns me that you've got potentially, don't hold me to this number, you've got potentially 100-150 people all trying to get down from the first... from the third and second floor at the same time and there is going to be a line of people waiting for an elevator that has emergency power... the one elevator that has emergency power to go down and back up before the next group of people can get on that elevator. So, to me it's a safety issue. I appreciate it may be a cost issue for you. That is my concern. I think you may see it as an over need, I personally see it as minimum need.

Mr. Levy: I hear your concern and I think what we... I mean, there are options that I see here as far as getting both elevators. I mean, we could reduce our elevator horse power size and get the two elevators to do that. We actually have these currently sized as 5,000-pound elevators, which is the largest size they make. And the reason why we do that is because we were intending to have one of them on emergency power and it can fit a large amount of these residents within the cab. So, it's not your traditional 25 or 35-hundred-pound elevator. So...

Mr. English: How many people could you get in that elevator?

Mr. Levy: You know, if you take the 5,000 pounds and divide it by the average person, that's kind of where you end up landing. So...

Mr. Randall: *Inaudible*... capacity of weight in the cab.

Mr. Levy: In the cab, yeah. And so, I mean, we are talking, you know, that you may get, I mean, comfortably, with you may have a wheelchair... I would say like 15 people...

Mr. English: Oh...

Mr. Levy: ... would be in that elevator. And it would be a, I mean, we are talking two stops, so it's not going to take very long. So, yeah. Yeah, it's a large elevator. So, if we need, I guess, this isn't one that I'm saying we... is a must. We can reduce cab size and get both elevators on a generator or we can stay with our large... basically the largest elevator cab that ATKE or manufacture makes and have that powered. So, we will kind of defer that one, to the recommendation of the Board. Any other questions on the ele...

Mr. Apicella: Any other comments or questions?

Mr. Levy: Yeah, we talked about the Stryker chair a little bit. Item number 4, and I did just want to make... just reiterate that everyone understood that these are... these stairs are... have the area of refuge and will be prepared for the assistance as required from emergency professional.

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Mr. Randall: So, pretty much in the 82, I think...believe you said that you have done in the southeast, you have never used a Stryker chair.

Mr. Levy: Correct.

Mr. Randall: Okay. Why are they used in the commercial (inaudible), commercially then?

Mr. Levy: I actually had a conversation with a jurisdiction earlier today about this and they... I mean, there one comment to me was that they really hate them because they've been in... they have gotten... kind of what I was sharing with you. They have gotten in the way of actually being able to provide the required widths they need for professionals with equipment to get up the stairs. You see them on the landing they kind of stick out...

Mr. Randall: No, no the idea is to get people down before the emergency people get there. That's the whole purpose of them

Mr. Levy: If someone knows how to use it.

Mr. Randall: Yes, assuming they know how to use it. Agreed, and they are trained. But I'm surely not going to wait for somebody to take by wife down the stairs if I have an ability to use a Stryker chair and take her down in two minutes myself. Right, and yes, I would fit in those Charlie, just so we are clear. Just saying, barely. So, that is the reason they are there, you know, I don't want to have to pick her up and carry her. But if I have a chair there and I can use it in the two minutes I can, so... and I am not just talking a Stryker chair. I am talking about something the people can use to get themselves down the stairs. Because there is how many stair wells? Just one? Or is there going to be three or four?

Mr. Levy: No, we have... I believe we have four.

Mr. Randall: Exactly, and I wouldn't expect the fire department to come up all four flights of stairs.

Mr. Levy: That is what the area of refuge is for, so that has a communication device to alert.

Mr. Randall: Sure, got ya. Where they are going to be.

Mr. Levy: And keep in mind that the stair towers are made out of concrete masonry units, which have... you know, we will show it on our life safety plan as providing two hours of fire barrier protection. But, it's rated up to four. So, when you say two minutes to get out of the building, you are going to have significant time...

Mr. Randall: To wait.

Mr. Levy: ... to wait in that safe area.

Mr. Randall: I understand. Thank you.

Mr. Apicella: Okay, anything else you would like to add, Mr. Levy?

Mr. Levy: That is all, thank you for your time.

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Mr. Apicella: Mr. Payne?

Mr. Payne: Thank you, Mr. Chairman and Planning Commission, I have no other comments. And any other questions you have, we are happy to answer, or try to.

Mr. Apicella: Any more questions for the applicant?

Mr. Randall: I will wait until after the public hearing. We are good.

Mr. Apicella: Alright, thanks. So, I am going to open the public hearing on items 2 and 3. We are going to take them up at the same time. If anyone would like to come forward on this matter, please do so. You have up to three minutes to speak. Just remember when the red light comes on you need to wrap up. So, if anyone is there in the chambers who would like to come forward, please do so now. Okay, I don't see anybody. So, I am going to close the public hearing and bring it back to the Commission for further deliberation. Mr. Bain, this is in your area. I would just say before you make motions that again, I think, one thing that we might consider at a minimum is that additional condition on notice, but I leave the floor to you for any further discussion that you would like to provide on this.

MR. Bain: Alright, thank you. A number of issues have been raised that, at least I personally don't feel qualified to make a significant judgement on. So, my leaning, and I can make a motion, unless somebody has an objection to it, is to allow County staff to look at some these issues that were raised, concerning those conditions and maybe feed back to us some additional technical guidance to make a more informed decision. Particularly from engineering and public staff, so, I think that's....

Mr. Apicella: So, we do that...

Mr. Bain: Yes sir.

Mr. Apicella: Before you make a motion Mr. Bain, I would just ask staff to remind us what the timeframe is. Because this has a very finite shelf life to get to the Board of Supervisors and for them to make a decision. So, Mr. Harvey can you just kind of weigh in on that?

Mr. Bain: I don't think so.

Mr. Harvey: Mr. Chairman...

Mr. Apicella: Yeah, we do.

Mr. Harvey: The time limit is September 16<sup>th</sup>. So, it could get deferred to the next meeting.

Mr. Apicella: And that's...

Mr. Randall: Is that for us or... is that for the Board?

Mr. Apicella: That's the Boards...

Mr. Harvey: That's for the Commission.

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Mr. Apicella: Right, so the Board would still... the Board would need 30 days before that for its own public notice, right? Remember our meeting is... our next meeting is August 26<sup>th</sup>. So, would there be enough time if we made a decision... if we deferred this until August 26<sup>th</sup>, would the Board have enough time for its required public notice?

Mr. Harvey: I guess Mr. Chairman, in this particular case they have revised the application. So, that starts the clock over again. So, the Commission does have time.

Mr. Apicella: Okay, I appreciate your providing clarification on that. So, I will turn it back to you Mr. Bain.

Mr. Bain: Alright, thank you. I guess I have to take these individually.

Mr. Apicella: Yes please.

Mr. Bain: And so, I would make a motion... Or do I need a motion to ask staff for additional input.

Mr. Apicella: Well, you need to make a motion to defer.

Mr. Bain: Okay, that's what I will do then. I'll make a motion to defer decision on the reclassification RC18152428, Vistas at Ferry Farm in order to allow staff to give us some additional input.

Mr. Apicella: Okay, is there a second?

Mr. English: I will second it.

Mr. Apicella: Thanks Mr. English. Any further comments, Mr. Bain?

Mr. Bain: No.

Mr. Apicella: Mr. English?

Mr. English: Yes. I don't know Mr. Payne or maybe you look at Falls Run, because I know they've got elevators and how they operate up there. And I know they are several stories that probably be a good starting point. Because, I am familiar with that, so I would know that they use one elevator with one generator. Because they have the same concept that you guys are don't. So, that is something that maybe I would ask to look into. That's it.

Mr. Apicella: Okay, thanks Mr. English. Any other comments from any other members?

Mr. Randall: Yeah, I have a comment.

Mr. McPherson: Just to clarify we are deferring to the next meeting, correct?

Mr. Bain: Correct.

Mr. Randall: Yes.

Mr. McPherson: I just wanted to clarify. Thank you.

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Mr. Apicella: So again, just to be very precise, we are deferring until the August 26<sup>th</sup> meeting. Please go ahead.

Mr. Randall: Yes, thank you. Do we have something specific that we want staff to look at? I think it would be better and... *inaudible*... if we kind of determined what it is... to keep the scope within somewhat of a reasonable expectation of what we are actually looking for rather than engineering stuff.

Mr. Bain: Okay, sure.

Mr. Randall: So, I think we need to define what exactly we need some input on so that when we come back on the 26<sup>th</sup> we can focus on those particular areas.

Mr. Bain: The items...

Mr. Apicella: That is a good point Mr. Randall. Mr. Bain, what are you looking for? What...

Mr. Bain: The items that I wrote down were concerning the conditional use issues that the applicant raised for the standpipe requirement, for the necessity to have both elevators services by emergency generators and for the requirement to include Stryker chairs. So, I would like those looked at further and perhaps get a recommendation from staff concerning those. Since they were show as conditional uses and staff made a recommendation including those uses and now the applicant is saying they would like to essentially eliminate those.

Mr. Apicella: So, just to clarify you are feeling there is a definite direct link between items 2 and 3 and though the issues that you brought up are related to 3, you would like to defer item 2 as well.

Mr. Bain: Yes.

Mr. Apicella: Okay, are you okay with that Mr. Randall?

Mr. Randall: That is fine. I think those are good things that we need to get some answers on. I will tell you that, and this is probably preempting a little bit of what we can talk about later. But, I know that we are in our senior housing subcommittee and many of these are topics of great concern to that subcommittee, when we talk about assisted... or senior living/senior housing standards in the County. So, we have talked about those. So, staff should have some guidance on those from our subcommittee. Thank you.

Mr. Cummings: Might I add one more thing?

Mr. Apicella: Sure Mr. Cummings.

Mr. Cummings: Yes, thank you. If staff could provide a summary of the areas that are dam inundations zones and for the Senior Housing Committee, for us to consider later on. I would like that information now, so we can incorporate it. It's not, I don't believe it's a hinderance to this. I think they have address it adequately, I think it's in the design and it was considered so I am comfortable with it. But I think we need that information so we can look... we can use that information moving forward.

Mr. Harvey: Staff will provide that information to the Commission.

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Mr. Apicella: Okay. So, again there has been a motion and a second. Any further comments from any other members on deferring item 2 until the August 26<sup>th</sup> meeting? Okay, seeing that there are no other. Mr. Randall, would you please do a roll call vote?

Mr. Randall: Yes. Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall is yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: Mr. Chairman, the voting is unanimous.

Mr. Apicella: Okay, thank you. So, we are going to defer item 2. Mr. Bain, what are your wishes again on item 3?

Mr. Bain: Yes, again I make a motion to defer decision on item 3, which is the conditional use permit for Vistas at Ferry Farm CUP18153429 to allow staff time to investigate those same items that were mentioned previously.

Mr. McPherson: Second.

Mr. Apicella: And again, we are deferring until the August 26<sup>th</sup> meeting.

Mr. Bain: Until the August 26<sup>th</sup> meeting, yes.

Mr. Apicella: Okay, and was that Mr. McPherson who seconded?

Mr. McPherson: Yep.

Mr. Apicella: Any other comments, Mr. Bain?



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Mr. Bain: No.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: No.

Mr. Apicella: Anyone else? Okay, Mr. Randall will you please do a roll call vote?

Mr. Randall: Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall is yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: Mr. Chairman, the voting is unanimous.

Mr. Apicella: Okay, thank you, Mr. Randall. So, again, we're going to defer this item until the August 26<sup>th</sup> meeting. Mr. Harvey, item number 4.

4. RC19152782; Reclassification - Embrey Mill Town Center - A proposed zoning reclassification from the A-1, Agricultural Zoning District to the PD-2, Planned Development 2 Zoning District on Tax Map Parcel No. 29-70K, consisting of 2.3 acres; and from the B-2, Urban Commercial Zoning District to the PD-2 Zoning District on a portion of Tax Map Parcel No. 29-60C, consisting of 1.6 acres; and from the PD-2 Zoning District to the B-2 Zoning District on a portion of Tax Map Parcel No. 29-53B, consisting of 1.53 acres, all to allow for the development of a commercial town center. All parcels subject to the proposed rezoning reclassification are collectively referred to as "the Property." The Property is located on the north side of Courthouse Road, west of the intersection with Austin Ridge Drive, within the Garrisonville Election District. **(Time Limit: October 30, 2020)**

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Mr. Harvey: Thank you, Mr. Chairman. Item number 4 is a proposed zoning reclassification for a project known as Embrey Mill Town Center, and Mike Zuraf will make the presentation.

Mr. Zuraf: Good evening again. Sorry for the delay; just getting set up here. So, item 4 is a zoning reclassification for Embrey Mill Town Center. And to go through this, the request involves 3 separate parcels. The 3 parcels involve different zoning changes. The first parcel is rezoning from the A-1, Agricultural Zoning District to PD-2, Planned Development-2 Zoning District, on property that's 2.3 acres in size. The second property is from the B-2, Urban Commercial Zoning District to PD-2 Zoning, on a 1.6-acre portion of a property. And the last is a property that's changing from PD-2 Zoning to B-2 Zoning, that's a 1.53-acre portion. The site is within the Garrisonville Election District. You have Ed Peete and O'Connor G. Ashby as the applicants of this application. So, here's the location and zoning map of these properties. In general, the site is on the north side of Courthouse Road, west and east of the intersection with Austin Ridge Drive, and this is just to the west of the interchange with Interstate 95. The three subject parcels are highlighted in blue. You can see the parcel designations listed as well. To the north and west of Austin Ridge Drive, you generally have PD-2 zoned property. That represents the Embrey Mill development. To the east of Austin Ridge Drive is generally B-2 zoned property. That represents much of the Austin Ridge commercial development. And so, kind of for some history, then you have parcel 29-70K. That is property that's zoned Agricultural; that has no proffers and it has not been subject to any previous zoning changes. Parcel 29-53B, that was rezoned to PD-2 as part of the larger Embrey Mill development and is subject to proffers that were approved on March 6, 2001. This relatively small portion of PD-2 zoned land was bisected from the bulk of the Embrey Mill project by the recent realignment of Austin Ridge Drive. Then, for parcel 29-60C, that was rezoned to B-2 originally back in 1990 as part of the Austin Ridge development, and then subsequently proffers were amended several times and most recently in 2003. This also relatively small portion of Austin Ridge was bisected from the bulk of the commercial portion of Austin Ridge during the construction of Austin Ridge Drive and then further reduced with the realignment of Austin Ridge Drive that occurred more recently as part of the overall Courthouse Road widening. So, the aerial shows the properties are partially... mostly wooded in this image. The properties are now kind of in the process of being graded to allow for development of the surrounding property. There are no structures, cultural resources, or natural resources on these properties. Also, the surrounding properties are largely undeveloped at this point. On the opposite side of Courthouse Road is a single-family residential use. And also to the west, further to the west, is the Market at Embrey Mill development, or project, where the Publix grocery store is being developed currently. That's kind of off the screen to the left. So, the General Development Plan submitted by the applicant illustrates how the subject parcels may fit into the development of the surrounding properties. The two properties proposed for PD-2 zoning, that includes this property and that property there, they'll be part of Phase 4 and Phase 3 of the Embrey Mill development as designated in the original preliminary plan. These phases are divided by the planned Sunflower Drive. Phase 4 is planned to be all commercial development with approval of up to 429,000 square feet of commercial development. The parcel that will be bisected by Sunflower Drive includes a small portion of Phase 3A. Phase 3A allows up to 650,000 square feet of commercial and up to 252 multi-family units. Phase 3A extends much farther to the north out of the view of this screen. The Embrey Mill development did not proffer a detailed site layout in this area. The GDP shows a potential development scenario that incorporates these parcels into the larger Embrey Mill development. The applicant has not proffered the GDP as the subject parcels are part of the larger previously approved development. The applicant is proposing to apply to these properties the same proffers that apply to the Embrey Mill commercial area. So, the other parcel proposed for B-2 zoning in the lower right corner, that would be adjacent to and to the west of the Austin Ridge commercial development, which is zoned B-2. On this property it would be kind of more of a standalone development project. It's bounded by right-of-way on all sides. The GDP identifies a potential 9,800 square-foot commercial building with no specific use at this time.

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Access is provided off of Austin Ridge Drive, and the applicant's proffering to restrict access from Courthouse Road directly into this site. So, within the last few weeks, the applicant did submit a site plan for Phase 4 of Embrey Mill which identifies a new development concept that differs from the General Development Plan that has been submitted with the rezoning. It does identify up to 18 separate buildings and includes a vehicle fuel sales convenience store use and up to 6 drive-through uses. A conditional use permit for these uses will be required prior to approval of that site plan. This separate conditional use permit application will be required to be submitted for future review by the Commission. And then, just for reference, the shading represents the two parcels proposed for PD-2 zoning and kind of how they fit into this overall area. The Comp Plan identifies the property within the Courthouse Planning Area and Targeted Growth Area. A more detailed land use concept, which you see on the screen, identifies the property within mixed use, commercial, and residential designation. Targeted Growth Areas are areas where Urban or higher density Suburban development patterns are most appropriate. These areas are intended to support a more intense pedestrian and transit-oriented form of development located in close proximity to primary roads, transportation hubs, and rail corridors. The mixed-use designation allows for flexibility between commercial or residential uses. Staff does find the proposed use is generally consistent with the Comp Plan recommendations and policies. The potential site development will not be as intense as envisioned in the Comp Plan, and be more focused on auto-oriented uses. And what I mean by auto-oriented uses is that typically they're going to be uses that one would have to drive to and there's less likely to be direct pedestrian access or pedestrian access within the different uses within this section. So, however the auto-oriented commercial uses serving residents and travelers passing through the area would be appropriate given the location of the site along the recently improved Courthouse Road and close proximity to Interstate 95. Furthermore, the original zoning limited the area to only commercial development in this area, and mixed-use more pedestrian-oriented development is envisioned to the north of this area in Phase 3A farther away from the main corridor highway. Looking at some of the public facility impact potentials, there are some monetary contributions included within the proffers. They mirror contributions for the surrounding... that were proffered in the surrounding Embrey Mill project. This includes \$2,135 per residential unit for schools. That would only apply to the small portion of the property that's within Phase 3A and may not have much of an effect in this case. And then also 15 cents per square-foot of gross floor area for every commercial building for Fire and Rescue purposes. And then regarding transportation, a Transportation Impact Analysis was prepared with the original surrounding Embrey Mill development, and that established the required road improvements which include the construction of Mine Road and the planned Sunflower Drive, and then also established maximum development restrictions. These parcels will be subject to the same... proposed to be subject to the same square-footage restrictions established under that traffic study and corresponding proffers and preliminary plan. So, looking at the proposed proffers, so, the proffers are divided into three sections. It includes proffers that would apply to all three of the properties, and then proffers that apply only to the two PD-2 zoned parcels, and then a series of proffers that apply only to the proposed B-2 zoned parcel. The proffers would restrict... the proffers that are applicable to the entire property would restrict maximum development to that approved under the original Embrey Mill development; prohibits specific uses otherwise that might be permitted; it also requires pedestrian connections; and requires contribution of \$2,135 per unit for school purposes. And then the proffers specific to the PD-2 zoned property, so here, for consistency, many of the proposed proffers mirror the proffers that apply to the surrounding PD-2 zoning and require development in a manner compatible with the surrounding PD-2 property. Then the proffers applicable to the B-2 zoned property, this requires development to follow the recommendations of the Neighborhood Design Standards Plan, which include architectural details; prohibits direct vehicle access from Courthouse Road; and requires the monetary contributions for Fire and Rescue. Looking at the overall evaluation, there are several positives. The proposal is generally consistent with the land use recommendations in the Comp Plan. The proposed uses are consistent with the planned commercial development pattern in

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the vicinity of the site. Proffers would provide for consistent development regulations with the surrounding properties. And cash contributions would mitigate impacts to Fire and Rescue and school levels of service. Staff does not see any negative aspects with this proposal, and would recommend approval of the application with the proffers pursuant to Ordinance O20-33.

Mr. Apicella: Thanks Mike. I just want to summarize two points, trying to wrap my head around this. This would not result in an additional increase in overall residential units that they could do throughout the Embrey Mill development. They're still capped at some amount. This would fall under that cap. Is that correct?

Mr. Zuraf: That is correct.

Mr. Apicella: And is that basically the same for transportation, whatever limits or cap that they have on the amount of traffic that could be created; that is also would not be increased as a result of these proposals.

Mr. Zuraf: Correct. The current square-footage requirements that are already in place, they basically would apply to this property.

Mr. Apicella: Okay, thank you. Any further questions for staff?

Mr. Bain: Just one. Looking at the development plan that you provided, it doesn't look to me like they could possibly be meeting open space requirements. So, I'm wondering, did the open space requirements pertain to the overall Embrey Mill development and not to this one south phase portion?

Mr. Zuraf: There would... I'd have to look at some of the details. They're going to have to meet... there are going to be some open space requirements still in place in that lower phase. It's probably going to be lower than some of the standard like B-2 zoned... *inaudible, being talked over.*

Mr. Bain: Looking at the sketch, it looks like maybe they have a 5% potential. I mean, there's nothing that isn't parking, driveway, or building.

Mr. Zuraf: They're going to have to meet the zoning standards and I don't know what that open space requirement is off the top of my head.

Mr. Bain: Okay, thanks.

Mr. Apicella: Thanks, Mr. Bain. Any other questions?

Mr. Randall: Yeah, this is Bart. I have a couple of questions for staff.

Mr. Apicella: Okay, Mr. Randall?

Mr. Randall: I guess I'm a little confused with the \$2,100 for residential units for schools. Is that the current proffer for... when you say the entire property, you're talking about what? What's your definition of entire property?

Mr. Zuraf: That's the amount, the proffer amount that applies to all of Embrey Mill.

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Mr. Randall: All of Embrey Mill.

Mr. Zuraf: And so, because there is the slight potential that there I guess could be some residential units in that one corner of the one parcel in 3A, then, you know, that's... *inaudible, being talked over.*

Mr. Randall: So, show me on the map where... because we're only specifically talking tonight about three particular specific lots. Are we saying that we could put residential units on those three lots?

Mr. Zuraf: If we could go to the presentation please. So, that little upper corner that the pointer is on above Sunflower Drive is the one part where potentially some residential units might go. But, it's roughly a small area and in that specific spot along that heavier travel area, it might be less likely.

Mr. Randall: Okay, thank you.

Mr. Apicella: Any other questions? So, Mike, I always ask this for commercial rezonings. Are there any specific uses that are allowed by-right or via CUP that have not yet been proffered out that might not fit within this area or what was envisioned for this area?

Mr. Zuraf: Some that might not fit, just looking at this earlier today at the list of uses, some of those might be indoor flea market -- these are uses that would be permitted by-right -- indoor flea market, warehouse mini-storage... mini-storage warehouse. Uses that would require a conditional use permit, possibly dwelling for watchman or caretaker on premises -- that's a use that basically corresponds with mini-storage warehouse; outdoor flea market; and storage warehouse. And I did not go over these with the applicant or share that with the applicant yet.

Mr. Apicella: Okay, thank you. Anything else you'd like to offer, Mike, or any other last minute questions for Mr. Zuraf? Okay, seeing none, thank you. Would the applicant like to come forward?

Mr. Leming: Good evening Mr. Chairman, wherever you are, and members of the Planning Commission. I'm Clark Leming; I'm here on behalf of the applicant. And I have with me this evening Mr. Andy Freeman, who some of you may have met him, I know the staff has, new principal with Embrey Mill and moving the project along, and Mr. Ed Peete who's been there since the very beginning, owner/developer Ed Peete, since the very beginning of Embrey Mill... going back to the early 90's?

Audience member: The 80's actually.

Mr. Leming: The 80's, okay, before we saw them. So anyway, a lot of this is coming to fruition. What's before you tonight I would describe as the ultimate infill zoning. It's largely clean-up with regard to the small parcels along Austin Drive and it's best understood by the shift in the road. The shift in the road from the initial construction of Austin Drive cut off a piece of what was the Austin Ridge commercial and that's the piece you were asking about that has the small wedge up in section or Phase 3A that conceivably... you know, that's where the residential would be in that phase. So, the initial construction of Austin Ridge created that split and moved that land on the other side of the road from its original owner which was Austin Ridge. So, Embrey Mill purchased that but it was still zoned B-2. Austin Ridge commercial is B-2; the Embrey Mill commercial is all part of the PD-2 district. Now, as you move further to the south, that wedge, which now is this triangle out in the middle of what looks like the middle of nowhere, but remember, Old Austin Ridge is gone so you're just looking at more B-2 over in that direction. I think that has to be vacated and will probably go back to Austin Ridge commercial. But that is what created that triangle which was part of the original Embrey Mill zoning, and it got split off

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and now it's next to B-2 rather than to PD-2 and that's why we set up the B-2 zoning for that one because it's really standalone and doesn't assist with anything going on in the larger Embrey Mill commercial development. The parcel along Courthouse Road is very important to the Embrey Mill development. That's 2.3 acres; it's right smack dab in the middle of the entire commercial development. So, for purposes of layout and there've been previous plans that we tried to work around that, but anyway, that deal finally came to fruition which makes for a much more satisfying appearance and development and construction plan. Now, right behind this, we're diligently working on an application for a group of CU... a CUP for a group of drive-throughs that will basically take the place will be in that area along Route 30 almost all the way from Austin Ridge over toward Mine Road but not quite that far. And so you'll see the big picture in the initial layout and issues like there's also a site plan in which Mike said I think doesn't go forward until the CUPs go through. You'll see issues... *inaudible*... there like open space. But, tonight all we're trying to do is to get these pieces locked down because it's necessary to have these locked down before we can move forward with the site plan and with the CUP, which is the first phase of this. So, that's really all this is and it's fairly complicated because it's three little parcels and they all have their own unique history. But the basic premise is to those on the west side of Austin Drive, Austin Ridge Drive, those become part of the PD-2. Those on the other side of the one parcel becomes B-2 like what's already there with Austin Ridge. So, that's... I think you probably understand, we really can't design a GDP that means anything for these parcels because they're going to be part of something much bigger. So, that's, you know, sum and substance, that's really all there is and I don't see too much... I think Mike has given you a very thorough presentation so you understand what the point is and, you know, the main thing for Embrey Mill I think is just to get this moved along so we can follow it up with what will be the next big commercial development along Courthouse Road there. So, I'm happy to answer any questions, and if I can't, I'm sure Mr. Freeman or Mr. Peete can be happy to answer your questions.

Mr. Randall: I just have one question. So, the parcel 29-70K that borders Courthouse Road...

Mr. Leming: Yes.

Mr. Randall: ... that will be used for an entrance and an exit into that development. Is that correct?

Mr. Leming: On your CUP, we're not using the new parcel, the Agricultural parcel for entrance; the main entrance is over to the side of that. There's not... you'll see when we come in with the CUPs where the entrance is, but I don't think it's on that parcel.

Mr. Randall: Okay. That's what it looks like.

Mr. Apicella: Okay.

Mr. Randall: Can you go to the staff report?

Mr. Harvey: Computer please.

Mr. Randall: Right there. Is that not the lot that we're looking at and does it not look like an in and out of that commercial area?

Mr. Leming: Well, the only reason I can't tell you the definitively is because I don't have the CUP layout with me. And this is not a proffered GDP so I just... I don't know whether that ends up to the west of that parcel or, you know, straddles it or exactly where that entrance is going to be.

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Mr. Randall: Okay.

Mr. Leming: I think there'll just be one which is... and there are a certain number of entrances that we can have just generally coming into the development. So, there's not going to be any more by virtue of this parcel coming in.

Mr. Randall: Okay.

Mr. Leming: But there will be an entrance on Courthouse Road.

Mr. Randall: Other than the one at Publix?

Mr. Leming: Yes. Yes, you all get your own... let Mr. Freeman address that, see if they know a little more about the new CUPs.

Mr. Randall: Please. That's fine.

Mr. Freeman: So, what you're looking at...

Mr. Apicella: Can you just announce yourself please?

Mr. Freeman: Oh, sorry. I'm Andy Freeman, Director of Development for this project. So, what you're looking at there, there will be an entrance that will be off of Courthouse Road that will be there. The access to that parcel right now, which actually you can see if you go there now, it looks like a little driveway.

Mr. Randall: I drive it every day so I'm well aware.

Mr. Freeman: So, if you're facing the parcel, the actual entrance is going to be to the left of that, so it's not exactly in the same spot that it is. But that entrance, which essentially is going to be a north/south connector will be right there.

Mr. Randall: So, right-in/right-out off of Courthouse, correct?

Mr. Freeman: Correct.

Mr. Randall: Okay. Yeah, and if you go to the next picture, I think, on the staff report go to the next picture. Right there. So, where that is, I'm looking at the site plan, right... so you're not sure that that entrance... right. See, it shows here that it's going to be incorporated into that lot. But you're not sure? It could be a little farther left?

Mr. Freeman: No, it's going to be a part of it, yeah.

Mr. Randall: Okay, alright, that's all I was asking. Thank you. Alright, thank you.

Mr. Apicella: Thanks, Mr. Randall.

Mr. Leming: *Inaudible, two talking at the same time...* where that ends up in the new plan.

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Mr. Randall: Yeah, yeah, for sure. That's fine.

Mr. Apicella: Any other questions? Okay, Mr. Leming, I think you heard me ask the question again I ask for...

Mr. Leming: Yes.

Mr. Apicella: ... all commercial rezonings about any particular uses that might not make sense here. Mike mentioned I think two or three by-right and a few that were via conditional use permit. Do you have any reaction to those?

Mr. Leming: I don't. I've talked with Mr. Freeman about that; I have not talked to Mr. Peete. But I don't... I don't believe we have any objection. There is already a list of uses that are proffered out. I don't think we have any problem with those that you have... that Mr. Zuraf has mentioned this evening. So, if you'd like us to add those...

Mr. Randall: Well, alright, I'm looking for the list of those things that are proffered out.

Mr. Leming: Yes. In the proffers.

Mr. Randall: Where at?

Mr. Leming: If you look at, this is... if you have your proffer statement...

Mr. Randall: I do.

Mr. Leming: ... this is proffer a.l.f, and this is in the group of proffers that's applicable to the... to all the project, okay. So, this is going to apply both to the PD-2 portion of the zoning and the B-2 part. And there are a number of things that are already listed here that are proffered out that... some by-right and some with a CUP. So, I believe the things that Mike mentioned, Mr. Apicella, were an indoor flea market and then a mini-storage and the outdoor flea market and whatever the mini-storage appendage was to that that required the CUP.

Mr. Apicella: Yeah, dwelling for watchman and warehouse, a storage warehouse.

Mr. Leming: Yes, uh-huh. Storage warehouse.

Mr. Apicella: Yeah, I personally would like to see those proffered out. I don't know about my colleagues, but if you're willing to do it, I'd appreciate that.

Mr. Leming: You okay with that, Ed? We have no problem adding those to the list of things that would be proffered out.

Mr. Apicella: Okay, so, to that end, you just need to give us a pen and ink change and then we would take it up as a new proffer statement.

Mr. Leming: You mean you would do that this evening?

Mr. Apicella: Yes.



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Mr. Randall: We could do that right now.

Mr. Leming: Okay.

Mr. Randall: We just need to have good language.

Mr. Leming: Alright, then let's... we'll get a copy of the ordinance. I think probably what we'd do is to... This is to unusual. There's no staff and the original proffers or anything.

Mr. Randall: Mike, where are you?

Mr. Harvey: Mr. Zuraf has them upstairs.

Mr. Leming: I think what we'll do is we'll go upstairs and meet with Mr. ... you know, Mr. Apicella's staring at me in the screen and Mr. Zuraf is over there. But we'll do upstairs and get with Mr. Zuraf because I assume the file that would have the original proffers is up there and we have the parties here that can execute those changes. And Mike will know exactly which ones we need to add. Okay?

Mr. Apicella: I don't know if there's any staff at the dais but, if there is, maybe they can go run upstairs or vice versa...

Mr. English: There's nobody down here, Steven.

Mr. Zuraf: Mr. Chairman, this is Mike. I can run down in a few minutes.

Mr. Apicella: Okay, great.

Mr. Leming: Okay, Mike's going to run down. Okay. Better than us running up. Okay.

Mr. Apicella: In the meantime, any further questions for the applicant? Okay, seeing none, I'm going to open the public hearing on this item.

Mr. Leming: Okay. And we'll watch for Mike. Thank you.

Mr. Apicella: Okay. As with all public hearing items, anyone wishing to speak, please state your name and address. The green light starts the clock. Yellow means there's 1 minute remaining. Red means you need to wrap up. So, again, if there's anybody in the chambers who would like to comment on this item, please do so now. Okay, seeing no one, I'm going to close the public hearing on this item and I'm going to ask for a, let's say a 5 minute pause in the meeting so we can get the proffers, the latest proffer statement. Is everybody amenable to that?

Mr. Randall: Yes.

Mr. Apicella: Okay. So, we're on a 5 minute pause.

*Meeting paused: 6:43 – 6:50*

Mr. Apicella: So, if someone would just let me know when we're ready to go back into session.

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Mr. Bain: No, everybody left, Steve, sorry. *[Laughter]*

Mr. English: Okay, Steven.

Mr. Apicella: Okay, great. I call this Planning Commission meeting back to order. I believe we have some revised proffers if the applicant can just reiterate what those revised proffers are.

Mr. Leming: Well, I sent them back upstairs with Mr. Zuraf. But we proffered out two things from the by-right uses, as we discussed; what was it – the flea market and the mini-storage, and then three items with the CUP – the watchman and the bigger storage and the outdoor flea market. So, those five items which were the five that he had listed to you previously. And he has the proffers.

Mr. Apicella: Thanks, Mr. Leming. So, again, last call for questions for the applicant. Okay, seeing none, I'm going to bring the matter back to the Commission. Mr. Randall, this is in your district. We would technically need to, if we were going to take a motion before moving on the original item, decide whether or not to accept the revised proffers. Do you have a motion to that effect?

Mr. Randall: Yes. I would like to make a motion to accept the revised proffers for Reclassification RC18... oh, I'm sorry, 19152782, Embrey Mill Town Center.

Mr. McPherson: Second.

Mr. Apicella: Thanks, Mr. McPherson. Any further comment Mr. Randall?

Mr. Randall: Uh, no.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: No additional comments.

Mr. Apicella: Anyone else? Okay, seeing no one else, Mr. Randall, will you do a roll call vote?

Mr. Randall: Yes. Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall yes. Fillmore McPherson?

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Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: Voting has been unanimous for the revised proffers.

Mr. Apicella: Thanks, Mr. Randall. Again, this matter is in your district. How would you like to proceed on the original item?

Mr. Randall: I would like to make a motion to approve the Reclassification Romeo Charlie 19152782, Embrey Mill Town Center.

Mr. Apicella: Is there a second?

Mr. English: I second it.

Mr. Apicella: Thanks, Mr. English. Any further comments Mr. Randall?

Mr. Randall: No.

Mr. Apicella: Mr. English?

Mr. English: No sir.

Mr. Apicella: Anyone else? Okay, Mr. Randall, will you take a roll call vote on the recommendation to approve item number 4.

Mr. Randall: Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall yes. Fillmore McPherson?

Mr. McPherson: Yes.

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Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: Mr. Chairman, the voting has been unanimous.

Mr. Apicella: Great, thank you very much. Congratulations. Thank you for the presentation, Mr. Leming. Okay, moving onto the next item, item number 5.

5. Amendment to the Zoning Ordinance - Proposed Ordinance O20-21, would amend the Zoning Ordinance, Stafford County Code Chapter 28, Article VII, Table 7.1, "Required Parking and Loading Spaces" to modify the number of parking spaces required for grocery stores and to establish the number of required parking and loading spaces for general commercial retail uses not specifically listed in Table 7.1. **(Time Limit: October 2, 2020)**

Mr. Harvey: Mr. Chairman, item number 5 is a proposed Amendment to our Zoning Ordinance dealing with parking standards for grocery stores and other retail uses. And if you'll please recognize Amy Taylor for the presentation.

Mr. Zuraf: One moment please; we're transitioning staff and cleaning up.

Mr. Apicella: Mike, did you make a mess?

Mr. Zuraf: Cleaning up my germs.

Ms. Taylor: Good evening Mr. Chairman and members of the Commission. I'm Amy Taylor with the Department of Planning and Zoning, and I am here this evening to present item number 5 on the agenda, which is a proposed amendment to the Zoning Ordinance to modify the current parking requirements for grocery stores and establish parking and loading requirements for other general retail uses. LIDL, a grocery store operator, has recently expressed interest in locating a new freestanding store within the County. Current parking requirements for grocery stores require a minimum of 7 spaces per 1,000 square feet, whereas shopping centers have a lower parking rate of 5 spaces per 1,000 square feet. However, LIDL's representative has indicated that the current parking rate imposes a significant hardship for many grocery stores, as providing such a high number of parking spaces would be difficult to provide for freestanding stores. As such, they have asked for consideration to reduce the required parking rate for grocery stores to 4 spaces per 1,000 square feet which is an industry standard for LIDL stores, and is closer to the rates required by peer localities. Current parking space requirements are found in Table 7.1 of the Zoning Ordinance. And the current rate of 7 spaces per 1,000 square feet for grocery stores was established on October 16 of 2018 with adoption of Ordinance O18-02, and was based on average daily trip generation rates. The previous amendment in 2018 also eliminated parking rates for general retail and commercial uses, since rates were being established for a wider variety of specific uses. Prior to the adoption to that ordinance, grocery stores did not have a specific rate, and were classified as a medium-intensity retail use which required a minimum parking rate of 4 spaces per 1,000 square feet. Staff believes the request to modify the current parking rate for grocery stores does have merit, as a parking rate of 4 spaces per 1,000 square feet is more in line with the parking requirements of some peer localities, as well as current ITE parking generation rates for supermarkets and grocery stores. The proposed rate would also be the same as that previously required for medium-intensity commercial retail uses. And reducing the minimum rate requirement would also be compatible with the goals of the Chesapeake Bay Preservation Act to reduce the amount of new impervious surfaces. As part of the

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request to modify the existing parking rate, staff evaluated and compared the current requirements from Stafford's peer localities, and that information has been shown here, on the upper chart. As you can see, most of our peer localities require 1 space per 200 square feet of floor area, which is the equivalent of 5 spaces per 1,000 square feet. However, Hanover County requires only 1 space per 250 square feet, which is the equivalent of 4 spaces per 1,000. The letter of request from LIDL's representative also includes parking rate comparisons from the City of Manassas and Manassas Park. But this information was not included in staff's evaluation since neither are on the list of comparative localities established by the Board of Supervisors. In addition to the parking rates from peer localities, staff also evaluated average parking demands, as published in the current edition of the ITE Parking Generation Manual. And as shown on the bottom chart, the average parking demand for supermarkets and grocery stores in a suburban setting is below 4 spaces per 1,000 square feet, with exception to Fridays. However, when these 4 rates are averaged together, it works out to an overall average parking demand of 3.55 spaces per 1,000 square feet. Currently, the County has very few standalone grocery stores, as most are typically developed as part of a larger shopping center. However, LIDL has an existing store location on Warrenton Road, which is currently parked at 4 spaces per 1,000 square feet. which was the applicable parking rate at the time of site plan development. Staff acknowledges that while the proposed parking rate of 4 spaces per 1,000 square feet is less than the current parking requirements of other peer localities, it is staff's opinion that this rate will be adequate minimum requirement for standalone supermarkets and grocery stores such as LIDL. However, other grocery store operators may choose to provide more than 4 spaces per 1,000 based on their specific operational needs. Staff also believes that re-establishing parking rates for low, medium, and high intensity commercial retail uses would be beneficial, as the nature of retail development continues to change within the county. As proposed uses and future tenants are not always known at the time of site plan development, re-establishing rates for generalized uses will allow for appropriate parking requirements to be applied to retail uses not specifically identified in Table 7.1. As reflected in proposed Ordinance O20-21, the proposed amendments would reduce the existing parking rate for grocery stores to 4 spaces per 1,000 square feet, and re-establish parking and loading space requirements for low, medium, and high intensity retail and commercial uses at a rate of 3 spaces per 1,000 square feet for low intensity uses, 4 spaces per 1,000 for medium intensity uses, and 7 spaces per 1,000 for high intensity uses. On June 16<sup>th</sup>, the Board approved Resolution R20-03 which referred proposed Ordinance O20-21 to the Planning Commission to begin the public hearing process. However, Resolution R20-03 does not grant the Planning Commission the ability to make adjustments to the proposed Ordinance. Staff supports the proposed amendments to Table 7.1 to reduce the exiting parking rate for grocery stores and re-establish parking and loading space requirements for general retail and commercial uses, and recommends approval of Ordinance O20-21. That concludes my presentation.

Mr. Apicella: Questions for staff? Okay, I don't see any...

Mr. Randall: Mr. Apicella, I have some questions for staff.

Mr. Apicella: Okay, go ahead Mr. Randall.

Mr. Randall: The reason we changed it from this to 7 was due to a traffic study that we did in 2018? Is that correct? It was 3, 5... it was 3, 4, and 7 in 2017, correct?

Ms. Taylor: Prior to the previous amendment in 2018, the County did not have a specific parking rate for grocery stores, and the rate that was applied to uses that were not specifically identified on Table 7.1 were based on their trip generation. At the time in 20... I believe it was actually 2015... excuse me, it was 2016 when the LIDL site was coming in with their initial site plan for development, based on their

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trip generation at that point in time, they were classified as a medium intensity retail use and the rate in place for those generalized uses was 4 spaces per 1,000 square feet.

Mr. Randall: Okay.

Mr. Apicella: Mr. Randall, if you don't mind, I'm going to jump in because I think your question is...

Mr. Randall: Please.

Mr. Apicella: In the staff report at the bottom, back in 2018, the parking rate of 7.0 spaces per 1,000 for grocery stores was established by first a subcommittee of the Planning Commission, then the full Commission, based on traffic generation rates. So, I think the answer to your question was yes. It went from 4 to 7 based on a traffic study, or some kind of study, to evaluate what the need was. Does that answer your question at least... *inaudible, being talked over.*

Mr. Randall: Yes, and now we're going back to 4.

Mr. Apicella: Okay. Do you have other questions?

Mr. Randall: Yes. Has LIDL made a more official declaration, or is it just an inquiry?

Ms. Taylor: They have made it an official request. We did have a meeting with representatives from LIDL and they did provide a letter of request specifically asking for consideration to reduce the current rate of 7 spaces per 1,000, which is specifically identified for grocery stores, back to a rate of 4 spaces per 1,000 square feet.

Mr. Randall: So, this won't be the exception, this will be the new rule. Is that correct?

Ms. Taylor: Yes, that would be correct. This would be the new standard, if approved.

Mr. Randall: Okay, thank you.

Mr. Apicella: Okay, I've got some questions. So, do we have any new evidence that the decision that was made in 20... absent the ITE Manual... do we have any evidence to show that the 7 is wrong and should be changed to 4 universally for grocery stores regardless of the type of grocery store?

Ms. Taylor: During the previous parking amendment that was done in 2018, I do believe the justification that was used to increase the rate for grocery stores to 7 was based on, again, ITE trip generation rates, which do support... or do indicate essentially that grocery stores would generate more than 100 trips per day, which would technically be classified as a high intensity retail use. However, with this request, we did do a cross comparison with the other localities which does seem to support that 7 is indeed too high for this type of a use. While trip generation rates do indicate that they will be a high intensity use, it does appear that all of our peer localities do not utilize a rate that high and are more in the 4 to 5 spaces per 1,000 square feet.

Mr. Apicella: So, to be fair, Ms. Taylor, I'm looking at the slide... I don't know what number it is... of the peer jurisdictions. I'm counting 1, 2, 3, 4, 5 out of the 6 that have a 5-space requirement, not a 4-space requirement. The only one on the list that has 4 spaces is Hanover. Is that a fair characterization of the slide?

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Ms. Taylor: Yes, it is; it is correct.

Mr. Apicella: Is it also fair to say that not every grocery store is the same or has the same demand driver? For example – and I shop frequently at LIDL – I would say the one on 17 sometimes is pretty loaded, sometimes not. But, if I compared LIDL to a Wegman's, wow, Wegman's is jam packed all the time. Almost all the spaces are taken up and it's got a far bigger parking spot. I agree that it has a bigger footprint, but there are a lot of cars out at Wegman's. So, my only point is, again, not all grocery stores are the same; some have a higher demand. And, as Mr. Randall indicated, this would not just apply to LIDL and its specific set of circumstances, it would apply to a Wegman's if it came to Stafford or Harris Teeter or a Publix, and so they would be down to this now lower standard. Is that correct?

Ms. Taylor: Yes sir, that is correct. However, staff would like to point out that as stated in the presentation and in the staff report, the County does not have very many freestanding stores at all. In fact, the majority of grocery stores come in during... in a shopping center type of a setting. And shopping centers call for a different parking rate specific to shopping centers which accounts for the various types of uses that you may find within a shopping center. The rate that has been established for grocery stores would apply specifically to a freestanding location where there is no shared parking available for the other tenants or other buildings within a larger shopping center type of setting.

Mr. Apicella: Right. And again, my only point is for a freestanding Wegman's or a freestanding Publix or any other I would call larger grocery store than a LIDL, again, that same standard of 4 would apply across the entire County. We can't know, at this point in time as Stafford grows, how many future freestanding versus grocery stores in shopping centers will occur. That's correct, right?

Mr. English: Wegman's is freestanding.

Mr. Apicella: Yeah, I just said that. I'm just saying that we can't know if the future as the County develops where we'll have freestanding versus where we're going to have grocery stores that are part of a shopping center. Right?

Ms. Taylor: Was that a question for staff, Mr. Chairman?

Mr. Apicella: Yeah... *inaudible*. We can't know what the future holds, that's the bottom line.

Ms. Taylor: That is correct. We do not necessarily know where a new freestanding location may come in. However, as you pointed out earlier, different stores do have different types of parking demands. LIDL locations tend to be a smaller square-footage than larger facilities such as a Wegman's or even a Publix. And in those locations, obviously this would only be a minimum requirement so, in most instances, developers come in or the applicants come in and they typically provide more than just the minimum required parking based on, again, what their operational needs might demand. But again, going back to the cross comparison, Hanover did specifically indicate their rate is identified as only 4 spaces per thousand, and the ITE parking generation also suggests that as well. And those ITE rates come from studies that were done for grocery stores and supermarket facilities across the country; that's not necessarily just in our area. Those are studies for similar facilities across the entire United States and those rates also suggest that a rate of 4 spaces per 1,000 square feet would also be adequate.

Mr. Apicella: So, what's the... the applicant had information in the letter that they presented for Spotsylvania and Prince William County. I believe the information they provided was wrong as it relates to Prince William County. I think they said that it was 5 spaces per thousand. I looked at the Ordinance

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for Prince William County; it was actually... I'm sorry. They said for Prince William County it would be 4 spaces per thousand; the Ordinance actually indicated it would be 5. Is that correct? It's in your slide.

Ms. Taylor: Actually, this information was put... the information in the slide was put together by staff and that was confirmed actually yesterday. The information that was provided in the letter from LIDL's representative did reflect the correct information from Prince William County, which is a rate of 1 space per 200 square feet which works out to 5 spaces per thousand. The rate that they did reference in their letter from Spotsylvania was incorrect; that was a typo. They were referencing a rate of 1 space per 250 square feet, where Spotsylvania County's rate is actually 1 space per 200.

Mr. Apicella: Yeah, Amy, I'm looking at Attachment 3, page 2 of 55; there's a chart. In the middle of that chart next to Spotsylvania County, at the top, it says Prince William County, 1 per 200 net square feet. And I agree that that's per thousand that's 5 spaces. But then at the bottom of that chart, or in that block, it says 4 spaces per thousand. So something doesn't add up there.

Ms. Taylor: My apologies. You are correct. I did miss that. So, they are referencing the correct rate but the equivalent was incorrect the way that they've referenced it. So you are correct; that does work out to 5 instead of the 4 referenced in their letter.

Mr. Apicella: Do we know what the parking requirement in Fredericksburg is?

Ms. Taylor: I'm sorry?

Mr. Apicella: Do we know what the parking requirement for grocery stores or similar uses are in Fredericksburg... the City of Fredericksburg?

Ms. Taylor: Yes. Staff did research that as well, and the parking rate for commercial – they do not have a specific rate for grocery stores, but they do have a rate for commercial and retail uses. And the City of Fredericksburg requires 1 space per 300 square feet, which is the equivalent of 3.33 spaces per 1,000. So, their rate is significantly lower.

Mr. Apicella: Okay, that's a fair point. And so, when the ITE manual says there's a different rate per day with the largest impact being on Fridays, 4.59, why would you not build to the max and not the average?

Ms. Taylor: It was staff's opinion that when you average those, because that window on Fridays is based on a 4-hour window in the evenings, I do not recall specifically what the specific hour range was, but it was not for the entire day on Fridays. It was for a very small window of time that that rate would apply. The other... basically, the other 5 days of the week... excuse me, 4 days of the week plus Saturdays and Sundays, those rates were well below 4 spaces per 1,000, which is why staff felt that 4 would be appropriate again for the stand-alone locations only, not as a shopping center type of a setting. Just for stand-alone facilities.

Mr. Apicella: Okay. Again, I appreciate where staff is coming from. What I'm seeing is evidence that at least suggests that 7 may be too much. But, in my opinion, based on our peer localities, 5 would be the average among our peer localities. Anyhow, I've asked my questions. Anybody have any other questions to ask of staff? Okay, seeing none, would the... is there an applicant?



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Ms. Taylor: The applicant is present with us this evening and may have some comments to provide.

Mr. Apicella: Okay. Would you ask them to please come forward?

Ms. Taylor: Absolutely.

Ms. Cameron: Good evening. My name is Jonelle Cameron with Walsh, Colucci, Lubeley and Walsh, and I am here on behalf of LIDL. And we put in the official request for the zoning text amendment. And I just wanted to provide some additional background just on the traffic generations in general. Prince William County, our chart is actually correct. And so when Prince William County calculates parking, they calculate it as net square feet, which is 75% of the gross floor area. So, when you're calculating what your parking ratios are, you would take a thousand, multiply that by 75% and then divide it by the 200; so, you end up with the 4 parking spaces. So, Prince William County is actually 4 parking spaces per a thousand square feet, so they are in line with what we are requesting here. LIDL themselves have found that the 4 parking spaces is an adequate number for them. The site here in Stafford County parks at the 4 parking spaces per 1,000. They have a site in Woodbridge, Virginia, that is one of their most popular sites. That one is very busy and they have the 4 parking spaces per 1,000, and that is adequate. And prior to 2018 with your zoning text amendment, all of the free-standing grocery stores in your County are actually parked at the 4 spaces per thousand, and I believe that has been working well. So, we would appreciate the Planning Commission's support in this zoning text amendment. And if you have any questions, I'm able to answer them for you.

Mr. Apicella: Questions for the applicant? Okay, seeing none, I'm going to open the public hearing on this matter. Again, this is an opportunity for the public to provide their comments. If anyone would like to come forward, you have up to 3 minutes to speak. When the red light comes on, you need to wrap up. If there's anyone in the audience who would like to speak, please come forward now.

Mr. Foroughi: Mr. Apicella, members of the Commission, Ryan Foroughi, Bagby, Foroughi and Goodpasture, local engineer here in Fredericksburg. I did just want to confirm what the applicant is saying. In Table 6.8 of the Prince William County DCSM, it's absolutely calculated based on net square-footage, not gross square-footage. So, actually both people are correct. So, but it is 4 per thousand. It's actually here in the DCSM if anybody would like to see it. So, I just wanted to confirm that. Thank you.

Mr. Apicella: Thank you. Anyone else? Alright, seeing no one else, I'm going to close the public hearing and give it back to the Commission for further discussion and deliberation. Any thoughts from any members?

Mr. English: Mr. Apicella, I'd like to make a motion to approve the zoning ordinance.

Ms. Barnes: Second.

Mr. Apicella: Okay, there's a motion and a second. Mr. English, any further comments?

Mr. English: No, uh-uh.

Mr. Apicella: Ms. Barnes?

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Ms. Barnes: My only comment is I think that we're seeing a major national trend towards people not actually going to physical stores quite as much anymore in most of the stores that I've been to. And this is anecdotal, of course; the parking lots are over the years, I would say in the last 15 years, you just see less and less and less. And there's good things to that and not so good things to that. But I think that this is a national trend and I think that, from me personally, I find it to be reasonable. I know I don't go out anywhere nearly as much, and not because of COVID, but because of just the way that we are changing our shopping habits. And I love LIDL. So, I don't know if there's anything we can individualize here, but that's my opinion.

Mr. Apicella: Anyone else?

Mr. Randall: Yeah, Mr. Apicella, this is Bart. I guess I'm in the same boat as our Chairman. We were here. We are at 4. And we decided to go through the whole process of changing that to 7 and going through this whole thing 2 years ago, 3 years ago. And I don't see... I don't see any real reason why we need to go back to what we had. You know, it's based on trip generation which it goes from low to medium to high, you know. And if the cutoff is a hundred cars per day, I would, you know, I'm hard-pressed to think that we don't get a good grocery store that's got more than a hundred cars per day, a hundred trips per day. That doesn't seem like a lot to me. So, I'm in agreement that I don't know if 7 is where we need to go, but I surely don't think that we need to go with 4. You set it at 4 and 4 now becomes the standard for the County, and I'm not sure that's the right place to go. You know, I agree with Kristen, I think we're doing things differently, but if you go to stores and places now, you've got 5 or 6 or 7 parking spots that are already partitioned off for pickups or for people that want to come and get... you know, I ordered online. And so now those 6 or 7 parking spots aren't even available anymore for regular shoppers. And so, we don't even include that in the whole new way of shopping which I think is something that needs to be taken in, too. So, I'm going to vote no because I think 4 is too low in this case. Thank you.

Mr. Apicella: Yeah, I'm going to jump in and... I'm sorry if I'm cutting anybody else off. I love LIDL as well. I shop there often. I also shop at Wegman's. They're not the same. Unfortunately, the Board only gave us an up or down vote choice here. I think it would have been smarter to just eliminate grocery store entirely as one of the options and just keep the commercial retail low, commercial retail medium, and commercial retail high to at least allow staff to distinguish between different types of grocery stores. We didn't get that option. I think it's sort of a mixed bag in terms of what other localities are doing in terms of space requirements for grocery stores or similar uses. But, like Bart, we went through a... *inaudible*... process. We started out at 4; we determined that wasn't sufficient. I'm sure it wasn't based on the LIDL example. I'm sure it might have been based on a larger or more... I don't want to call it a more robust grocery store, but again, probably more like a Wegman's or a Publix. And so we're being asked to make a decision based on one example that's going to have universal applicability across the County for all grocery stores regardless of their type. Again, no shot at LIDL; I'm going to keep shopping there, if they'll let me, but I just don't think this is a smart change. And given their restrictive nature of the referral to us, I really have no choice but to vote no. Okay, anyone else have any comments?

Mr. Cummings: I have a comment. I think that when I looked at the issue of parking spaces, there's no real answer, right. None of it really works well in terms of the calculus. I think it's maybe one day planning folks and architects and civil engineers will come up with a formula that really works. But I think we're in line with going to 4 or 5 would have been ideal. I agree with you, Steven. But we don't have that choice. But I think that 4 puts us in line with the other localities and I think the opportunity, I agree with Kristen that we are... things are different and I think we're moving to a smaller footprint. And anything that we can do to reduce concrete, I'm all for. So, I'm going to vote yes.

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Mr. Apicella: Okay, unless there are further comments, Mr. Randall, I'm going to ask you to do a roll call vote.

Mr. Randall: Kristen Barnes? Steven, could you please go over the actual vote again?

Mr. Apicella: Yeah. The motion is to approve the proposed zoning amendment changes for or related to item 5.

Ms. Barnes: I vote yes.

Mr. Randall: Albert Bain?

Mr. Bain: No.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: No.

Mr. Randall: Bart Randall votes no. Fillmore McPherson?

Mr. McPherson: No.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: Mr. Chair, the yeas are 3 and the nays are 4.

Mr. Apicella: Okay, so the motion is to... I'm trying to think of what we need to do here since it's an up or down vote. Do we need to take a vote the other way to decide to reject it, Ms. Lucian?

Ms. Lucian: The motion fails, so you don't need to make another motion.

Mr. Apicella: Okay, thank you. Alright, moving onto the next item, item 6.

6. Amendment to the Zoning Ordinance - Proposed Ordinance O20-19 would amend the Zoning Ordinance, Stafford County Code Sec. 28-25, "Definitions of specific terms," Sec. 38-35, "Table of uses and standards," and Sec. 28-39, "Special regulations," to amend and clarify requirements relating to the establishment of cemeteries. The proposed Ordinance would define the term "churchyard" and clarify that churchyard and family cemeteries are permitted by-right in the A-1, Agricultural, Zoning District as required by the Virginia Code. As to cemeteries that are not churchyard or family cemeteries, the proposed Ordinance allows such cemeteries in the A-1 Zoning District by conditional use permit and in accordance with special regulations provided in the Zoning Ordinance. Such special regulations require the applicant to comply with the consent requirements outlined in Virginia Code § 57-26(1), and that no such cemetery may be established

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within 750 feet of any terminal reservoir or any perennial stream that drains into a terminal reservoir or within 750 feet of any private well used as a drinking water supply, except that a conditional use permit may reduce such minimum distance upon specified findings through hydrogeological studies. The proposed Ordinance also provides that the conditional use permit includes provisions for monitoring and other reasonable ongoing protections of drinking water from possible contamination. **(Time Limit: October 7, 2020)**

Mr. Harvey: Mr. Chairman, item 6 is a proposed amendment to the Zoning Ordinance dealing with the definition of churchyard, and also regulations for the establishment of cemeteries. Please recognize Kathy Baker for this presentation. Also, staff will note that we did receive two electronic comments that I'll read during the public hearing portion.

Ms. Baker: Good evening Mr. Chairman, members of the Commission. Kathy Baker, Department of Planning and Zoning. The Planning Commission is to consider amendments to the Zoning Ordinance, including Section 28-25, Definitions and specific terms, to create a definition for churchyard, as well as changes to Section 28-39, Special regulations, to amend the process to establish a cemetery. To give you some background on this item, Section 28-39(o) regulates the establishment of new cemeteries. The code provisions were last amended in 2016 pursuant to Ordinance O16-39. And this Ordinance had resolved in inconsistencies between the County cemetery establishment provisions and State code. Proposed Ordinance O20-19 would help clarify which types of cemeteries are permitted by-right and by conditional use permit; how regulations would apply to new cemeteries; the administrative process for establishing a new cemetery; and the nexus with environmental provisions, including drinking water supplies. Currently, cemeteries are permitted in the A-1 zoning district, that's the Agricultural zoning district. Churchyards and family cemeteries on private property are permitted by-right, while all others require approval by the Board of Supervisors. The current ordinance does not define churchyards that would be addressed here. Also, the current ordinance requires an application and a public hearing process similar to a zoning map amendment, otherwise known as a zoning reclassification or rezoning. I'll note that Policy 3.3 of the Comprehensive Plan reinforces the need to prevent and reduce pollution of surface and groundwater resources. Cemeteries are known to be sources of groundwater contamination by necroleachate/microorganisms otherwise leaching from decomposition of bodies, as well as other burial related materials. State code prohibits the location of a cemetery within 300 yards, or 900 feet, of any public drinking water well. The 2016 Ordinance extended the setback to private drinking water wells and perennial streams that drain to a terminal reservoir that serves as a County drinking water supply source. And this is to protect water supplies from potential contamination. Subsurface disbursement of necroleachate is dependent upon subsurface soil and groundwater conditions, which are highly variable throughout the County. A County consultant, which is ECS, recently concluded that a uniform 900-foot setback may not be necessary where soil conditions do not allow for the disbursement of the necroleachate and other contaminants. ECS also concluded that the Virginia Health Department's 100-foot private well setback appears to be inadequate under certain soil conditions. ECS recommends a minimum setback of 656 feet, which is 200 meters, unless there's a finding of low contamination potential from a site-specific hydrological assessment. ECS also recommends groundwater level and microorganism monitoring be conducted prior to and throughout cemetery site operations. I'm going to go through the slides and summarize the amendments as referred by the Board of Supervisors and pursuant to O20-19. After I go through that, I'll also get the representative from ECS to go through some of those recommendations for the lower number. So, the proposed definition of churchyard will state that "An area on a lot surrounding a place of worship (as exempted from zoning regulations by Virginia Code § 57-26)." So that's how the definition would read. The proposed changes to Table 3.1, which is the District Uses and Standards table, would show that uses permitted by-right in the A-1 district would be a churchyard cemetery and a family cemetery, as exempted from zoning

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regulations by the Code of Virginia. It would also show that as a Conditional Use Permit, cemetery other than any churchyard or family cemetery. Other proposed amendments include Section 28-39(o) and that would state that there would be a requirement for a conditional use permit to establish a cemetery except for the churchyard or family cemeteries, and it would be a conditional use permit instead of a rezoning reclassification, which is how it's currently written. It would also clarify language regarding the applicant's requirement to comply with consent requirements as outlined in the State code. So, currently, there are requirements in State code, so this would just reference that and what those requirements are. And the State code is included in your package for reference, if you all need to look at that. The amendments would also change the setback from a new cemetery... setback from the cemetery to a terminal reservoir, to a perennial stream draining into a terminal reservoir, and a private drinking water well from 900 feet down to 750 feet. And again, that's how the Ordinance was passed down from the Board, showing the reduction to 750 feet. Continuing on through the CUP process, an applicant would be allowed a reduction of the 750-foot setback upon findings through hydrogeological studies at the cemetery location will have no reasonable likelihood of adverse water quality impacts on drinking water supplies. The CUP would include provisions for monitoring from possible contamination of drinking water supplies. And also, we changed the public hearing notification requirement to owners of properties located within the 750 feet of the proposed cemetery instead of the previously shown 900 feet. So, before I move onto our final staff recommendation, I'd like to introduce Tom Nelson, who's a representative with ECS that's going to go into a little bit more discussion regarding the difference between that 750-foot and the 656-foot setback. So, give us just a moment.

Mr. Nelson: Good evening and thank you for the opportunity to speak tonight. By way of introduction, my name is Tom Nelson, and I work as a Senior Hydrogeologist for ECS Mid-Atlantic.

Ms. Baker: Can you remove the presentation for just a moment?

Mr. Nelson: Okay. I'm here today to summarize findings for a hydrogeological cemetery setback criteria assessment that myself and colleagues are completing for the County. My presentation here will take about 10 minutes. The goal of our study was to provide a recommended cemetery setback distance from supply wells within Stafford County based on information contained within hydrogeological publications and Stafford County's natural setting. The primary methods that were used to complete our evaluation consisted of evaluating the County's geologic and hydrogeologic setting; review existing academic publications pertaining to contaminate impacts to groundwater from cemetery sites; reviewing existing state municipal cemetery setback regulations; reviewing cemetery setback guidelines provided by researchers and international agencies; and reviewing site specific well protection and risk assessment criteria. As part of our study, we reviewed numerous publications related to contamination associated with cemetery sites to gain an understanding of the extent to which contamination occurs and important processes and factors that affect contaminate migration. Studies related to potential microorganism, trace metal, embalming compound, nutrient and contaminants of emerging concern were reviewed as part of our study. Particular focus was given to researching risk from microorganism contamination as this is the most concerning contaminant at cemeteries and is also the most heavily researched. Pathogenic bacteria and viruses released within cemetery leachate which is produced as a buried body undergoes decomposition processes are a concern because the release of these microorganisms to the environment has the potential under certain circumstances to cause dangerous diseases and other health issues when ingested or introduced to the bloodstream. Hundreds of medial cases are reported each year in the United States related to the ingestion of contaminated groundwater, and it's estimated that 70% of water-born microbial illness in the U.S. is associated with groundwater. The annual number of microbial groundwater-related medical cases is considered to be a significant under-representation of actual cases due to illnesses commonly being attributed to other sources or not being reported at all. I'll begin by

summarizing the studies that evaluated trace metal, embalming compound, nutrients, and contaminants of emerging concern in groundwater at cemetery sites. In general, these studies found that slightly elevated concentrations in nutrients and certain trace metals may be present in shallow groundwater at cemeteries, but that concentrations are unlikely to pose a substantial risk to offsite supply wells or surface water bodies. Studies that researched formaldehyde in groundwater found that it was not a significant contaminant threat. Investigation of contaminants of emerging concern such as pharmaceuticals and personal care products was limited to an evaluation recently completed by the USGS in Michigan. Their study revealed that some compounds were detected in downgrading of wells at concentrations above the laboratory's detection limit, but that these compounds were present at very low concentrations. Based on the findings and reviewed studies, there does not appear to be a substantial risk of contamination associated with trace metals, embalming compounds, or nutrients at cemetery sites. Additional studies would need to be completed to better assess contaminants of emerging concern although limited data indicates that the compounds recently researched by the USGS do not appear to pose a significant threat of environmental contamination at cemeteries. Microorganism migrating within groundwater is the primary contaminant concern associated with cemeteries as this sort of transport can introduce pathogenic microbes to drinking water wells and/or surface water bodies. The presence of elevated microorganisms levels in shallow groundwater at cemeteries is a well-documented occurrence, as microorganisms associated with cemetery leachate are widely present at such sites. However, several studies completed at tempered climate sites, such as that of Stafford County, conclude that the overall risk of microorganism contaminants extending beyond cemetery boundaries in groundwater is low when cemeteries are correctly sited and operated. However, exceptions to this exist in certain situations which I'll discuss in further detail momentarily. The risk at most cemetery sites is generally low... most properly sited cemetery sites I should say, is generally low for the following reasons. The amount of buried organic material is typically small in relation to overall cemetery size. Pathogenic microorganisms are added to the groundwater system at a variable rate across a wide area. Microorganism release is typically controlled by the use of a coffin, embalming practices, and burial vaults. And the separation distance between graves and the water table is typically sufficient to provide adequate contaminant attenuation. Several factors play important rolls in determining the rate at which microorganisms are transmitted to groundwater through the unsaturated soil column, and the travel distance and survival time of microbes upon reaching groundwater. These factors include the composition of... *inaudible*... soil and aquifer materials, the microorganism species contained within cemetery leachate, and the separation distance between graves and seasonal highwater tables. Despite the generally low microorganism risk posed by correctly sited cemetery sites, significant problems and risks can arise in certain situations and environmental settings. And Stafford County appears to be susceptible to several of these higher risk situations. The highest risk of microbial contamination is typically posed to shallow unconfined aquifers and wells that produce drinking water from these aquifers. Situations that can cause significant problems and risks include when cemeteries are underlain by highly permeable soils and aquifers, when the separation distance between graves and the water table is less than approximately 4 feet, when cemeteries are located within 100-year flood zones, when sites are underlain by fractured... *inaudible*... bedrock, and when pumping wells induce steeper hydraulic gradients that draw contaminants toward the wells. The majority of Stafford County appears to be susceptible to one or more of these risks. As 51.1% of the County is mapped as being underlain by subsurface materials that could potentially be highly permeable, 11.4% of the County is within a 100-year flood zone. Approximately 46% of the County is underlain by fractured... *inaudible*... bedrock, and it is estimated that more than 580 wells are supplied by groundwater produced from shallow unconsolidated aquifers that would be most susceptible to impacts from cemetery-related microorganisms. Guidelines related to cemetery setback distances from supply wells were viewed as part of our evaluation. The reviewed setback distance guidelines appeared to be based, at least in part, on findings from scientific... relevant scientific studies. This is particularly the case with the

recommendations provided by a researcher named Boyd Dent who completed a doctoral dissertation on the subject that is considered to be the most thorough study of environmental contaminant impacts related to cemeteries that has been completed to date. In addition to the recommendations provided by Mr. Dent, setback guidelines published by the World Health Organization, United Kingdom Environment Agency, Northern Ireland Environment Agency, Scotland... Scottish Environment Agency, and certain Canadian provinces were reviewed. All of the reviewed guidelines recommend that risk screening and, in some cases, site specific hydrogeologic studies, be completed at potential cemetery development or extension sites. Recommended default cemetery setback distances from any potable supply well were as follows: the World Health Organization, United Kingdom Environment Agency, Northern Ireland Environment Agency, and the Scottish Environment Agency recommend a separation distance of 820 feet, which equates to 250 meters; review Canadian province separation distances range from 328 to 400 feet, which equates to 100 to 122 meters; and Mr. Dent recommends a separation distance of 656 feet, which equates to 200 meters. After reviewing these recommended setback distances and the criteria used to establish them, ECS considers the 656-foot distance provided by Mr. Dent to be the most scientifically defensible setback distance as his recommendation is based on a thorough scientific study of the matter. Our study also included a review of State and municipal cemetery related regulations. Findings from our review indicates that the current Virginia regulations prohibit the establishment of private cemeteries within 900 feet of municipal supply wells. Additionally, private supply wells may not be installed within 100 feet of a cemetery. We also researched whether cemetery-related setback regulations have been established by any of the 10 most populated counties in Virginia, and we found that such regulations only appeared to exist in Stafford County and Henrico County, as Henrico County restricts cemetery developments within 250 feet of supply wells. Based on the information evaluated as part of this study, we consider the State of Virginia's 100-foot private well setback distance from cemetery sites to be inadequate to ensure the protection of nearby well users, especially when groundwater is produced from shallow unconfined aquifers. This appears to be especially true for Stafford County as the majority of the County is within a high-risk zone as it pertains to susceptibility for microorganism-related risks. We consider a 656-foot default setback distance from any potable supply well to be a more appropriate scientifically defensible setback distance. This coincides with the setback distance recommended by Mr. Dent who based his recommendations on findings from a thorough study of the matter. The suitable siting and management of cemeteries is the most significant factor with respect to limiting microorganism groundwater contamination. The wide variety of geologic and hydrogeologic studies present in Stafford County lends itself to the establishment of a conservative setback distance between cemeteries and supply wells. Lesser setback distances may be appropriate in lower risk areas of the County, although the recommended 656-foot distance should not be reduced without a finding of low contamination potential from a site specific hydrogeologic assessment. Site specific risk assessment should include the completion of both a site suitability risk assessment and a supply well setback assessment. The purpose of the site suitability assessment should be to assess the overall environmental risk associated with the proposed cemetery site, which should include assessment of the separation distance between graves and the seasonable highwater table, soil and aquifer material suitability for cemetery developments, depth to bedrock, bedrock composition, locations of proximal supply wells, topographic slope, groundwater levels and flow direction, site stratigraphy, flooding potential, cemetery buffer distances, and other pertinent information. A supply well setback assessment should be completed in conjunction with the site suitability evaluation to assess the minimum setback distance between a cemetery site's boundary and offsite supply wells. In lieu of a supply well setback assessment, a default minimum setback of 656 feet should be maintained between cemetery site boundaries and offsite supply wells. Additionally, it is recommended that groundwater level and microorganism monitoring be conducted throughout the duration of cemetery site operations. Thank you for your time. I'd be happy to answer any questions you may have.

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Mr. Apicella: Thank you, sir. Any questions?

Mr. English: I've got a question.

Mr. Apicella: Mr. English?

Mr. English: When they do these... when you do these studies and stuff, how many people, or how many... how big was the cemeteries? How big of a cemetery; if you've got a cemetery that's... you've got a thousand people buried in it, does that have an effect or not?

Mr. Nelson: Yes, it does. We reviewed studies that looked at cemetery sites anywhere from 10 to 13 acres all the way up to, gosh, I don't know what the largest ones were, but they were quite large cemetery sites.

Mr. English: Is that when they're... is that also included if you have a husband and wife buried in the same grave, gotta go to 9 feet than 6 feet?

Mr. Nelson: Yeah. Most of the publications that I reviewed, the reference is 6-foot burial depth. But, in regard to that, the most significant factor is going to be separation from the water table. So, the deeper a burial may be the better chance it would have to be near the water table.

Mr. English: Okay. But what are the situations when you do dig a grave and stuff like that, suppose you dig up... you come up on a spring, then at that point what happens?

Mr. Nelson: I'm sorry, can you say that one more time?

Mr. English: If you're digging a grave and you come up on a spring, you've dug into a spring, what effect would that have? Because I've seen... the reason I'm asking this because I work at a funeral home part time and I've seen where they have... people have put vaults in, they bought vaults 10 years, bought cemetery plots 10 years just in anticipation, you know, that everything's paid for. When they get there and they dig... when they dig the grave up to put the casket in the vault, you lift the vault top up and it's full of water.

Mr. Nelson: Sure. That would be considered a very high-risk situation. Whenever there's water present within a grave, it's never recommended to be a burial site.

Mr. English: Well, I have seen... I have personally seen this several times.

Mr. Nelson: Yeah, I have no doubt that it does occur. I'm simply saying that that's considered a very high-risk situation. And it goes to speak to the site-specific risk assessment that we recommend, one of the primary factors that you would look for when you conduct that risk assessment would be whether conditions like that exist and, if they do, most guidelines say that you should never consider that as a cemetery site.

Mr. English: But who... if that happens, who reports that? I mean, how does that go reported?

Mr. Nelson: I can't speak to how the reporting of that would go if a site was in operation. Only that it is high risk, and the reason for that is because you have groundwater directly in contact with the burial site. So, you don't have the vadose zone, which is the unsaturated soil column, you don't have the



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vadose zone to attenuate those microorganisms. And that vadose zone is extremely important with regard to microbial attenuation. So, when you lose that, that safety factor so to speak, you're introducing a mechanism by which it's directly introduced to water and can then be transmitted downgrading it.

Mr. English: I agree. Okay, thank you.

Mr. Nelson: Sure.

Mr. Apicella: Thank you. Any further questions?

Mr. McPherson: I have one question. There've been a lot of discussions about the horizontal distance between a grave site and a well, but I think there should also be consideration between the vertical distance between a burial and the water table. Do you have any comments about how that would also affect the horizontal distance if the water table's a lot closer to a burial site than if the well is shallow, how would that make an affect? I'd like your input.

Mr. Nelson: Sure. Yeah, the recommended separation distance between the base of a grave and the water table is, depending where you look, 3.3 to 4.9 feet generally as a minimum distance. The shallow aquifers are going to be at the highest risk and so, if you reduce that, again you're just reducing the level to which the vadose zone attenuation can occur and that would introduce a higher risk to wells in general, but especially wells that are shallow producing from that shallow unconfined aquifer. And when an applicant would evaluate a site on a hydrogeologic assessment site specific basis, that would be something that they would need to look at would be not just identifying potable wells in the vicinity of the proposed site, but also identifying the nature of the wells. So, the depth of the wells would be a key piece of information to have when making that determination.

Mr. McPherson: So, do you think the horizontal distance should maybe be based also on the vertical distance between a gravesite and the water table aquifer?

Mr. Nelson: So, the recommended distance that we have of 656 feet, that essentially considers the vadose zone attenuation as a bonus safety margin. That 200... or that 656-foot separation distance, it's based on a wide variety of factors in conjunction with typical 100-day groundwater travel times for a variety of subsurface media. So, it doesn't even consider the safety buffer that you get within the unsaturated vadose zone. So, I think that as long as you're maintaining that minimum separation distance of 3 to 5 feet, you're going to have the safety with the 200-meter separation regardless.

Mr. McPherson: Okay, thank you.

Mr. Apicella: Thank you. Any other questions?

Mr. Randall: Yeah, this is Bart. What's... how old is Mr. Dent's doctoral thesis?

Mr. Nelson: He published it in 2002.

Mr. Randall: Two thousand and two. And that's the industry standard you would say?

Mr. Nelson: It's certainly the most thorough comprehensive study on the matter, yes.

Mr. Randall: Okay, thank you.

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Mr. Cummings: I'd like to thank you for your presentation. It's thorough and it's very informative but, like with most informative things, it raises a bunch of questions. And for me... so, the study didn't include any evaluation of any actual contamination in Stafford. Is that correct?

Mr. Nelson: That's correct. We're unaware of any data on the subject in Stafford, or even in Virginia for that matter.

Mr. Cummings: And so maybe there's a question out to staff if we have any other reporting mechanisms or any reports; that would be helpful to know. And I know it's been... the 656 is not arbitrary, but without more data, I'm just disinclined to really reconcile how we came up with that number. I understand that it would be a safe distance, but I don't know without more data if I feel comfortable settling on a number, particularly without knowing what other, not just localities but, you know, nationwide what the numbers look like. So, I would love to be able to get a broader view of it. And I can't imagine that the State's 900 would stand based on some of the other attachments that I've seen in today's... you know, in today's agenda. So, I think it's something that we need to look at and look at more closely. And I think that... so, and I'll try to focus my questions on things that you can answer. So, the depth and the proximity to the aquifers and to the wells, because of the low transmission or all the issues... the limitations or the mitigations... *inaudible*... low levels, the transmission rate is low, survival rate of microbes, you listed those, can you talk a little bit about that again so that it's clear in my mind before we put this thing to a vote?

Mr. Nelson: Sure. So, you're wondering mainly about some of the primary influencing factors? Is that right?

Mr. Cummings: That's correct. And the limiting factors to contamination.

Mr. Nelson: Okay. Yeah, and before I mention that, I will add that although there wasn't any data related to cemetery sites specifically in Stafford, I'll just add that we are quite familiar with Stafford geologic and hydrogeologic conditions. We did recently, a year or two ago now, we completed a hydrogeologic assessment and water budget for the Piedmont half of the County, which was incorporated into the comprehensive management plan. So, we certainly did take Stafford site specific conditions into account when we did this... this report. But to get to your question, again, some of the high-risk situations that I referenced, that really gets to some of these primary factors. And it's essentially climactic factors and soil aquifer composition factors. That's essentially what it boils down to, whether that be characteristics of the soil aquifer or climactic factors such as precipitation and temperature. Things like precipitation, as you get increased precipitation, that... you can think of it as driving those contaminants down into the water table and allowing them to be transmitted so increased precipitation will lead to increased microbial transmission. Temperature is not as... doesn't have as pronounced of an effect as precipitation. But in general, microorganisms favor a more moderate climate versus a very cold or very hot climate, although there's a wide range in which they can survive and even thrive. As far as soil aquifer characteristics go, one of the most dominant factors is the permeability of the material, which intuitively makes sense because if you have something like a sand or a gravel, coarse sand, it's going to allow that material to be rapidly transmitted through the aquifer or through the vadose zone so you lose out on that attenuative factors. And also, microorganisms have a limited survival time in most groundwater environments because... I should say enteric microorganisms, because they want to be within their host where they originated. And when they're released to groundwater, that's not the environment that they're suited for. So, again, over time they do die off, and that's essentially how Mr. Dent... why he bases it on a hundred day travel time. Because most microbial species associated with the human guide are going to have a hundred day travel survival period or less, and that's why he

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evaluated that metric against a wide variety of soil types. And I'll add that the 656-foot distance that I mentioned, that is considered a very conservative number. Very often, if you do a site-specific evaluation, I would say there's certainly a good chance that it may warrant less of a setback distance; so that 656-foot distance is considered to be conservative.

Mr. Cummings: And, so, in considering an ordinance that's designed to protect the public safety, would you say that there are other things that we could add to the ordinance to sort of... to ensure that we are truly protecting public safety? Because I remember early in your presentation you mentioned that we... there's nothing that prohibits these cemetery yards in floodplains and other things. Am I correct?

Mr. Nelson: Yeah, I think that that should... that's why I think it's an important component of a site-specific evaluation especially. But yeah, there are situations where you essentially never want to establish a cemetery site, those being extremely high permeability aquifer soil conditions, the 100-year floodplain, whenever there's inadequate separation between the base of the grave and water table; those are all situations where you do not want to establish a cemetery.

Mr. Cummings: So, suffice it to say, it's a complex issue and that it requires greater study.

Mr. Nelson: Absolutely.

Mr. Cummings: Okay, thank you.

Ms. Barnes: Can I jump in real quick and just, ah, I wanted to go back to... well, you mentioned that while we don't have any specific examples of contamination in Stafford, it sounds like you did go in and do some extensive studying of the conditions in Stafford that could lead to contamination, if I'm reading correctly.

Mr. Nelson: That's right. And what we did was we looked... we focused our research on studies that evaluated cemetery sites that had similar climates to that of Stafford County. And the reason for that is because a tropical cemetery site is inherently going to be a much higher risk than a temperate climate site like that of Stafford. So, we focused our research on other temperate climate sites and that's what we... that's what we used to essentially come up with our recommendation. Because whether that cemetery happens to be halfway across the world or here in Stafford County, a clay generally functions as a clay, whether you're there or here.

Ms. Barnes: So, you can go into very similar geological circumstances and take a look at what is most likely scientifically using the scientific process going to happen in Stafford, not necessarily what historically has happened in Stafford but, based on the science, what could happen specific to our area and our geology.

Mr. Nelson: That's right, yes.

Mr. Apicella: Any further questions? Okay, I've got just a couple of questions myself. So, you may not know the answer to this, but are vaults or liners required in the Commonwealth of Virginia?

Mr. Nelson: I don't know if it's required, but that is something that we looked at as part of our evaluation and how those in-grave features influence leachate release and leachate migration. Essentially, they can limit the release for a period of time, but there's no such thing as a long-term sealed vault or coffin or any material. Leachate will release over time; it's just a matter of when. And a lot of these materials,

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water is either designed to be able to go in them and leach out or they're really not designed to be sealing anything for any extended period of time. So, that is something we looked at, but I don't know what the Virginia regulations on the matter are.

Mr. Apicella: So, you probably wouldn't know the answer to my second question then. Are caskets or some kind of other similar device required for burials? So, even if you didn't require a vault or a liner, can someone just put a, for example, a casket in the ground?

Mr. Nelson: Yeah, I am not sure.

Mr. Apicella: But what I think I hear you saying, though, if the State doesn't require a vault or a liner and/or a casket or something similar, at least in the short term that could be a greater risk and certainly in the longer term, and I don't know what the longer term is but let's just say a hundred years, even if you had those items for burials they wouldn't last forever.

Mr. Nelson: Yeah, that's right. And the degradation period is going to be quite a bit less than a hundred years, but yeah, I agree with the point you're making.

Mr. Apicella: So, in the Commonwealth of Virginia, if you're able, and pardon my saying it this graphic way, but if you're allowed to just bury a body in the ground and multiply that using Mr. English's example by a thousand plus, you could have some significant issues.

Mr. Nelson: Yeah, you... in that situation, you would have rapid loading to the subsurface because it wouldn't be delayed; it would occur over a probably shorter period of time. And there are some benefits in that scenario in that you would have more aerobic decomposition processes which leads to more thorough decomposition of the body and it helps reduce some negative... some adverse effects but that's why you would have a faster leaching period in that situation if you did not have a coffin or other temporary restrictive in-grave feature.

Mr. Apicella: And so, I don't know aerobic term, I'm not quite making that connection. But let's just say, again, in the shorter term, if you had a thousand bodies buried in a cemetery, it could impact neighbors' groundwater or the quality of their groundwater if they're in close proximity?

Mr. Nelson: Depending on the nature of the site, depending on the subsurface conditions of the site, possibly.

Mr. Apicella: Well, I'm using Stafford as the example. So, you mentioned that we have some soil issues here in Stafford. So, if we had that set of circumstances in Stafford, that that could create some potential problems for some neighboring private wells.

Mr. Nelson: That's... and again, depending on the separation distance between those wells, if you maintain an adequate separation distance, you wouldn't expect to see those impacts. But if it's an improperly sited cemetery or if you have wells that are too close, yeah, you could absolutely have impacts.

Mr. Apicella: Okay, thank you. Any further questions?

Ms. Barnes: Yes, Steven, I just had a quick question. Is... and this may be a question for staff, not necessarily for our expert here... is there a limitation on the number of bodies that can be buried in a

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cemetery or per acre? I remember at one point hearing, you know, talking about you can have up to, what, 2,000 bodies per acre in a cemetery. And, you know, if you have a hundred acres, that's 200,000 bodies in a cemetery. That basically to me sounds like a bio-landfill and that creates some interesting chemistry. But is there any limitation in Stafford County, in Virginia, or maybe that's a question for staff instead of this expert?

Mr. Harvey: Commissioner Barnes, I'm not aware of any limitation on the number of bodies. There is certain geometry and math as what you're implying that physically you can only fit so many graves on a certain square footage area. Some of the issues when you look at some of the studies that were referred to previously is that in some cemeteries, especially older cemeteries, there may be bodies buried on top of bodies. So, it depends on, again, how deep the grave shaft is and how the operator of the cemetery is setting up their layout for burials.

Ms. Barnes: But we have no way of limiting it; there's no number they can... there's no specific cap on burials.

Mr. Harvey: Not that I'm aware of.

Ms. Barnes: Thank you.

Mr. Apicella: Okay, any other questions for this speaker?

Mr. Randall: Yes, I have one, Steven, sorry. Could you give us your credentials please?

Mr. Nelson: Sure. I'm a Senior Hydrogeologist with ECS Mid-Atlantic. I'm a Certified Professional Geologist in Virginia, and I'm a Licensed Professional Geologist in 5 other States. I've been working as a Professional Hydrogeologist for 12½ years. I've been working in Virginia for the past 7 or 8 years. And, as I mentioned earlier, we did fairly recently complete a very thorough comprehensive evaluation of the Piedmont portion of Stafford County, the hydrogeologic conditions, and that was incorporated into the Comprehensive Management Plan. I have a Bachelor's Degree in Geology and I have a Master's Degree in Hydrogeology from Utah State University.

Mr. Apicella: So, you're... I'm sorry to jump in. So, you're familiar with the groundwater and well issues that we've had in Stafford.

Mr. Nelson: I am familiar, yes.

Mr. Apicella: Okay, thank you. I didn't mean to cut you off, Mr. Randall, if you have any other questions.

Mr. Randall: So, you are the one that actually did this study? You're just not presenting to us as a representative of ECS, you actually did the study that we're referring to, correct?

Mr. Nelson: That's correct.

Mr. Randall: Go Aggies, by the way. Thank you.

Mr. Nelson: Agree, yeah.

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Mr. Apicella: Okay, last call for questions of this speaker. Alright, I'm going to bring it back to Ms. Baker.

Mr. Nelson: Thank you.

Mr. Apicella: Thank you.

Ms. Baker: If I could have the presentation back up please? So, just to kind of summarize, the recommendations from ECS were completed subsequent to the Board of Supervisors' referral of the Ordinance O20-19. Based on the findings from ECS, staff is concurring with the ECS recommended minimum setback of 656 feet, or 200 meters. Staff is recommending approval of Ordinance O20-19 with the further reduced setback of 656 feet. We feel these amendments will clarify any ambiguity in the current code. It will also provide a clearer process for approving cemeteries that aren't classified as being churchyard or family cemeteries on private property. And it will provide relief from setback requirements from drinking water supplies where scientific studies prove that the likelihood of contamination is minimal. That completes the presentation and I'd be happy to answer any questions.

Mr. Apicella: I just want to clarify, the BOS, the Board of Supervisors referral, in my reading, does not authorize the Commission to add to, to delete from, or change any of the language in proposed Ordinance O20-19. Is that...?

Ms. Baker: That's correct Mr. Apicella.

Mr. Apicella: So, we're only allowed to take an up or down vote on the specific language in that proposed Ordinance, right?

Ms. Baker: That is correct.

Mr. Apicella: And, if we wanted to do anything with the consultant's recommendation, all we can do is, again, take an up or down vote on the proposed Ordinance and then have a non-binding separate recommendation to the Board on that change in the minimum setback.

Ms. Baker: Yes, that is correct.

Mr. Apicella: Okay. Any further questions for staff? Okay, thank you Ms. Baker. I'm going to open the public hearing on this matter. This is an opportunity for the public to comment on this item. Before stating your comments, starting your comments, please state your name and address. The green light starts the clock. Yellow means there's 1 minute remaining. Red means you need to wrap up. If anyone in the chambers would like to come forward, please do so now.

Mr. Harvey: Mr. Chairman, there's nobody in the chambers to present for this public hearing. I do have two electronic submissions and I'll read them when you're ready.

Mr. Apicella: Are you just going to read the letters or are you going to read any additional information that was attached to the letters?

Mr. Harvey: Mr. Chairman, I intend on reading the letters. There is an attachment to one of them which is in excess of 20 pages.

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Mr. Apicella: Right. So, that becomes part of the record; we don't need to read word for word that attachment, right?

Mr. Harvey: Correct. It's been handed out to the Commission at the dais; it's posted on the web; and it's been emailed to the Commission. So, the Commission has full access to that information.

Mr. Apicella: As do members of the public?

Mr. Harvey: Yes sir.

Mr. Apicella: Okay. Well, please go ahead.

Mr. Harvey: Okay, the first letter of correspondence is from Melanie Westover Yanez of Milbank. And it was sent by email to Sharon Pandak of Greehan, Taves and Pandak, and also to David Honadle, Deputy County Attorney. The subject is Stafford County Code Proposed Ordinance O20-19.

*"Dear Ms. Pandak and Mr. Honadle,*

*As you know, we represent the All Muslim Association of America, Inc. ("AMAA") and we write to you regarding Proposed Ordinance O20-19 (the "Proposed Ordinance"), which is to be considered at the July 22, 2020 public Planning Commission hearing.*

*As you also know, AMAA has commenced litigation in federal court (the "Federal Action") against Stafford County and its Board of Supervisors. In that Federal Action, AMAA alleges, among other things, that the existing cemetery provision, County Code section 28-39(o), imposes an impermissible substantial burden on AMAA's religious freedoms in violation of the Religious Land Use and Institutionalized Persons Act of 2000, the U.S. and Virginia Constitutions and Virginia's Dillon Rule.*

*As alleged in the Federal Action, the Proposed Ordinance will not remedy the violative acts committed by the County and Board to date. The Proposed Ordinance is itself unlawful. It imposes burdensome setbacks between non-churchyard and non-family cemeteries and private wells, perennial streams and terminal reservoirs. These same setbacks, however, are not applicable to churchyard and family cemeteries. The Proposed Ordinance also defines churchyard in a way that the County and Board know is discriminatory against Muslim cemeteries, which pursuant to the Islamic faith, cannot be co-located with a mosque.*

*To be clear, AMAA is referencing the Proposed Ordinance described in the public notification for the July 22 hearing. We mention this because, in the Federal Action, the County and Board submitted to the court a proposal that is markedly different than the Proposed Ordinance before the Planning Commission at the July 22, 2020 hearing.*

*In light of the ongoing litigation and the County's prior treatment of AMAA at the public hearings, we do not believe it would be appropriate for AMAA to appear in person to articulate these concerns. We respectfully request that you share this letter, as well as the complaint and briefs filed to date in the Federal Action, with the Stafford County Board of Supervisors and the Planning Commission.*

*We appreciate the Planning Commission's careful consideration of the contents of this statement and the record in the Federal Action. Sincerely, Melanie Westover Yanez"*

And the second letter was written by Sameena Shina Majeed, representing the U.S. Department of Justice, Civil Rights Division, Housing and Civil Enforcement Section. It was co-authored by Beth

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Pepper, who's a trial attorney. It was written to Sharon Pandak, Esquire, Counsel for Stafford County, VA. Subject is United States vs. Stafford County.

*"Dear Ms. Pandak:*

*Thank you for informing the parties in the above-captioned action of the upcoming July 22, 2020 Planning Commission hearing to consider amendments to the County Code pertaining to cemeteries, and for inviting the Department of Justice to provide input on the proposed amendments. We ask that you share with the members of the Planning Commission and the County Board of Supervisors the allegations made in the United States' Complaint about the proposed amendments.*

*In particular, we ask that you draw their attention to our allegations that the amendments under consideration would "impose[] requirements far beyond those in place when the All Muslim Association purchased the Garrisonville Property and will cause additional delay, uncertainty and expense. The [amendments do] not remedy the substantial burden that has been imposed by the County on the All Muslim Association." See Complaint ¶ 108; see also Complaint ¶¶ 93-95. A copy of our filed Complaint is attached for your convenience. Sincerely, Sameena Shina Majeed, Chief"*

And that was referenced previously by myself. And again, that complaint is attached to the information presented to the Commissioners, and is posted on the website for the public to view as well. And that is the conclusion of the second letter.

Mr. Apicella: Thank you, Mr. Harvey. Again, with no one else in the chambers to provide any further public comments on this item, I'm going to close the public hearing and bring it back to the Commission for further discussion and deliberation. Any discussion? Any motions?

Ms. Barnes: I'd like to make a motion.

Mr. Apicella: Okay, Ms. Barnes.

Ms. Barnes: I'd like to make a motion to approve Amendment to the Zoning Ordinance, Proposed O20-19, that would amend Stafford County Code Section 28-25. But we did discuss about making recommendations and I guess we're just going to do that separately?

Mr. Apicella: Yes. So, your motion is to approve Proposed Ordinance O20-19 as written.

Ms. Barnes: Correct.

Mr. Apicella: Okay, is there a second?

Mr. Randall: Yeah, I'll second that motion.

Mr. Apicella: Okay. Any further comments on your motion, Ms. Barnes?

Ms. Barnes: I was very impressed with the study that the previous gentleman had, and I think that he gave us... I mean, his credentials were impeccable and I think he made things a lot clearer for me.

Mr. Apicella: Thank you, Ms. Barnes. Mr. Randall?



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Mr. Randall: None at this time, thank you.

Mr. Apicella: Any further comments on the motion?

Mr. Cummings: I have a comment. While I think that it's a complex issue and I think that there's been no real data, actual data, of leaching or contamination and I think that that bears some study. And I would have loved to have seen some collection, some information about that. And even without that information, I think that there's some requirements within the ordinance that could be added, and hopefully we will be discussing and putting forward to the Board that would make it a little bit more complete and truly geared towards comprehensive as far as public safety is concerned. There's also issues based on the letters that were read here today and some of the issues that were raised that I think that also raises questions about advancing it. But given the way it was presented to us, I think that, you know, I understand the need for the motion but I don't agree with it. And so I just wanted to make that clear on the record.

Mr. Apicella: Thanks Mr. Cummings. Any further comments? Okay, again, there's a motion to recommend approval of Proposed Ordinance O20-19 as written. Mr. Randall, will you take a roll call for the vote?

Mr. Randall: Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: No.

Mr. Randall: Darrell English?

Mr. English: No.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall says yes. Fillmore McPherson?

Mr. McPherson: No.

Mr. Randall: Dexter Cummings?

Mr. Cummings: No.

Mr. Randall: The motion fails 4-3 (*Barnes, Apicella, Randall voted yes*).

Mr. Apicella: Okay. I believe that the staff wants us to also make a separate...

Ms. Lucian: I have a statement on this one.

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Mr. Apicella: ... for lack of a better... *inaudible*...

Ms. Lucian: Mr. Apicella? On this one I think if you want to make your recommendation absolutely clear to the Board that you should probably make a new motion. It's up to the Commission. The statement will be clearer if there's another motion made.

Mr. Apicella: Yeah, I was going to... if you give me just a chance. If I'm saying the wrong thing please let me know.

Ms. Lucian: Of course.

Mr. Apicella: So, I believe the staff recommended that the Planning Commission ask the Board to consider reducing the minimum setback at Section 28-39(o)(1)(a)(4) to 656 feet commensurate with the EMS Mid-Atlantic Consultants recommendation. Is that...

Ms. Lucian: No, Mr. Apicella, I'm actually talking about the original motion that was made. I think it will make it clearer to the Board what you're recommending if you have a vote on the other motion.

Mr. Randall: In other words, why it failed?

Ms. Lucian: Correct. And it's up to the Commission if you want to do that. But, if you make a motion on that end, it's up to you.

Mr. Apicella: Okay. Again, I'll open the floor to any motions that anyone wants to make.

Mr. English: I think it was an up or down vote, Steven. My opinion is just leave it like it is; that's my opinion.

Mr. Apicella: Okay.

Mr. Randall: Right, I think the message though to the Board is why did we say no to it. If they want to go back and fix it, how are they going to fix it so we can approve it?

Ms. Lucian: No, what I'm trying to say is that since the motion was to approve and it failed, it doesn't give them clear direction as to what your recommendation is. So, if you wanted to say no that we do not agree with it in its form, then a motion on that would make more sense.

Mr. Randall: Absolutely, totally agree. So, I guess we need then to make a list of things...

Mr. Apicella: Again, I'm just trying to clarify; are you asking us to consider a motion to deny recommending Proposed Ordinance O20-19?

Ms. Lucian: I am... I'm making that recommendation, yes.

Mr. Cummings: And to state a reason.

Ms. Lucian: It's still up or down... no, not a reason. It's an up or down vote, as well, but I am making the recommendation that if you want to make clear what just happened in your previous vote is that you make a motion to deny.

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Ms. Barnes: So, you basically just want us to flip it.

Ms. Lucian: Correct.

Ms. Barnes: Okay.

Mr. Apicella: So, I'm just going to... Mr. Cummings, you can certainly make whatever comments you want after the motion is made and seconded, whichever direction your viewpoint is on it. So, I'll open the floor up. Is there a motion to deny Proposed Ordinance O20-19?

Mr. Bain: I'll make that motion.

Mr. Apicella: Okay, is there a second?

Mr. Bain: This is Al.

Mr. McPherson: Second.

Mr. Apicella: Okay. Any further comments, Mr. Bain?

Mr. Bain: No.

Mr. Apicella: Okay, I'm just going to... I'll suggest that it might be helpful to the Board if you make some comments, but not... *inaudible*.

Mr. Bain: All right. The reason I'm making the motion is that the Ordinance, as proposed by the Board, is not consistent with the final recommendations of the ECS, that stipulated that a good number for setback would be 200 meters or 656 feet.

Mr. Apicella: Okay. I'm trying to remember who seconded. Was that you, Mr. McPherson?

Mr. McPherson: Yes it was, and I agree with Commissioner Bain. And also, there might need to be some comments or requirements based on the type of ground and how far things can transmit through the ground, just in my opinion. It's not a requirement, just a thought.

Mr. Apicella: Okay. Any other comments?

Ms. Barnes: Okay, so just let me get this straight. So, we're going to vote this time to deny it because we, and the reasons we're giving it is because this latest study that we have seems to be a little more appropriate or gives us a little bit more teeth or maybe scientific data? That's what I'm not real sure about. Because I know with the last one, we could have voted yes and then given a recommendation to go with the actual 656 and that's... that's...

Ms. Lucian: You can still do it that way if you wanted to have two separate motions. The first one would be to deny the Ordinance as it's written. And then you could make a third motion if you wanted, to make recommendation as to what you suggest.

Mr. Apicella: Okay, we still have a motion on the floor; it's been properly seconded. Ms. Barnes, do you have any other comments?

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Ms. Barnes: No.

Mr. Apicella: Okay. I'm not hearing any. So, anyone else have any comments? Okay, so there's a motion to deny O20-19. Mr. Randall, will you call the roll?

Mr. Randall: Kristen Barnes?

Ms. Barnes: No.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall, no. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: The motion is approved, 5-2.

Mr. Apicella: Mr. Randall, you voted yes, right?

Mr. Randall: No, I voted no to deny it, as the motion was stated.

Ms. Barnes: And that's what I did, I voted no to deny. Double negative.

Mr. Randall: So, there are 5 yeses to deny and 2 noes to deny.

Mr. Apicella: Gotcha.

Mr. Randall: So, the motion to deny passes 5 to 2.

Mr. Apicella: Okay, so I'm going to again ask if there's a motion to ask the Board per the staff's recommendation that the minimum setback be reduced at Section 28-39(o)(1)(a)(4) to a minimum setback of 656 feet commensurate with the EMS Mid-Atlantic Consultants recommendation. Is there a motion to that effect?

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Mr. Randall: Yes, I'd like to make a motion that we leave O20-19 in place with the exception of a 656-foot setback as required... as recommended by the ECM study.

Mr. Apicella: Okay.

Mr. Bain: Second.

Mr. Apicella: Any further comments, Mr. Randall?

Mr. Randall: Yes. If the reason... I mean, I think there lots of other things in here that clarify the ordinance, I think there are things in here that will make it more clear that will help in the long run. I think if we're only talking about the 750 to 656, I would agree with the 656, but I was willing to accept the 750 recognizing that, you know, there may be some changes down the road. But I would make a motion that we leave the Ordinance O20-19 as is with the exception of the 656 vice the 750 setback.

Mr. Apicella: Yeah, I think that's where we were. I can't remember if somebody seconded or not.

Ms. Barnes: So, is this just a recommendation? We're not actually... this is just recommendations.

Mr. Apicella: Yes.

Ms. Barnes: Okay.

Mr. Apicella: This is a recommendation. We still need to take a motion to put forward a separate recommendation to the Board. So, again, I'm looking for that person...

Ms. Barnes: So, if I have any other recommendations, I just bring those up separately?

Mr. Apicella: You can, or you can offer a friendly amendment.

Ms. Barnes: Well, I do, but I'm not sure. These are just... I mean, if these are just recommendations that are going up to the Board, I don't... do they necessarily have to be codified this way, or can we just send up recommendations?

Ms. Lucian: It's more helpful if the Planning Commission has a collective recommendation, as opposed to individual comments. So, you can decide whether to make that motion or not. But if you're going to make a recommendation, I recommend that it be a collective decision as to what you're recommending that they do as opposed to differing opinions.

Ms. Barnes: So, if I have a couple more recommendations...

Mr. Apicella: So, just for point of order, I thought Mr. Bain actually seconded Mr. Randall's reworded recommendation.

Mr. Bain: I did, yes.

Mr. Apicella: So, we do have a motion on the floor that's been seconded. I gave Mr. Randall a chance to speak to it; I'm going to give you a chance Mr. Bain.

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Mr. Bain: I have no other comments.

Mr. Apicella: Okay, any comments on this specific motion and associated recommendation?

Mr. McPherson: I have one question for Commissioner Randall. Did you say with the exception of 656 feet, or is that included in your motion?

Mr. Randall: The motion was to all of the applicable changes with the exception of the 750-foot setback being replaced by the 656-foot setback.

Mr. McPherson: So, to be clear, your motion is keeping the 750 feet.

Mr. Apicella: No. He's saying he wants to amend that section of the Ordinance, replacing 750 feet where it's written under that part 4 to 656 feet. And I think it would change twice.

Mr. McPherson: Okay, thank you.

Mr. Randall: It would change twice.

Mr. Harvey: Yes, and Mr. Chairman, the other subsection that's applicable is subsection (c)(2), which also referenced the 750-foot dimension.

Mr. Apicella: Okay. Mr. Randall, will you take that as a friendly amendment?

Mr. Randall: Yes.

Ms. Barnes: And if I want to make an amendment, do I do that right now? Make an amendment to add a couple more things?

Ms. Lucian: I think there's already a motion on the floor. But you can make a substitute motion.

Ms. Barnes: So, I would like to make a... go ahead Steven.

Mr. Apicella: I just think... why don't we try to dispense with this and then, if we wanna overlay that with some additional further recommendations, why don't we deal with that separately?

Ms. Barnes: I'm good with that.

Mr. Apicella: Okay. So, I'm not hearing any further comments. I'm going to ask Mr. Randall to take a roll call vote.

Mr. Randall: Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

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Mr. Apicella: Again, we're replacing 750 feet to 656 feet in Proposed Ordinance O20-19

Mr. Randall: Yes. Darrell English?

Mr. English: No.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall is yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: No.

Mr. Randall: Alright, the recommendation to the Board motion passes 5-2 (*English, Cummings opposed*).

Mr. Apicella: Okay. So, I'll again open up the floor to any additional recommendations put forward as a motion at this point in time.

Ms. Barnes: Okay. So, I'm just making recommendations or am I making a motion?

Mr. Apicella: You're making a motion to provide additional recommendations to the Board

Ms. Barnes: Okay. So, I would like to make a motion for a couple more recommendations. I think that, and this may be a little bit wordy and we can kind of pare this down, that 656 feet recommendation needs to apply to all cemeteries, including churchyard and family cemeteries, so that everybody's treated equally. I think that we need to match the ordinance with the State law requiring signatures for all cemeteries, including churchyard and family cemeteries. I'd like to recommend that a conditional use permit be required for all cemeteries except family and churchyard, because they are exempt by State law from requiring a conditional use permit. And that churchyard and family cemeteries should be given the opportunity to apply for a conditional use permit if they want to reduce that setback. And, at that time, that could also give the County a little bit more room to control other mitigating issues besides water quality issues like hours of operations, things like that.

Mr. Apicella: Okay, is there a second?

Mr. English: I'll second that motion.

Mr. Apicella: Okay, it was pretty wordy so I'm going to ask you to again restate your recommendations.

Ms. Barnes: Okay.

Mr. Apicella: Just the recommendations; don't... no editorializing. Just tell me exactly the specific things that you want.

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Ms. Barnes: Okay, I will do that. The 656-foot setback needs to apply to all cemeteries, including churchyard and family cemeteries. We need to match the ordinance with the State law requiring signatures for all cemeteries. We need to require a conditional use permit for all cemeteries except family and churchyard cemeteries who then can apply for a conditional...

Mr. Apicella: I don't want... no editorializing, just tell me exactly the change you want.

Ms. Barnes: Okay, thank you, everybody understands, thank you.

Mr. Apicella: I thought there was a fourth piece?

Ms. Barnes: I think I did four. That was it. Those are the three that I had... including the 656.

Mr. Apicella: Okay. I'm just going to try...

Ms. Barnes: There were three recommendations in that motion Steven.

Mr. Apicella: Okay. So, 656 setback for all cemeteries; signatures for all cemeteries; and a CUP for all cemeteries except for family and churchyard. Is that right?

Ms. Barnes: Correct.

Mr. Apicella: Okay. Any further comments Ms. Barnes?

Ms. Barnes: Oh no.

Mr. Apicella: Mr. English?

Mr. English: No, no.

Mr. Apicella: Anyone else?

Mr. Bain: Just a... just a question maybe. If it's a by-right use, can we impose that setback limit on them? If it's by-right, I don't know. Maybe Lauren could give us some guidance.

Ms. Lucian: I can't opine on that right now, but you can make the recommendations that you've already listed. And if there are any legal issues, they can be addressed at another time.

Mr. Apicella: Okay. Any further comments? Alright, seeing none, I'm going to ask Mr. ... Is there a comment?

Mr. Cummings: Yeah, Mr. Cummings is going to be a broken record again and just state for the record that I think that the... it's a complex issue and I think that there's more that needs to be included into this ordinance in order for it to be... to protect the public and also to cover all... *inaudible*.

Mr. Apicella: Okay, with no one else commenting, Mr. Randall, will you please call the roll on a motion to put forward these additional recommendations to the Board of Supervisors.

Mr. Randall: Kristen Barnes?



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Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: No.

Mr. Randall: Bart Randall is yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: I'm going to vote no.

Mr. Randall: The recommended motion... motion to recommend changes passes 5-2.

Mr. Apicella: Okay, thank you everybody. I'm hoping we can move on, unless there are any further motions. Okay, moving onto item number 7.

UNFINISHED BUSINESS

NONE

NEW BUSINESS

7. WAIV20153339; Waiver - Graystone at Abel Lake - A waiver request of the Subdivision Ordinance, Stafford County Code, Sec. 22-156, "Block length," for Tax Map Parcel Nos. 37-4C, 37-4D, and 37-4, zoned A-1, Agricultural, located on the south side of Kellogg Mill Road, approximately 4,500 feet west of Mountain View Road, in the Hartwood Election District. **(Time Limit: September 20, 2020)**

Mr. Harvey: Mr. Chairman, item number 7 is a request for a waiver for a block length for a project known as Graystone at Abel Lake, and Amy Taylor will make the presentation for staff.

Ms. Taylor: Good evening Mr. Chairman and members of the Commission. I am Amy Taylor again this evening with the Department of Planning and Zoning. And I am here to present item number 7 on the agenda. This item is a request for a waiver for Section 22-156 of the Subdivision Ordinance for block length for the proposed Graystone at Abel Lake subdivision. The site is located on Assessor's Parcel... excuse me, Assessor Parcels 37-4, 37-4C, and 37-4D, with a combined total acreage of 167.02 acres. And the site is located within the Hartwood Election District. The applicant for this request is Alex McCallister with Abel Lake, LLC. The subject property is currently zoned A-1, Agricultural, and

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is located along the south side of Kellogg Mill Road, west of Mountain View Road, and is shown here with the bold black outline – right here in the center of the slide. Section 22-156 of the Subdivision Ordinance requires a maximum block length of 2,500 feet for Agricultural zoned subdivisions. Proposed Lake Bluff Court is 2,700 feet long, which is 200 feet longer than permitted by Code. However, the applicant is unable to meet the maximum allowable length due to the site's existing topography and environmentally sensitive areas. The road alignment shown here in orange represents a hypothetical alignment that would produce block lengths less than 2,500 feet, which the applicant has indicated is not feasible for multiple reasons. The vertical alignment for a connection point in this location would require cover or fill depths in excess of 60 feet from the existing stream channel, which would not be possible since the necessary concrete pipes could not be adequately reinforced to handle the load. Geotechnical investigations have also indicated that excessive bedrock in the area would make construction in this particular location even less practical and the height of the stream crossing in this location would create additional and unnecessary wetland impacts. The road alignment shown in blue to the right-hand side of the slide represents another hypothetical alignment which would reduce the total block length to less than 2500 feet but the applicant has indicated that this also is not feasible due to steep slopes and environmental impacts. Due to the constraints created by the site's existing topography and sensitive environmental features the applicant has requested a waiver of Section 22-156 for block length to specifically permit a block length greater than 2500 feet and allow the block length to be extended to 2700 feet for Lake Bluff Court. In accordance with Section 22-241 of the Subdivision Ordinance, in order for a waiver to be granted by the Planning Commission the applicant must prove that the application, excuse me the applicant must prove that the application of the minimum requirements would impose an unreasonable burden upon the owner and granting of the waiver would not have a substantially adverse effect on future residents of the proposed subdivision or any adjoining property owners. At this time staff recommends the Planning Commission make findings relative to the criteria for granting waivers. This concludes my presentation and I'm available to answer any questions.

Mr. Apicella: Thank you Ms. Taylor, any questions for staff? Okay, seeing none would the applicant like to come forward?

Mr. McCallister: Good evening Chairman Apicella, members of the Planning Commission, Alex McCallister. I'm here before you as Ms. Taylor said to try to seek a block length waiver, and I'm pretty much going to defer this to, I have my engineer here, but I would like so say, I think as Ms. Taylor said we possibly could achieve under the block length, what's the, the 2500 feet, but to do that we would have to extend roads through environmentally sensitive areas and we're trying to stay away from that so we're asking for the waiver, but I would like to defer to my engineer Ryan Foroughi to answer maybe any questions that you may have. Thank you.

Mr. Foroughi: Mr. Chairman, members of the Commission, Ryan Foroughi, Bagby Foroughi, and Goodpasture, engineer of record for the applicant. Just a couple of things I wanted to expand on, thank you Amy for the presentation, I wanted just to expand on a couple of things. If you go back to the previous slide that shows the overall layout, yes that one's fine, the location of the proposed road at the north, I guess the eastern end of the site is a much less, is a much more appropriate location for that entrance for a couple of locations. It does minimize environmental impacts significantly at that location and the one thing that needs to be stated very clearly about this is the test of any adverse effect of this waiver. The location here which is not seen on a two dimensional piece of paper here is, the orange location that was the hypothetical location that could have met block length in my opinion does propose a very serious threat to public safety, health, and welfare. If anybody's travelled that portion of Kellogg Mill Road, it is extremely steep and that proposed entrance location, while it would meet block length have greater environmental impact, I feel would be a terrible entrance location given the steep slope and

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the excessive speeds and I think everybody remembers correctly unfortunately someone was killed very close in proximity to that so all that being said I'm here to answer any questions that you have, but as Mr. McCallister stated and Amy stated, lesser environmental impacts and you know public safety health and welfare.

Mr. Apicella: Thank you, questions for the applicant. Okay, thank you, hearing none I'm gonna bring this back to the Commission, Mr. English this is in your district how would you like to proceed.

Mr. English: I'm gonna proceed with approval of this, I'm familiar with what he's talking about in that area and it's very slopy and all that so anything with less impact on the environment I'm for so my recommendation is to approve WAIV20153339, the waiver of Graystone at Abel Lake.

Mr. Apicella: Were you the second Mr. McPherson?

Mr. McPherson: Yes, I was.

Mr. Apicella: Okay, any further comments Mr. English?

Mr. English: No other comments.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: No additional comments, thank you.

Mr. Apicella: Anyone else? Okay Mr. Randall, please call roll.

Mr. Randall: Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English.?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Burt Randall is yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings.?

Mr. Cummings: Yes.

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Mr. Randall: Passes 7-0.

Mr. Apicella: Okay, thank you, congratulations the waiver has passed.

8. Amendment to the Zoning Ordinance - Proposed Ordinance O19-40 would amend the Zoning Ordinance, Stafford County Code Sec. 28-59, "Highway Corridor Overlay District (HC)" to require turn lanes for new development at site entrances from corridor highways. **(Time Limit: October 7, 2020) (In Subcommittee - Deferred to August 26, 2020)**

Mr. Apicella: Mr. Harvey, item 8 is deferred to August 26, so I believe we're onto Planning Director's Report. And I would just, just say that we've been at this now a little over 4 hours, so maybe we could just try to move things along quickly.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman, there are three ordinance amendments that were referred to the Planning Commission by the Board of Supervisors. The staff reports and details have been included in your packet, staff would ask the Commission's consideration for allowing us to schedule these for future public hearing at a date convenient to the staff and the Commission.

Mr. Apicella: Mr. Harvey is there anything that really needs to go to the next Commission meeting in August? August 26?

Mr. Harvey: Mr. Chairman, the most critical item on that list is number ten, because there's other issues before the Board in somewhat related fashion with regards to its conservation program.

Mr. Apicella: Okay, I only have just one quick question on this one, is there any reason why expanding this to non... to parcels that are not just involved where the County is a party to the easement?

Mr. Harvey: Mr. Chairman, when the staff was drafting this ordinance we did talk about that aspect, but there was concern raised that the County would not control or have any bearing on what kind of conservation easement would be recorded and what size easement and property and what value to the County and it could create unintended consequences so that's why the staff left it subject to approval of a County conservation easement.

Mr. Apicella: Okay, thanks Mr. Harvey. Is there a motion on item 10 to put this forward for a public hearing at the August 28 Planning Commission meeting?

Mr. English: So moved.

Mr. McPherson: The 26<sup>th</sup> or 28<sup>th</sup>?

Mr. Apicella: I think it's the 26<sup>th</sup>. Okay, I'll take that as a motion. Any further comments, Mr. English?

Mr. English: No sir.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Nope.

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Mr. Apicella: Anyone else? Okay Mr. Randall, quick roll call then.

Mr. Randall: Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Burt Randall is yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: Passes 7-0.

9. Correct Omission with Time Limits Ordinance – *BOS Referral*

Mr. Apicella: Great. On the next two items, 9 and 11, again separate motions, I'll just ask whoever's making the motion to maybe think about pushing one or both of these into the September meetings, just so we spread things out, so I don't have a calendar in front of me, so either the first or the second meeting in September. Is there a motion to put forward item nine?

Mr. English: So moved to September 16. Is that right, would that be right? 16? No... September 25.

Mr. McPherson: No, it's the 9<sup>th</sup> and the 23<sup>rd</sup>.

Mr. English: September 23<sup>rd</sup>.

Mr. Apicella: Okay, is there a second?

Mr. Randall: Second.

Mr. Apicella: Okay, any comments from anybody? No? Mr. Randall, please call roll.

Mr. Randall: Kristen Barnes?

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Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall is yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: Passes 7-0.

10. Subdivision Code Exemptions for Open Space Lots and Conservation Easement Lots – *BOS Referral*

11. Revocation of Special Exceptions – *BOS Referral*

Mr. Apicella: Great. Is there a motion on item 11?

Mr. Bain: So moved to defer to the September 26<sup>th</sup> was it...

Mr. McPherson: Can I make a substitute motion to make that one the 9<sup>th</sup> so that we aren't moving them all to the same meeting? September 9<sup>th</sup> for item 11.

Mr. Apicella: Alright, so Mr. Bain's motion... I hear him saying yes to put this forward as a public hearing item at the September 9<sup>th</sup> meeting and Mr. McPherson, you're seconding that?

Mr. McPherson: Correct.

Mr. Apicella: Okay, any comments? No comments? Mr. Randall, roll call vote.

Mr. Randall: Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

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Mr. Bain: Yes.

Mr. Randall: Darrell English?

Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall is yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: Motion passes 7-0.

Mr. Apicella: Awesome. County Attorney's Report?

COUNTY ATTORNEY'S REPORT

Ms. Lucian: Good evening Planning Commission, I don't have a report.

COMMITTEE REPORTS

12. Senior Housing Subcommittee  
*Next meeting – July 21 @ 4:00 PM in the ABC Conference Room*

Mr. Apicella: Committee Reports. I'm gonna start with Senior Housing; Mr. Randall?

Mr. Randall: Yes, quick report on Senior Housing. We met yesterday and we probably have a 90% solution for a presentation or a list of design standards that we will be presenting to the Board or the Commission, hopefully the last meeting in August, maybe the first meeting in September, but we had a very successful meeting yesterday and our next meeting is scheduled for the 21<sup>st</sup>, I think it's August 21<sup>st</sup>. Thank you.

13. Healthy Growth Subcommittee  
*Next meeting – August 5 @ 2:30 PM in the ABC Conference Room*

Mr. Apicella: Thanks Mr. Randall. Healthy Growth, Mr. Bain?

Mr. Bain: Yes, our next meeting is scheduled for August 5<sup>th</sup>, I'm hopeful that as a result of that meeting we'll have some recommendations to pose to the Commission at the next meeting.

14. HCOD Turn Lanes Subcommittee  
*Next meeting – TBD*

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Mr. Apicella: Thanks Mr. Bain. HCOD Turn Lanes, Mr. English?

Mr. English: Yes, we're gonna have one more meeting and then we should be able to bring something back Mr. Apicella.

Mr. Apicella: Thank you Mr. English.

Mr. Harvey: Mr. Chairman, just a point of clarification, for the Senior Housing Subcommittee, the committee agreed to yesterday that the next meeting would be held on August the 19<sup>th</sup> at 4:00 PM, assuming the meeting room is available.

Mr. Apicella: Okay, thanks Mr. Harvey for the clarification.

Mr. Randall: Yes, thanks for the clarification on that. I wasn't sure of the date, thank you.

CHAIRMAN'S REPORT

Mr. Apicella: Chairman's Report, I don't really have anything other than just reiterating that pursuant to our by-laws, I'm authorizing the Vice Chairman to sign any documents in my absence as a result of tonight's meeting. Other Business, TRC meetings have been distributed by staff.

OTHER BUSINESS

15. New TRC Submissions
  - Centrepark Pkwy Pcl 38-14F DVA3 - Hartwood Election District

APPROVAL OF MINUTES

16. June 10, 2020

Mr. Apicella: Approval of minutes, we only have the June 10 minutes, is there a motion to approve?

Mr. McPherson: So moved.

Mr. Randall: Second.

Mr. Apicella: Thank you Mr. McPherson, and I heard a second. Any comments? Okay no comments, roll call vote.

Mr. Randall: Kristen Barnes?

Ms. Barnes: Yes.

Mr. Randall: Albert Bain?

Mr. Bain: Yes.

Mr. Randall: Darrell English?



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Mr. English: Yes.

Mr. Randall: Steven Apicella?

Mr. Apicella: Yes.

Mr. Randall: Bart Randall is yes. Fillmore McPherson?

Mr. McPherson: Yes.

Mr. Randall: Dexter Cummings?

Mr. Cummings: Yes.

Mr. Randall: Meeting minutes are approved 7-0.

Mr. Apicella: Great, thank you everybody.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 8:58 PM.