

**STAFFORD COUNTY PLANNING COMMISSION**  
**February 10, 2021**

The meeting of the Stafford County Planning Commission of Wednesday, February 10, 2021, was called to order at 4:30 PM by Chairman Steven Apicella, in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center and at remote locations throughout the County.

Mr. Apicella: Before we get started, I have a statement to read. Today's meeting will be held using a video web conferencing service, even though a quorum of the Planning Commission is present in the Board Chambers today. At this time, the County's closure has been extended through February 26; however, the County considers the numbers weekly and the state is subject to be updated, at least on these numbers. Residents can still access all County services by phone, online, and in some cases by appointment during this period of closure. Unfortunately, this means that the public cannot attend our meetings in person. I want you to know that this is a situation that we do not take lightly. For that reason, we have decided to defer any public hearings that may be deemed as controversial and do not intend to take up those items until in-person comments can begin again. Residents can still submit comments online until the close of business on the day prior to any of our meetings. I assure you, the Commission reads all of these comments and they will be read aloud during the meeting and added to the public record. If you would like to submit comments before the next meeting, please submit them to the email address listed on the Planning Commissions' website, PC-PublicComments@staffordcountyva.gov. You may also call the Department of Planning and Zoning with any questions. Fellow Commissioners, I request that Mr. Cummings, I'm not sure if he's there or not... *inaudible, recording breaking up...* online and I be authorized to participate today from a remote location here in Stafford, and would ask the Commission to approve our online participation. Is there a motion?

Mr. Randall: So, moved.

Mr. McPherson: Second.

Mr. Apicella: Thank you. Just a quick voice vote. All those in favor say aye.

All Commissioners: Aye.

Mr. Apicella: Opposed? Alright, thank you everybody. Just two more quick points to make. Voting on motions will be conducted by voice vote this afternoon and evening, and if we have any technical issues, Mr. Randall will take over as Chairman. Today's invocation will be provided by Mr. Bain and the Pledge of Allegiance by Mr. McPherson.

MEMBERS PRESENT: Steven Apicella (remote), Barton Randall, Fillmore McPherson, Albert Bain, Kristen Barnes, Dexter Cummings (remote – arrived at 4:36), Darrell English

MEMBERS ABSENT: None

STAFF PRESENT: Jeff Harvey, Lauren Lucian, Stacie Stinnette, Brian Geouge, Joseph Valotta, Kathy Baker, Mike Zuraf

DECLARATIONS OF DISQUALIFICATION

Mr. Apicella: Are there any Declarations of Disqualification on any agenda item? Okay, seeing none, are there any changes to the agenda? Alright, moving on, I will now open the Public Presentations portion of today's meeting. The purpose of public presentations is to allow members of the community

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to comment on any item, except those scheduled for a public hearing. There will be a separate comment period for each one of those public hearing items as they are considered. Mr. Harvey, did we get any written comments this evening for the public comment period?

PUBLIC PRESENTATIONS

Mr. Harvey: Mr. Chairman, no, we did not get any for the public comment period. However, we do have some for one of the public hearings.

Mr. Apicella: Alright, thank you Mr. Harvey. So, we'll move onto the next agenda item. Mr. Harvey, item 1.

PUBLIC HEARINGS

1. RC19152902; Reclassification – Tree Haven Rezoning - A proposed zoning reclassification from the B-1, Convenience Commercial Zoning District to the A-2, Rural Residential Zoning District on Tax Map Parcel No. 18-78, consisting of 3.67 acres (Property), to allow for the development of 3 single-family dwellings. The Property is located at the southwest intersection of Mountain View Road and Tree Haven Lane, within the Rock Hill Election District. **(Time Limit: February 26, 2021) (History: November 18, 2020 Public Hearing Continued to February 10, 2021)**

Mr. Harvey: Mr. Chairman, item number 1 is the continuation of a public hearing on the Tree Haven Rezoning application. And if you'll recognize Brian Geouge for the presentation.

Mr. Apicella: Mr. Geouge, welcome.

Mr. Geouge: Good evening Mr. Chairman, members of the Commission. Brian Geouge with the Planning and Zoning Department. As Mr. Harvey stated, this is a continuation of discussion for an application to request reclassification from the B-1, Convenience Commercial Zoning District to the A-2, Rural Residential Zoning District on Tax Map Parcel 18-78, consisting of 3.67 acres. The applicant and owner is Camelia Denes; however, John Denes is on the web-ex call tonight. And this is in the Rock Hill District. The initial public hearing was held on November 18<sup>th</sup>; there were several comments at that hearing, including a request that additional adjacent property owners be notified. we did send out an expended notification which included all of the Rose Hill Farm subdivision, along with the remainder of the lots along Tree Haven Lane. There was also a request for information on traffic crash incidents along the stretch of Mountain View Road, so we did contact the Sheriff's Department on that as well, and found that in the last 4 years, there were 93 crashes along the stretch from Shelton Shop to Clover Hill Road. They indicated about 40% of those crashes were attributable to activity at Mountain View High School, either vehicles pulling in or out or crashes within the parking lot itself. And they noted that this stretch of Mountain View has generally good visibility. It was improved to current rural road standards not that long ago, and they didn't have any specific concerns about this stretch. There are also concerns that proposed mitigations for public facilities were insufficient. The applicant has revised the proffers in an attempt to address some of those concerns. And we heard from some of the residents as well at the last hearing and there were some concerns about traffic generation, stormwater, and just the character of the area in general. This property is located at the southwest intersection of Mountain View Road and Tree Haven Lane, shown here in red. The property was rezoned to B-1 from A-1 in 1978 with the intent... the owner at the time just wanted to sell the property for a commercial use. The property is surrounded on all sides by single-family detached uses on A-1 and A-2 zoned lots ranging from 1 to 3

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acres in size. The property is currently undeveloped and primarily wooded, except for a small piece at the northeast end that was split off from the remainder when Tree Haven Lane was realigned in 1989. Here is a street level view of the north end of the property. As you can see in the foreground there, there's a VDOT stormwater management facility associated with the, um, when the road was widened. Here's the GDP that illustrates the proposed layout of the three single-family residential lots. They range from 1 to 1¼ acre in size and have about 230 to 240 feet of road frontage. The buildings themselves are 1,700 square feet. And you can see at the bottom right portion of the GDP here, there's that small area that was split off; there's no proposed use within that area. It would just remain as a grassed area as it is currently. The GDP also depicts extension of a public waterline, which is shown here in blue, along with two additional fire hydrants, shown in red. Fire and Rescue staff indicated that the extension of this line and additional hydrants is needed to provide adequate fire protection as required by County Code and statewide Fire Prevention Code. If the property is subdivided and the public waterline is extended as shown, at a minimum, lots 1 and 2 would be required to connect to public water due to the proximity of the public waterline. Staff notes that if the property ultimately develops as a family subdivision or is not subdivided, this waterline extension would not be required with that type of application. It is the applicant's intent to subdivide this for family members to avoid having to extend the public waterline and the costs associated with that. I will also note that conformance with the GDP has not been proffered. Here's the Comp Plan Land Use map which depicts the area as within the Agricultural/Rural designation. This is outside the Urban Services Area, shown in the red outline. The Comp Plan notes that single-family detached dwellings should be at a maximum density of 1 unit per 3 acres, so the proposal of 1-acre lots is not in conformance with that recommendation. The Comp Plan also recommends against extending public waterlines outside of the Urban Services Area. So, if this property were to develop as a non-family subdivision and that waterline extension line would be required, then that would be a conflict with Comp Plan recommendations. We also note that it would require a Comp Plan Compliance Review before that waterline is extended. Here are the elevations provided with the application. The proposed design of the homes meets some of the recommendations of the Neighborhood Design Standards Plan, including avoidance of long unadorned wall planes and symmetrically sloped roofs.

Mr. Randall: Mr. Geouge, I have a question for you.

Mr. Geouge: Yes sir.

Mr. Randall: You mentioned previously that the homes were roughly in the neighborhood of 1,700 square feet? And then I'm looking at here and I'm seeing 1,266 and 1,300. Is there something that I'm missing on this layout that would get me to 1,700? Is there additional... do you know for sure?

Mr. Geouge: Yeah, I think the applicant's intent was just to convey sort of a character of the homes, not necessarily exact size. But I can defer to them on that since you are correct; they are showing 1,700 square feet and these are about 1,300.

Mr. Randall: Right. If they're going to show something, I would expect that they would be at least close. Alright, thank you.

Mr. Geouge: Yep. Staff has evaluated how this request will impact the public facilities listed here. We do note that this application is subject to July 1, 2019, proffer legislation which provides the County a little more flexibility in what they can accept for proffers. This site is within the Margaret Brent Elementary, Rodney Thompson Middle, and Mountain View High School districts. It's estimated that the three homes would generate about three school-aged children. The existing capacity for the middle

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and high school are both over 90% capacity, which is the threshold we use for determining if there is a deficit. Based on that, we've estimated that the school system would be impacted and a reasonable contribution to offset those impacts if \$27,943 per unit. The proposed proffers were increased; previously they were offering \$1,000 per unit for schools. They did increase that to \$15,000 per unit which gets us a lot closer to that but still falls short of fully mitigating the impact as calculated by staff. For Parks and Recreation, the Parks Utilization Plan doesn't identify the need for additional park facilities in this area. Moving onto Public Safety, this is within the first response area of the Garrisonville Fire and Rescue Station. There is a deficit at that station. Staff has calculated an impact of \$1,192 per unit. Previously, the applicant was proposing \$500 per unit to mitigate impacts; they did increase that to \$1,000 per unit. For transportation, the three homes would generate roughly 28 vehicle trips per day. No TIA was required with the application; however, each lot would be subject to the \$2,999 per unit Transportation Impact Fee. The applicant had previously proffered \$500 per unit for transportation, but this proffer was removed as it was less than the impact fee. You can credit any proffer contribution towards the impact fee, so it wasn't a consequential change to take that out. For general government and judicial, there is a current level of service deficit for libraries. The Comp Plan does not identify the need for a new library until 2023. But, based on State Code, contributions to either of these public facilities would not be reasonable. Here's a summary of the proffers as amended by the applicant. The applicant was originally proffering to construct the waterline along Tree Haven Lane as depicted on the GDP; however, due to the cost of that, they have removed that proffer. So, effectively in doing so, they're committing to a family subdivision because, if they wanted to go ahead and do a non-family, that waterline would be required by code even though it's not proffered and they would have to obviously bear the cost of extending it, but also do a Comp Plan Compliance Review before then.

Mr. Randall: So, Mr. Geouge, a question to that then. If they... if they make it a family subdivision initially, and 5 years from now they wanted to sell it to a non-family member, what would happen at that point in time? Would the waterline then be required?

Mr. Geouge: No, it would not.

Mr. Randall: Okay, so they're allowed to use the family stipulation to not put that waterline in, but there's nothing that says they can't, in 6 months, all three of them sell it to new people, non-family people, and then that waterline wouldn't be built by code.

Mr. Geouge: They do have to wait 5 years minimum.

Mr. Randall: So, there is a 5 year minimum wait.

Mr. Geouge: After it's conveyed to the family members, they have to wait another 5 years before they can sell it to someone else.

Mr. Randall: Okay, so there is a 5 year. But after that, there's nothing that says they can't then take it out of the family...

Mr. Geouge: Correct.

Mr. Randall: Okay, thank you.

Mr. Bain: Mr. Geouge?

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Mr. Geouge: Mm-hmm?

Mr. Bain: They convey the ownership of the property to family members. Can the family members rent to others during that 5-year period?

Mr. Geouge: I don't think there's anything prohibiting that, but I may have to defer to Jeff or Lauren on that just for confirmation.

Ms. Lucian: I'm not aware of any prohibition on that. It's tied to ownership.

Mr. Bain: So, anybody could actually live there during that 5-year period. Thank you.

Mr. Geouge: So, as noted previously, the \$500 for transportation, \$500 per unit, was removed. The cash contribution for Fire and Rescue was increased to \$1,000 per unit, and for schools, \$15,000 per unit. There was a proffer previously that limited development to no more than 3 homes which was removed. But, again, it's not a consequential change because, based on zoning requirements, there would be... they couldn't put more than 3 homes on the property anyway. And finally, they still have a proffer for requiring the design and style of the homes to be similar to the architectural renderings. For positives, staff notes that this is consistent with the density of established residential uses in the vicinity. The proposed zoning designation we feel better conforms to the recommendations of the Comp Plan than the current B-1 zoning designation. And the building designs conform to some of the recommendations of the Neighborhood Design Standards Plan. For negatives...

Mr. Bain: Excuse me.

Mr. Geouge: Yes sir.

Mr. Bain: You say that they generally conform to land use in the area, but if I... when I looked at the map, it looked like almost all of the nearby properties were on the order of 3 acres and not 1 acre. So, I don't see that that's conformance. Am I right?

Mr. Geouge: Yeah, it's a mix. Generally, to the west there are some smaller lots, 1 to 1½ acres, in the Rose Hill Farm Subdivision. But there are some scattered throughout that are larger...

Mr. Bain: That's not the houses immediately adjacent to the property.

Mr. Geouge: Right. There are a couple that are fairly small along Tree Haven but, you're right, they do vary in size some of them are more on the 3-acre end.

Mr. Bain: Okay, thank you.

Mr. Geouge: On the negatives, the proposal is not consistent with the land use recommendations for 3-acre lots. It's not consistent with the Comp Plan recommendations for extension of waterlines outside the Urban Services Area. Again, this is really only a negative if they were to end up developing it as a non-family subdivision. And the impact to public schools and public safety are not fully mitigated.

Mr. McPherson: Mr. Geouge, I have one question, if you could just go back. So, the first negative there, if they are conforming with the A-2 zoning lot sizes, would that make that first negative comment even applicable? Because they're looking to go A-2, correct?

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Mr. Geouge: Yes, they're looking to go for a 1-acre lot size. The Comp Plan recommends 1 unit per 3 acres; so, essentially, 3-acre lot sizes in the Rural/Agricultural area.

Mr. McPherson: So, the A-2 zoning is different from what the Comp Plan recommends.

Mr. Geouge: Basically, yes. Although there are some positive aspects, staff is not recommending approval at this time due to the impacts on public facilities not being fully mitigated. And I'll take any questions.

Mr. Apicella: Thank you Mr. Geouge. Further questions for staff?

Ms. Barnes: Yes, Steven, I have just one comment/question and I think Mr. Bain brought this up. The one area I kind of disagreed with the staff is that the homes that the applicant proposed were consistent with the surrounding area. And after taking a look at the homes in that particular neighborhood, they're much larger lots, larger homes. Those three houses would kind of stick out like a sore thumb, in my opinion. Yeah, there are a couple of very small houses towards the beginning, but the rest of them, if you drive into that neighborhood, are fairly large and very nice houses as well.

Mr. Apicella: Thank you Ms. Barnes. Other questions for staff?

Mr. Randall: Mr. Chairman, one more question. Mr. Geouge, do you know if the applicant has made any head-roads to talking to the neighbors and trying to understand their concerns?

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

Mr. Randall: Not that you're aware of. Okay, thank you.

Mr. Bain: And one more question; has the applicant offered any explanation for not meeting the amounts that the County has estimated for schools and fire?

Mr. Geouge: Yeah, I'll need to defer to the applicant on that. I expect it's just their cost benefit and balance of the proposal.

Mr. Bain: Alright, thank you.

Mr. Apicella: Mr. Geouge, I have a question. Do we know why the applicant chose to pursue an A-2 rezoning versus an A-1 rezoning which, as some folks has already indicated, would be more consistent with the surrounding area?

Mr. Geouge: Again, I can defer to the applicant for specifics, but I think it just came down to the number of lots and they may have a certain number of family members who are interested in them perhaps. But I'll need to defer to them on that.

Mr. Apicella: Alright, thank you. Last call for questions of staff. Alright, seeing none, would the applicant like to make a presentation and/or answer questions? You just need to unmute your mic.

Mr. Denes: Can you hear me?

Mr. Apicella: Yes.

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Mr. Denes: Alright. Am I good to proceed?

Mr. Apicella: Yes, please, go ahead.

Mr. Denes: Alright, so, we are back over here to discuss the situation with the Tree Haven Lane, that it was kind of put on us when the land was taken by the Stafford County to the eminent domain for the benefit of the residents of the County to widen I guess the Tree Haven Lane... I'm sorry, Montague Lane to make it somewhat safer for everybody to use. Just like we said before, at that time there was a big burden that was put on us by us losing that particular property that faced the Pumpkin View Road. That property was zoned, and it's still zoned, commercial and we could have done a lot of things in the future on it or we could have just hold it and let it grow in value and sell it at a later time, and it would have been a decent probably amount of money for us to retire on. But right now, we can't do anything with it. It's not... it's not going to give us any benefit leaving it the way it is besides paying the high taxes on it, and that's about it. Because if we're going to try to sell it as a commercial property, don't think that we are going to get what we put into it in all these years. For the taxes and for what we paid, the \$70,000 for it back when we purchased it. So, the reason that we wanted to develop it is, one at the beginning there was a thought that we going to develop it and sell the houses and make a profit, whatever profit what it being, we are going to go away. But now we can't with all these fees and the waterline being a requirement and then the fire hydrants, all that would have put us a little bit over about \$150 to \$175,000 dollars. By putting that much money into it we going to be in deeper hole than what it is right now. So, we switch from the 3 lots as a, I think it is called a conventional subdivision, to 3 lots as a family subdivision. So, the theory behind it is that we wanted to keep one lot as me and my wife and then one lot to give to our son and build a house on it and kind of stay there. And then the other lot would be given to her mother, because she comes and goes back and forth from Europe to here. But eventually she getting to the age that she will have to stay put. On top of all that, most of our relatives lives off Tolson Lane. So, it would benefit for us to maybe be closer to them or, you know, in the same vicinity. So, that's the reason that we switched from whatever we applied at the beginning to what it is right now. And we not asking, you know, for... we are not asking you guys to approve something that it's not, what's the word that I am looking for? That is not fair, you know, this was done by the County not, not by us. We were going to pay with the 3.75 acres as a commercial property. By now we don't have it, it's gone. And yes, the County did pay for it, for what they have taken, but it's not, it's not even close to what we are paying pack right now. We still are about \$5,000 to \$10,000 below what the County has giving us when the land was taking. And we are not calculating what we invest into the application, the stuff to do the planning for the three lots, the septic system and everything else. So, we are asking you guys to look into it to see our burden, that it was put on us. And with the comments of the... some of the houses being bigger, on that particular street there is only one house that is a colonial, that it was build about five years ago, that it's probably 2,100- 2,200 square feet. Every house on Tree Haven Lane, it's either a rambler or a split foyer or a... the other one, I forgot the name of it. But all of them are about 900 square feet on a basement. And we are not going to put those three houses over there. We submitted at that time, so we can submit the application, the house since then was redesigned by the (inaudible) design to a... still a rambler home with the possibility of a basement, but it's 1,600 square feet on one level. And we are also going to build a 1,900 square feet for our son, that way if his family will grow, he will have enough space, you know, for him and his new family. So, I mean, it's probably a lot more to say and to... oh, but it's just, it just doesn't come to our minds right now, because we are just too stressed out with this situation. I mean, it's just unbelievable what we going through to get this through. And it's not happening.

Mr. Apicella: Okay, anything else you want to add before (inaudible) the Planning Commissioners?

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Mr. Denes: Yeah, oh yeah. And then the one reason that it was from A-1 to A-2 and not A-1, the reason into A-1 it will not give us the right to do a family subdivision. It's, it's... so only an A-2 rezoning would give us the right to split that 3.75 acres to a one acre and some lots. I think that's about it for right now.

Mr. Apicella: Alright, I thank you sir. So, back to the Planning Commission. Questions for the applicant.

Mr. Bain: I will... *inaudible*... the question I posed to Mike. Is there a reason that you have not met the County estimates for schools and public safety? The 29,000 school for school per unit or 27,000 and \$1,192 for Fire and Rescue. That's what the County estimates they need to offset the potential impact of your development. And you have not met those amounts. Do you have a rationale for that? Other than we don't want to pay that much?

Mr. Denes: No, no, no. It's... can I talk?

Mr. Bain: Yes, please.

Mr. Denes: It's not that we don't want to pay that, it just that we don't have the money. And by saying that we gonna pay it, we just don't have it right now. We just, we just, we just, we just, I mean, we... with the way that things are, we just have the money. And that is why we offered the 15, because that's the money that we have right now. And that is what we could offer to see if we can see this through. For what I understood, if it's possible that we can probably pay it that the, you know, at the end, we, you know, we could start saving some money by the time... by now, you know, from now if it get approved all the way to until we develop. We are not going to develop that property right away. It's probably gonna take at least four to five years to do at least one house. And then maybe the second one, will be for later. And again, it's because we don't have that money and that's why we didn't offer more than what we put on the proffer statement.

Mr. Apicella: Alright, thank you sir. Other questions?

Ms. Barnes: Steven, I would like to ask the applicant something that I think we asked the County beforehand. Have you reached out at all to any of the neighbors to discuss your plans with them or the issue that they have been having or the complaints that they have about this particular application?

Mr. Denes: No, no, I have not and the reason that I haven't done that, I wasn't aware that we could just go knock into the door or send a letter or set up some type of meeting to see what their concern was. The one neighbor, his concern was at the first meeting, it was that the driveway from one of our property would be right at his driveway. We can move all of those, what's on that plan is just the proposed. That could be rearranged to where it doesn't interfere with the daily life of this neighbor or that neighbor or the lights from the driveway will not hit their hours or their family room. But no, to answer your question, no we did not because I wasn't aware that we could do that and I didn't want to do something that it would probably create some something bad that, you know, we might get denied because we went and approached the neighbor. So, no we did not do that. But if we have to we could and see if they are willing to talk to us.

Ms. Barnes: And Steven, one last question, if I could.

Mr. Apicella: Sure.



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Ms. Barnes: Is there... I am trying to think of how to say this. Is... I am going to defer until later on this one. Never mind, thank you.

Mr. Apicella: Okay, other questions?

Mr. Randall: Yes Steven, this is Bart. So, let me ask the applicant a question and... it's... well, I will make a quick comment and then I will ask a question. Most of what we do is dependent upon input from residents, from staff, from our own research. And when we get something like this we rely on going and driving and seeing it ourselves. We rely on staff to give us a report, but in the end, we rely a lot on what we get... feedback we get from the local residents who live there. Who have to deal with this, who have to function with this every day. I can drive by and go oh, it looks great. But then again it hasn't rained for three weeks. But for those people that live there and know what the processes or the problems are, they are the ones that we really listen to very closely. And so, you may not have, but they have back to us, and they have given us feedback. And their feedback presents to us an aspect of information that we didn't have before, that helps us in this overall process. And I can tell you that they are very concerned about stormwater management, they are concerned about flooding, they are concerned about getting rid of water, they are concerned about the vegetation and if you get rid of the vegetation, how are we... all of those things that I think maybe could be assuaged by a good conversation with you and some thing that you may need to change, you may need to add, you may need to help with. But that is the reason that we asked the question about, about whether or not applicants, not just you, but applicants in general make an effort to go talk to their neighbors... their would-be neighbors, their soon to be neighbors about some of the things that are going on. And so, it's not a matter of if you have or not, if you weren't aware that you could, but I am highly suggesting that, that be a number one priority and that you work hard to assuaged each of their concerns and mitigate them as much as possible. Is that something that you would be willing to do?

Mr. Denes: Yes sir. Yes, that's something that we willing to do. Talk to the neighbors, you know, they are adjoining to our property or behind it or next to it or on the other side, and see what their concerns are and address the issues. If it's something that we need to, you know, we not, we not going to cut all those trees out. You know, I am a nature guy and my wife loves nature and we... it's just sufficient for us to put a house on it. But yes, we are willing to go and talk to all the neighbors, whatever how many we have to talk to, left, right, back, forward, and address the issues, whatever the issue they have, one by one and kind of just go from there.

Mr. Randall: Okay. Alright, thank you.

Mr. Apicella: Okay, other questions? Alright, sir I've got a couple of questions. When did you buy the property?

Mr. Denes: Oh, 2001.

Mr. Apicella: And when you bought the property, you knew what the zoning was at the time?

Mr. Denes: No sir.

Mr. Apicella: So, you didn't know it was a commercial property when you bought it.

Mr. Denes: No sir. Mr. Belman, that was the real estate agent, sold us the property and we did not... and we had to do a owner financing because of the situation that it was at that time and we paid interest

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only until the day one of the owners died and we had to come up with half of... *inaudible*... we had to come up with half of the money, we borrowed money. We paid it off then the wife wanted her share, we borrowed again and paid that off. And, you know, after a whole lot of years. But no, at that time we did not know that it was commercial property and we could not build across any residential home on it. When we find out what it was, we said well now we got it, we just gonna have to hold it. There is no, nothing else we could do with it. And we did not want to develop it until, until the... that we lost that frontage and you can't get in and out from the property just on that little... Tree Haven Lane, not Mountain View Road.

Mr. Apicella: Okay, so when was your property taken by eminent domain?

Mr. Denes: I think 2013.

Mr. Apicella: Okay, and you... the property size now is 3.6 acres. How much of the property was taken by eminent domain?

Mr. Denes: About a quarter of an acre.

Mr. Apicella: Okay. But that being said, whether it was a commercial property or a residential property, you lost, I think you said it was 3.75. So, my math is maybe .10 of an acre, not a quarter. But that said, it not that it would have changed the potential density on the property. You would not have been able to build three houses or four houses on the property, even if it were reclassified as A-2, right? At best you could either do your commercial whatever was allowed under zoning there for the commercial or maybe a residential home, if you rezoned it to A-1, right?

Mr. Denes: Yes, that's correct. That's correct. By losing the frontage, where the drain pond is right now, we can't, we can't access the property via Mountain View Road. It will have to be accessed via Tree Haven Lane. Which, I don't think you can go in with any trucks bigger than whatever the size the County would allow. So, the whole frontage on the lot, whatever the hundred some feet, it's lost, there is no more access to the property from Mountain View. And that's were it's hard on us because we can't do anything with it. If we look at the B-1 Zoning right now, and we wanted to do anything that is on it, I am 100% certain to say County will not approve anything what's on it. It's just because it's not going to work. It's...

Mr. Apicella: I can't speak to that because it's somewhat speculative. But when you were working with... I don't know of the County bought the property or VDOT bought the property, but whoever it was some government entity bought the property, did you try to negotiate with them and express your concerns about how that reduction in the overall size might impact what you wanted to do with the property?

Mr. Denes? Yes, we did. And we were told that it is what it is and there's not going to be anymore financial help or anymore money to be given to us. And it doesn't... we did not even take the money for a year. They deposited it into a escrow account with the lawyer and then after a year we took the money because at that point it didn't make any difference, because we lost the property. They went and start widening the road and putting pipes on the front of the property where we kept the grass pretty clean, just because it looked good when you drove by... on the road by the property. So, no they... we tried to negotiate but there was no... there was nothing coming out of it. They just said this is it and nothing else.

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Mr. Apicella: Okay, I appreciate your predicament. Again, you do realize that another option, even though it might not be the most palatable to you, is that you could still pursue A-1 Zoning on the property and at least get one house on it, right?

Mr. Denes: Yes, yes, yes, we are aware of that. And if you guys... I see a lot of concern of the density of the houses. But there are a lot of lots on the same street and in the same area on Rose Hill Farm and Tolson Lane that have just one acre of a lot. A lot of them. But if it's an issue with having the three lots, we will be happy with just the two lots. You know, if we can get it to the two lots, and if it doesn't work, instead of losing the \$5,000 and some change that we paid for the application, and we paid for the design of the septic. Maybe at least we get one of it. It will be beneficial for us to get two, three would be ideal. But, we will take whatever you guys can give us. Without losing this application, I know it came out wrong, because you are not giving us anything. We are just talking about a think right now. But, I just don't want you to deny us, you do that we are back to square one.

Mr. Apicella: I just wanted to remind you that we just make a recommendation to the Board of Supervisors.

Mr. Denes: Okay.

Mr. Apicella: They will be the ones who ultimately decide what to do with this reclassification. So, whatever the vote is today or the next time we meet, if this gets deferred, again we are just making a recommendation to the Board of Supervisors. They have the ultimate authority on how to adjudicate the request here. Are there any other questions for the applicant? Alright, seeing none I am going to open the public hearing on this item. Again, this is an opportunity for the public to comment on this particular public hearing item. Mr. Harvey, were there any written comments submitted to the County on this one?

Mr. Harvey: Yes, Mr. Chairman there were comments submitted directly to Commissioner Barnes as well as to the Planning Commission webpage. Please bear with me as I read the comments. *Hello Ms. Barnes, It was a pleasure speaking with you a couple of weeks ago. I am following up with an email to document our concerns regarding the proposal of subdividing the property at the beginning of Tree Haven Lane. Below are our concerns: 1. Increased traffic - An additional 3 houses will ultimately increase the amount of traffic down our street which is a no outlet street. This means more vehicles turning around in the cul-de-sac to exit Tree Haven Lane. By increased traffic, I mean construction vehicles, package delivery trucks, food delivery vehicles, visitors, etc. The speed limit is already too high at 30 mph and many children/families walk on our street and play in the cul-de-sac. 2. Increased flooding - An additional 3 houses would require the removal of most of the trees in that area which will inevitably increase flooding towards our house. Our yard is mostly a drain field for water runoff and catches most of the rain for the street. It is already in a bad state as it is so I can't even imagine what it would be like if all of those trees would be removed. (yard flooding pictures attached) 3. Decrease of property value - The proposed houses are not comparable to the current homes on the street. These homes are much smaller and do not compare architecturally. This would decrease the value of all of our homes which we have all worked so hard to maintain and improve over the years. Most of us have lived on Tree Haven Lane anywhere from 10-40 years so we take great pride in the value of our homes. 4. Lower income houses - The proposed homes would most likely fall into lower income range and we are concerned they will turn into rental properties. As we all know rental properties can have turn over and even attract multi-family living. With no HOA and possible rentals, we are concerned the appearance of the home/property won't be kept up and it could bring trouble and disturbance to what has always been a nice quiet street. 5. Loss of rural atmosphere - Overall, we are saddened at the thought of losing the trees on our street. It would completely take away the feel of living in a rural area*

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and would prevent us from enjoying the wildlife that come through every day. This will greatly affect their path they've become accustomed to taking through the neighborhood. 6. Subdivision of other properties - If this owner is allowed to build three homes, who's to say other owners on our street won't be able to do the same thing with their properties? In summary, we understand the owner of the property needs and wants to do something with his property and preferably make a profit. We could accept building one home on that property comparable in size and value to the rest of our homes, but not three. I think this property owner is being a little over zealous and not taking into consideration the effect it would have on other owners. I get it...developers just want to make money and move on. We're hoping that the planning commission and board will help protect the interests of the current homeowners on Tree Haven Lane. We look forward to attending the next hearing in February. Concerned, Jerry and Maria Jaskiewicz, 15 Tree Haven Lane. The next comment says: Dear Planning Commission: Our names are Larry and Tammie Morris at 10 Tree Haven Lane. I write these comments in concerns of issues that could and will affect our living environment on Tree Haven Lane. Following is my concerns: First, the clearing of the property in question. Removing the tree will add additional flooding to that area that already exist. Allowing property owners on this street to subdivide their acres would increase the occupancy tenfold. Noise levels would increase from traffic on Mountain View Road. Bring down the property value of current homes in the "single family neighborhood." Our recommendation for the board is to keep this neighborhood a "Single Family Home" neighborhood. Allowing an owner to subdivide three acres into three additional homes would change the landscape tremendously! If the property owners request is approved, we recommend the houses be required County Water and sewage to accommodate and control the additional flooding to the area. Thank you in advance, Mr. & Mrs. Larry L. Morris 10 Tree Haven Lane. The next comment says: Hello, I'm Shane Koenig, 6 Tree Haven Lane, Stafford Virginia. I wanted to comment on the property rezoning across from my home. Other than the extra cost to the county, there will be very few trees left on each lot of done to fit a drain field, house and driveway. There may be some drainage issues. We have them now on some properties down the street. Septic filling with water, standing water and road flooding where creek is bridged by road. This will probably be increased. Road traffic is high already as most think it's a cut through to Rose Hill Farm Drive. I have no issue with the current zoning or to allow 1 house for the whole lot size of around 4 acres. Thank you, Shane Koenig, 6 Tree Haven Lane. The next comment says: I have been a resident of Stafford County since 1992 and my wife and I have been on Tree Haven Lane since 2002. We have enjoyed the privacy and character of our little community on Tree Haven and are very concerned about the subdivision of the 3.67-acre parcel. The subject property lies between Tree Haven Lane and Rose Hill Farm Drive and the homes on the Rose Hill Farm side of this parcel are already having drainage issues. Clearing of the land and three more homes with septic systems will increase these issues and may lead to flooding. Aside from the environmental impact the subdivision of this parcel will impact the rest of the properties on Tree Haven Lane. The residents of Tree Haven Lane have properties of between two and 10 acre lots and enjoy the privacy and buffer that this 3.67-acre parcel at the end of our street provides. Adding three homes here is sure to clear all of those trees that abate the noise from Mountain View road. One other environmental impact that often goes unnoticed is the impact to wildlife. That property is a common path taken by wildlife that can use it to avoid crossing Mountain View Road. This past year while teleworking I observed countless deer and some bears use the game paths there to avoid higher traffic areas. If you allow this property to be divided perhaps you should allow my 4.9 acres to be divided as well, which would be a slippery slope. Please don't take any steps to change the peaceful nature of our street. One single family home on a 3.67-acre lot will fit in just right, but three would change the character of the street forever. David L. Gilliam, 12 Tree Haven Lane. The next set of comments reads: My name is Michael Jones and I own the property at 4 Rose Hill Drive. I have a concern of the rezoning of the land to the rear of my property. My land is at a lower elevation and already experienced drainage issues. New construction will only add to that problem and increase the maintenance cost of my property if not make it inhabitable. I oppose this rezoning unless

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*the county is prepared to cover damages and loss of property value. Mike Jones. The next comments read as follows: Don and Ann Frank, 16 Tree Haven Lane. To whom it may concern, these comments are being sent regarding our concern and objection to the proposed building of 3 1,200 square foot homes at the intersection of Tree Haven Lane and Mountain View Road. My wife and I reside at 16 Tree Haven Lane, which is located just before the cul-de-sac, at the end of Tree Haven Lane. Ever since Mountain View High School was built, we have experienced minor flooding during heavy rains, from the small creek that runs east to west through our property. The creek runs under Tree Haven Lane via 6 18-inch culverts. In July 2019 we experienced severe flooding as evidenced by the photos below. The road surface of Tree Haven Lane is 4.5 feet above the afore mentioned culverts. During the July flooding, the water was 6 inches deep on the surface Tree Haven Lane and covered an area 75 feet wide extending 25 feet north into our pasture, and another 50 feet south covering our lawn, driveway, and the distance to our mailbox. At the time of the flooding, my son's Toyota, parked at the end of the driveway, was flooded and had water coming into the interior of the car. Since that flooding, we now ensure that our cars are not parked at the culvert end of the driveway when heavy rains are forecasted. Drainage on both sides of Tree Haven Lane is a constant battle. Being at the end of Tree Haven Lane and also at the bottom of a hill, any removable of natural vegetation, especially trees on Tree Haven Lane, will only add to the current storm water run-off problems and subsequent drainage issues. Don and Ann Frank. And then the last comment that we received was... reads: As a longtime resident of 36 Rose Hill Farm Drive, I have reviewed the aforementioned rezoning request and have two comments regarding rezoning the property to accommodate 3 single-family dwellings, both of which have to do with the proposed septic systems. 1. A portion of the vacant lot at the corner of Rose Hill Farm Drive and Mountain View road (TM 18-2-3) has been adversely impacted by the storm water management area which was constructed at the corner of Tree Haven Lane and Mountain View Road several years ago. Specifically, the construction of the pond and adjacent drainage easement has resulted in an area that seems to be perpetually wet. This perpetually wet area runs along the back of the currently vacant lot at TM 18-2-3 and the back of the adjacent house at 2 Rose Hill Farm Drive (TM 18-2-2), both of which abut to proposed single-family dwellings 1 and 2. My concern is that the septic drain fields proposed dwellings 1 and 2 will not properly drain due to the wet conditions. I am not an expert on this topic but I believe that an expert should evaluate this issue more thoroughly before allowing construction of these new single-family dwellings. Future failure of these proposed drain fields could adversely affect property values along Tree Haven Lane and Rose Hill Farm Drive and the quality of water in our watershed. 2. Between the dwellings at TM 18-2-2 and TM 18-2-1, there is a shallow ditch which partially drains from the aforementioned wet area of concern to the drainage ditch abutting Rose Hill Farm Drive. In turn, the impacted drainage ditch here on Rose Hill Farm flows downhill to a larger ditch which in turn carries water to other larger drainage ditches and to year-round streams. Because of this, the same concerns raised in comment 2 about the proposed drain fields apply here as well. And that was sent by John Brinkmann. That concluded the comments.*

Mr. Apicella: Thank you Mr. Harvey. Alright, so with no further comments, I am going to close the public hearing on this matter and bring it back to the Commission for consideration. Would the applicant like to address any of the comments that were made?

Mr. Denes: Yes, please, if I may.

Mr. Apicella: Please, go ahead.

Mr. Denes: I see for what we heard from all the comments, I see that all of the homeowners that had these concerns about us putting the three homes over there. Every single one of them are okay with one house. Every single one of them, almost every single one of them had issue with the water... water

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issues that it is there right now. It's not something that we going to create. I know that we could possibly create some issues. But all those issues could be addressed by a surveyor, by an engineer, that will look at the property and say hey, you can't put the drainfield here. The drainfield was done by a certified septic company in Fredericksburg. And I don't believe that they will allow to put a septic... a conventional septic on a piece property if it's not adequate. And all of the issues that the homeowners have, it can be addressed. Even if it's one house, two houses or three homes. You know, we willing to work with them and everybody else, to address the issue. But I see, what I understood as much as possible, it's a concern that they already have now. With a draining pond that it is on the property, that is not... we didn't do that. It was somebody that done that... that pond, it was not us. You know we do feel their pain for their properties being flooded when it rains, but it's not because of we going to develop that property. It's because it's already there. And we are not developers. Maybe that is something that we are going to have to address with them, we are not developers. We are just regular homeowners that we are in sufferance right now. So, we are probably going to have to address it with them, and if it's possible or whatever how it's going to be. We don't even know which way we have to go after this meeting or anything like that.

Mr. Apicella: Okay, any thing else you would like to add to that or are you finished?

Mr. Denes: No sir.

Mr. Apicella: Okay. Again, so I closed the public hearing, I brought it back to the Commission. I do have a question for staff, Brian.

Mr. Geouge: Yes sir.

Mr. Apicella: So, this is just a hypothetical. I don't know if the applicant is interested in doing this or not, and still wants to pursue two or three different lots on this parcel. If the applicant decided that they wanted to, let's say, amend an application and pursue a single house and change from A-2 to A-1. How would that work? Would they have to do a brand-new application? Pay a new fee? Help us understand what the process going forward would be if they made a course change.

Mr. Geouge: I am somewhat speculating here, but if they chose to go to a different zoning district entirely, that could complicate things, and potentially require re-advertising of the hearing. However, if they wanted to proposed a proffer that limited the number of homes, I think that would be doable with the current application. Particularly since they did not proffer conformance with the GDP.

Mr. Apicella: So, they could still pursue an A-2 zoning, but provide a proffer that said it's limited to one unit.

Mr. Geouge: Correct.

Mr. Apicella: And they could, in theory, do that tonight, with a proffer change?

Ms. Lucian: *Inaudible*... microphone not on.

Mr. Geouge: Yeah, Lauren just pointed out there is no way to get signatures or initials on the proffer change. So, that would be a little complicated tonight.

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Mr. Apicella: Okay, but there is... this is not technically... we don't have to technically finish this until the next meeting, right?

Mr. Geouge: Correct.

Mr. Apicella: Okay, probably might not be what we normally do here, but just in terms of the applicant, would you have any interest in pursuing that route or is it just a nonstarter for you?

Mr. Denes: We are interested in that. You know, because we have no other choice. By losing that \$5,000 and another about \$3,000 to \$4,000 we put into the plan and the soil and everything else. It's better than walking away with zero. You know, we are willing to do anything that it takes just to get rid of the property and get it off of our backs, because it is just draining us at this point.

Ms. Lucian: I would also note that you may have an advertisement issue with that proposal, even if it's less intensive, it still changes the characterization of what the property would look like going from three to one.

Ms. Barnes: Can I ask a quick question procedurally? Regardless of what we do tonight, going forward, is that something that he could pursue before it gets to the Board of Supervisors. So, by the time it got to the Board of Supervisors, then he could do it? So, whatever we do tonight is based on the current application that we have in front of us. But, going forward and hopefully the applicant will understand this, you could modify your proffer amendments to limit the number of houses on that property to one. And then that in perpetuity, even though it is zoned A-2, he has proffered it and it would only be one house. And that would take care of the problem. It seems to me that it might be better for us to deal with the application that we have got in front of us tonight and then perhaps the applicant could pursue that avenue before it gets to the Board of Supervisors. If that sounds like a reasonable or even, you know, legal idea.

Mr. Apicella: So, Jeff or Lauren can you respond to what Ms. Barnes just recommended as a potential path forward?

Ms. Lucian: That is certainly possible, they can decide to amend their proffer after this evening. It's probably the preferable route, because we have too many questions for dealing with that tonight.

Mr. Randall: Mr. Chairman, the question I have is we have a time limit of the 26<sup>th</sup> of February. Is that... that is because of the timeline of when the application was submitted. Is that correct?

Mr. Geouge: When it went to public hearing.

Mr. Randall: When it went to public... okay.

Mr. Apicella: Yes, we have until the 26<sup>th</sup>. So, I guess in the meantime we could potentially defer and let staff, council, and the applicant could further look at this issue and decide whether or not it is even possible, when it is still before the Planning Commission and then potentially take the route that Ms. Barnes suggested, if it's not.

Mr. Randall: My only concern is there are, and to the point that has been made, there are significant changes that we are asking them to make. Personally, I would like to look at it again before it goes to the Board so we can make a recommendation to the Board and then not changing. We have had issues

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in the past where we say no, they literally change it 100% before it gets to the Board. And what gets to the Board has... looks nothing like what we disapproved. And I have always had an issue with that and I think if we give them some direction, they go see the neighbors, they reassess what they want to do with the proffers, you know, I think looking at it again can't hurt. It can't hurt us and would give better direction to them moving forward. Anyway, that is my thought on it.

Ms. Barnes: My only concern with that is, and I am fine with that. That actually sounds like a reasonable plan. But, if we put this off for another two weeks and come back and the applicant hasn't changed it and then we have pushed this down the line another two weeks. So, we have to... we have to, you know, figure that basically we are just, you know, pausing the inevitable at that point.

Mr. McPherson: But I think that does give them a chance to make the changes in my opinion.

Mr. Apicella: I think it gives them a chance to at least explore it as an option.

Ms. Barnes: Okay.

Mr. Apicella: And in the mean time potentially talk to their neighbors and tell them what this course change might be, see if they are amenable to it. At the end of the day we might end up at the same point we are or where we might go today, maybe not. But, I think it does give everybody a chance to maybe revisit this application and some alternatives that might make it potentially more palatable to everybody.

Ms. Barnes: And do we have a commitment from the applicant, that you will pursue changing that to a max of one, or adding to the proffers it would be one house for the application rather than three?

Mr. Apicella: I don't know that we have to ask for that commitment. I mean, again, something that they could think about. They may decide that it's still not what they want to do and they want to still got to the Board with a request for two or three lots. I mean, again, who knows what is going to happen in the next two weeks. But, I think the commitment, I think, maybe we really want is for them to explore it and talk to their neighbors. And then see working with staff what's possible based on what's in front of us and how much it can change, under the advertisement.

Mr. Denes: We can do that. We can do that.

Ms. Lucian: Planning Commissioners, the only thing I will caution you depending on what they propose to change in their proffers, it may necessitate a re-advertisement and they will probably have to bare the cost of those re-advertisements if they are making those changing. And based on when the Planning Commissions deadline is, to make a decision on this there will not be enough time to re-advertise to meet the ...

Mr. Apicella: I thought the applicant has the ability to give us more time.

Ms. Lucian: They do. I think it's in the hands of the applicant that 100-day deadline is to their benefit. So, if they agree to extend that deadline, they can.

Mr. Apicella: Right, so, just spit balling, again so everybody is on the same page, what is the potential cost of re-advertising, Jeff or Brian?

Mr. Harvey: I don't have an exact cost, but would estimate \$200.



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Mr. Apicella: Right, so not significant. So, again that is part of staff working with the applicant to explore their options between now and the next meeting and letting the applicant decide based on all the information that they uncover and they reach out to their neighbors, they can decide what's the best path forward for them. So, again potentially, I am not making the motion here, I am just kinda throwing it out as a potential option, a possible way for the applicant, based on the current set of issues concerns and potential options in front of them. So, Ms. Barnes, this is within your district. I did close the public hearing, I could reopen the public hearing if you would like me to.

Ms. Barnes: You know, I don't think that will be necessary to reopen the public hearing. Because I think we have heard from a lot of people tonight. And I'm willing to do that, you know, I just don't want us to back ourselves into a corner if the timing does not work out. I will go ahead and make that motion to defer that for two weeks. With a clarification that.... Okay, I'll defer public hearing... or excuse me, defer Reclassification application RC19152902 to our next meeting which is February...

Mr. Apicella: Twenty-fourth.

Ms. Barnes: Say again?

Mr. Apicella: Twenty-fourth.

Ms. Barnes: Twenty-fourth.

Mr. Randall: I'll second that.

Mr. Apicella: Okay, thank you. Any further comments Ms. Barnes?

Ms. Barnes: Yeah, I just want to comment and thank everybody, the neighbors, for spending quite a bit of time writing in the emails and getting in touch with us, and I really want to encourage the applicant to reach out to his neighbors and see if he can assuage some of their concerns with the application that might make things a little easier in the future.

Ms. Lucian: Just for clarification, you plan to keep the hearing, the public hearing open?

Ms. Barnes: I don't...

Ms. Lucian: I think you'll need to if they're going to make changes.

Ms. Barnes: Okay, then I guess we're going to leave the public hearing open. Can we do that?

Mr. Apicella: Yes. So, I'm going to re-open the public hearing. Alright, Mr. Randall?

Mr. Randall: No, thank you.

Mr. Apicella: Okay. Anybody else? Okay, just to reiterate, I will capture this correctly but I'm going to try. We're going to defer this matter for two weeks. We're going to ask staff to work with the applicant to explore their options, again, potentially to limit the amount of lots to one, even though it's A-2 zoning, both from a process and legal perspective. And the applicant will hopefully reach out to their neighbors and work with them to see if it's palatable over the next two weeks. All those... so, I'm going to do a roll call vote. Mr. Bain, on the deferral, how do you vote?

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Mr. Bain: Yes.

Mr. Apicella: Ms. Barnes?

Ms. Barnes: Yes.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: Yes.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes.

Mr. Apicella: And Mr. Apicella votes aye. I hope I've given enough clarity to what we're trying to do here, and I appreciate everybody's indulgence this last minute potential course change. Thank you everybody. Mr. Harvey, next item on the agenda, Telecom Tower; items 2 and 3 I think we're going to talk about these together.

2. COM20153256; Comprehensive Plan Compliance Review - Telecom Tower Brent Marsh - A request to review compliance with the Comprehensive Plan, in accordance with Virginia Code Section 15.2-2232, for the placement of a telecommunications facility, consisting of a telecommunications monopole, including ancillary equipment, on Tax Map Parcel No. 23-6, located on the south side of Brent Point Road and east side of the intersection with Arkendale Road and CSX Railroad crossing, within the Griffis-Widewater Election District. CitySwitch II-A, LLC is the applicant. **(Time Limit: March 14, 2021) (History: January 13, 2021 Public Hearing Continued to February 10, 2021)**
3. CUP20153255; Conditional Use Permit - Telecom Tower Brent Marsh - A request for a conditional use permit (CUP) to allow a communication facility ("Facility") within the A-1, Agricultural Zoning District on Tax Map Parcel No. 23-6 (Property). The Facility consists of a 195-foot tall telecommunications monopole with ancillary equipment. The Property consists of 341 acres, located on the south side of Brent Point Road and east side of the intersection with Arkendale Road and CSX Railroad crossing, within the Griffis-Widewater Election District. CitySwitch II-A, LLC is the applicant. **(Time Limit: April 23, 2021) (History: January 13, 2021 Public Hearing Continued to February 10, 2021)**

Mr. Harvey: Yes, Mr. Chairman, we'll be presenting items 2 and 3 together and Mr. Joe Valotta will be making the presentation for staff.

Mr. Apicella: Sir, you can log off; we're onto our next item.

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Mr. Denes: Okay, I think I got it.

Mr. Valotta: Good evening Mr. Chairman, Planning Commissioners. I'm Joe Valotta with Planning and Zoning, presenting items 2 and 3 for the Telecom Tower – Brent Marsh project. The project is two requests; a Comprehensive Plan Compliance Review request and a Conditional Use Permit request. If approved, these would permit development of a 195-foot tall telecommunications facility in A-1 property. The subject site is located on Tax Map Parcel 23-6. The parcel is 341 acres. The CUP would be applicable to a 2,500 square-foot portion of that parcel. The parcel is owned by the CSX Railroad Company. They have submitted a consent notification to the County for this project. Tim Cook of CitySwitch is the applicant, and the agents are Gerry Sharpe and Kyle Lotze, and the project is located in the Widewater Election District. The property is outlined in blue on this zoning map and the approximate tower location is highlighted by the red circle. The tower is proposed on the south side of Brent Point Road, east of the intersection with Arkendale Road and the Railroad crossing. Again, the property is zoned A-1. Surrounding zoning districts include A-1 to the north, A-2 and R-1 to the south, B-1 and R-1 to the east, and A-2 and M-1 to the west. The area in the vicinity of the site is heavily wooded and does not include any environmentally sensitive resources. All of the adjacent properties in the vicinity are currently undeveloped. And the parcel encompasses the entire CSX railroad tracks, and the tower would be located east of the rail line in the wooded area. There are residential uses north and south of the site, and the closest residence is approximately  $\frac{3}{4}$  of a mile southeast of the site along Brent Point Road. This GDP depicts how the tower and compound would be developed on the site. It shows a 2,500 square-foot compound that would house ground equipment... that would house the ground equipment for providers located on the site... or on the tower, excuse me. The tower would be enclosed by an 8-foot high board-on-board fence and there's an existing gravel access road off of Brent Point Road that would serve as the access drive to the property. In terms of setbacks, the compound would be located approximately 60 feet from the railroad tracks, 50 feet from Brent Point Road, and again  $\frac{3}{4}$  of a mile from the nearest residence. The GDP also includes an elevation view of the tower; again, 195 feet in height. And the tower is proposed to accommodate three service providers. Verizon is anticipated to be the first service provider to locate on this tower. Looking at the Comprehensive Plan Compliance Review, the Telecommunications Plan, which is an element of the Comp Plan, provides guidance regarding siting criteria and facility design standards for new towers. And this tower is consistent with many of these guidelines. With regard to the primary siting... to the primary siting criteria, the highest priority is to collocate on existing structures. There are no existing structures available in the vicinity that would meet the applicant's coverage goals. There are other primary siting criteria, including locating on agriculturally zoned property. This is property is agriculturally zoned; it's zoned A-1. And there are also several other siting criteria to ensure minimization of impacts. Some of these are listed on the screen. Going through them, there are no historic districts in the vicinity. The State Historic Preservation Office evaluated the project and determined no adverse visual impacts upon historic districts or properties. The proposal was also evaluated by the FAA and deemed not to be a hazard to air travel. The tower is proposed to be located within railroad right-of-way. Locating within the right-of-way of a railroad is a recommended siting criteria. And more to this point – the tower and compound is going to be constructed to provide CSX with space for antennas and ground equipment, and this will eliminate the need for CSX to build a railroad tower in this vicinity in the future. And also, facilities should be located away from residential concentrations; the nearest residence is  $\frac{3}{4}$  of a mile away. Another priority is to locate interior to a parcel. Here, the narrow configuration of this parcel makes that difficult to achieve. However, the tower is going to be centered between the railroad tracks and the property line to the east, and also the existing tree stand is going to be preserved and this should help mitigate visual impacts. And to the last point on this slide, the NEPA review process considers impacts to wetlands and the proposed compound would avoid wetlands impacts. The Telecom Plan also recommends that new facilities be sited an appropriate distance away from existing facilities. The image

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shows the existing Verizon signal coverage. The blue shading represents the highest signal levels and the red shading represents the weakest. And for comparison, this image shows the proposed signal coverage with the new tower. The tower in this location would fill a gap in the Verizon network, and it would also enhance overlapping service with nearby Verizon facilities that are in need of relief. And again, the tower will be designed to accommodate two further service providers after Verizon. In addition to the siting criteria, the proposal also conforms to many of the facility design guidelines, some of which are listed on the screen. The tower will.

Mr. English: Joe?

Mr. Valotta: Yes sir?

Mr. English: I don't mean to stop you, but you back there... I don't need you to go back to the last slide, but you said the FAA has checked it out as no as no airport. I thought Quantico flies in there, and they're not going to have a light on there? Because I know they have an airport close.

Mr. Valotta: Yeah, the FAA, in their letter to us, said that they did not require for the tower to be lighted.

Mr. English: Even with that... okay, I mean, if that's what they say. And another question is, what about the public safety? Will they be able to attach a repeater or an antenna? I always ask you that question, but I just like to have it on record.

Mr. Valotta: Sure.

Mr. English: Are they going to have space if need be for...?

Mr. Valotta: So yeah, so staff actually sent the project to Public Safety. Public Safety did not identify a need for facilities in this specific location. They did comment generally that they're happy to see space provided them for any tower in the future. And I did speak to the applicant about this; they are amendable to it, but I would defer to them to confirm that tonight.

Mr. English: Okay, thank you,

Mr. Valotta: So, looking back at the facility design standards, there won't be any lights on the tower and this would minimize impacts to migrating birds and also visual impacts to adjacent properties. The tower will accommodate three service providers, and the plan recommends that facilities should be designed to minimize visual impacts on the surrounding area, and there is an existing tree stand here that's going to be preserved to help camouflage the compound and the lower portion of the tower. One design standard that the tower does not meet is the setback recommendation. The Telecom Plan recommends that setbacks for towers to property lines should equal the height of the tower. The height of this tower is 195 feet and, again, the narrow configuration of the parcel is going to make it difficult for them to place the tower 195 away from the property lines. However, the fall zone of the tower is designed such that the tower would, if it fell, it would fall within the compound and it would not cross over the railroad tracks or the property lines. And also, there are no existing structures or residences within 195 feet of the tower. This is a photo simulation that the applicant submitted from Arkendale Road, this area is perhaps where the tower will be most visible. Going through the staff evaluation for the Comprehensive Plan Compliance Review, staff notes for positives that the proposed facility is generally consistent with the siting priorities and design standards of the Telecommunications Plan with the exception of the setback requirement... or the setback recommendation, excuse me. Approval of

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this request will enhance coverage in the area and it will also benefit users along the railway. And the tower is designed to ensure health and safety. Staff notes no negatives for the Comp Plan Compliance Review and recommends approval pursuant to PC Resolution PCR21-01. And switching over to the conditional use permit, looking at some of the proposed conditions, the conditions would limit the site to a single tower 195 feet in height; require general conformance with the GDP; prohibit lighting on the tower unless the lighting is required by the FAA; require security fencing and screen of the compound, and preservation of existing trees in the area. Conditions will require that the tower is designed to accommodate at least three service providers, and then there will also be some standard conditional language regarding signage, tower removal process, and interference with 9-1-1 communications. And for the overall evaluation of the conditional use permit, staff notes positively that the proposed facility meets many of the standards of issuance for review of a conditional use permit; approval will result in enhanced coverage and benefit users of the rail line; and conditions would help mitigate any negative impacts, which staff notes none for the CUP as well and recommends approval pursuant to Resolution R21-41, subject to approval of the Comprehensive Plan Compliance Review. And that concludes the staff presentation.

Mr. Apicella: Thank you Mr. Valotta. Questions for staff? Alright, seeing none, would the applicant like to make a presentation and/or answer questions?

Mr. Sharpe: Yep. Hi, my name is Gerry Sharpe and I'll tell you what – the presentation was very thorough. So, I would address one comment... or one question that came up, and that is that the tower could accommodate space for any emergency equipment and also on the ground for any... *inaudible, video breaking up*... or emergency equipment that might be necessary in that area. So, the applicant's definitely open to that; we had a discussion about that. Other than that, I guess I would just be happy to answer any other additional questions that you might have.

Mr. Apicella: Alright, questions for the applicant? Alright, seeing none, I'm going to open the public hearing on this matter. It's time for the public to comment on this item. Mr. Harvey, I believe you addressed this during the last item that we talked about that there were no written comments on any other item. But just to be sure, I'm going to go ahead and ask were there any written comments on this particular subject matter?

Mr. Harvey: Mr. Chairman, there were no comments.

Mr. Apicella: Okay. So, I'm going to close the public hearing on these two items and bring it back to the Commission. I do have a question for staff.

Mr. Valotta: Yes sir?

Mr. Apicella: So, based on Mr. English's question and the response from the applicant, I'm looking at condition number 11, where it says the tower shall be designed to accommodate at least three telecommunication providers. Can we add something along the lines, and Stafford County Public Safety, as needed? Or maybe Public Safety equipment, as needed.

Mr. Valotta: Sure, yeah, we can add that. Actually, I grabbed the wrong report, if you can give me just one second. Could you repeat the condition number please?

Mr. Apicella: Yeah, it's condition number 11 and currently it reads, the tower shall be designed to accommodate at least three telecommunication providers, and I would...

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Mr. Valotta: And accommodate...

Mr. Apicella: ... just add, and accommodate Stafford County Public Safety equipment, as needed.

Mr. Valotta: Sure.

Mr. Apicella: I'm sorry, I did not catch your name. I should have written it down. Are you okay to that tweak to the condition as I mentioned?

Mr. Sharpe: Yes, I think that would be fine. Gerry Sharpe is my name. I think that should be fine.

Mr. Apicella: Okay, thank you sir. Mr. Cummings, this is in your district; how would you like to proceed?

Mr. Cummings: I'd like to make a motion to approve Comp Plan Compliance Review, number 20153256 and conditional...

Mr. Apicella: I think we need to take them up separately. So, is there a second on Mr. Cummings' motion?

Mr. McPherson: Second.

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

Mr. Cummings: No sir.

Mr. Apicella: Mr. English?

Mr. English: That was Mr. McPherson who made that second.

Mr. Apicella: Oh. Well, you guys sound very much alike tonight.

Mr. McPherson: No additional comments, thank you.

Mr. Apicella: Thanks Mr. McPherson. Any body else? Alright, seeing nobody else, I'm going to do a roll call vote. Mr. Bain, on the motion to approve the Comp Plan Review...

Mr. Bain: Aye.

Mr. Apicella: ... how do you... Ms. Barnes?

Ms. Barnes: Yes.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: Yes.

Mr. Apicella: Mr. English?

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Mr. English: Yes.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes.

Mr. Apicella: And Mr. Apicella votes aye. The motion carries unanimously. Mr. Cummings, how would you like to proceed on the conditional use permit?

Mr. Cummings: I'd like to make a motion that CUP application 20153255 be approved.

Mr. Apicella: As amended?

Mr. Cummings: As amended, thank you.

Mr. Apicella: Great. Any... is there a second?

Mr. Bain: Second.

Mr. Apicella: Okay, I believe that's Mr. Bain. Any further comments Mr. Cummings?

Mr. Cummings: No thank you.

Mr. Apicella: Mr. Bain?

Mr. Bain: No comments.

Mr. Apicella: Anybody else? Alright, I'll do a roll call vote on the motion to approve Conditional Use Permit CUP20153255, with the conditions as amended.

Mr. McPherson: Two-four-four.

Mr. Apicella: I see 255 on mine.

Mr. McPherson: Sorry, I was looking at the wrong one. My apologies.

Mr. Apicella: Okay. Mr. Bain, how do you vote?

Mr. Bain: Aye.

Mr. Apicella: Ms. Barnes?

Ms. Barnes: Yes.

Mr. Apicella: Mr. Cummings?

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Mr. Cummings: Yes.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes.

Mr. Apicella: Mr. Apicella votes aye. The motion carries unanimously. Thank you everybody, thank you sir. Appreciate what you're doing to get us connected here in Stafford County.

Mr. Sharpe: My pleasure, thank you.

Mr. Apicella: Alright, Mr. Harvey, moving onto the next item, item number 4, Reclassification, Courthouse Tracts Proffer Amendment, which will be done I think in conjunction with items 5 and 6.

4. RC20153242; Reclassification – Courthouse Tracts Proffer Amendment - A proposal to amend proffered conditions on 4.08 acres zoned B-2, Urban Commercial, to allow a restaurant with drive-through and a convenience store with vehicle fuel sales, on Tax Map Parcel Nos. 39-3 and 39-3A (Property). The Property is subject to two concurrent conditional use permit requests. The Property is located on the southwest corner of the intersection of Jefferson Davis Highway and Hospital Center Boulevard, within the Hartwood Election District. **(Time Limit: March 19, 2021) (History: December 9, 2020 Public Hearing Continued to January 13, 2021) (History: January 13, 2021 Public Hearing Continued to February 10, 2021)**
5. CUP20153243; Conditional Use Permit – Courthouse Tracts Taco Bell - A request for a conditional use permit (CUP) to allow a drive-through facility in the B-2, Urban Commercial and HC, Highway Corridor Overlay Zoning Districts on Tax Map Parcel Nos. 39-3 and 39-3A (Property). The Property consists of 4.05 acres, and is located on the southwest corner of the intersection of Jefferson Davis Highway and Hospital Center Boulevard, within the Hartwood Election District. **(Time Limit: March 19, 2021) (History: December 9, 2020 Public Hearing Continued to January 13, 2021) (History: January 13, 2021 Public Hearing Continued to February 10, 2021)**
6. CUP20153244; Conditional Use Permit – Courthouse Tracts 7-Eleven - A request for a conditional use permit (CUP) to allow vehicle fuel sales in the B-2, Urban Commercial and HC, Highway Corridor Overlay Zoning Districts and a convenience store in the HC, Highway Corridor Overlay Zoning District on Tax Map Parcel Nos. 39-3 and 39-3A (Property). The Property consists of 4.05 acres, and is located on the southwest corner of the intersection of Jefferson Davis Highway and Hospital Center Boulevard, within the Hartwood Election District. **(Time Limit: March 19, 2021) (History: December 9, 2020 Public Hearing Continued to January 13, 2021) (History: January 13, 2021 Public Hearing Continued to February 10, 2021)**



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Mr. Harvey: That is correct Mr. Chairman. This is a continuation of the public hearings that were previously held on these items, and Mr. Valotta will give the staff update.

Mr. Valotta: Hello again Mr. Chairman, Planning Commissioners. Joe Valotta, Planning and Zoning, presenting items 4 and 6... or 4 through 6 for the Courthouse Tracts project. As Jeff mentioned, this is a continuation of a public hearing that commenced on December 9, 2020. There were some concerns about the extent of the impacts to the property to the south, and the applicant has made some revisions to the application. So, tonight I have an abbreviated summary presentation to get to the changes. Again, this is three requests; a Proffer Amendment and two Conditional Use Permits, all for the total purpose of allowing development of a restaurant with drive-through and a convenience store with fuel sales, a Taco Bell and a 7-Eleven on the subject property. It's just over 4 acres in the Hartwood Election District. Steve Jones with Courthouse Tracts, LLC, is the applicant and Charlie Payne is the agent. The property is outlined in blue in this zoning map. It's located at the southwest corner of the intersection of Jefferson Davis Highway and Hospital Center Boulevard, zoned B-2 with proffers, and located within the Highway Corridor Overlay Zoning District. Surrounding zones include B-3 to the north, A-1 to the south and west, and B-2 and A-1 to the east. A portion of the property is developed with one single-family dwelling, which would be demolished for this development. And the remainder of the property is primarily wooded with rolling and steep terrain. There is a 100-foot Resource Protection Area buffer on the northwestern edge of the site; no development is proposed within the Resource Protection Area buffer. And there is one single-family dwelling to the south and the rest of the abutting properties are currently undeveloped. This is the revised Generalized Development Plan. Proffers and conditions would require general conformance with this plan. It shows the proposed layout of the uses. The southern portion of the property would be developed with a Taco Bell restaurant with drive-through, approximately 2,600 square feet in size. Customer parking spaces would be located in front of the restaurant, and a loading zone and dumpster enclosure would be located between the western side of the building and the entrance to the drive-through lane. The drive-through lane wraps around the south side of the building and includes a single stacking lane. And then the northern portion of the property would be developed with a 7-Eleven convenience store, approximately 4,600 square feet, and a fueling station. The fueling area would be under single canopy and includes 16 fueling positions located in between the building and Route 1. In-ground fuel tanks would be located directly adjacent to the fueling area in the eastern portion of the property. Customer parking is proposed to be located along the west, south, and east sides of the building, and along the western perimeter of the proposed development area. And the dumpster enclosure for the 7-Eleven would be located behind the building. The GDP shows two proposed access points to the site. One is a right-in/right-out on Route 1 with a 97-foot taper and a 97... excuse me, a 97-foot right turn lane and a 97-foot taper. And the second entrance is also a right-in/right-out; this one on Hospital Center Boulevard. And it includes a 200-foot right turn taper lane. Also, there is a future inter-parcel connection proposed along the western boundary of the development area. A 5-foot sidewalk is proposed along the entire Route 1 frontage and the entire Hospital Center Boulevard frontage of the property. And since the last public hearing, the applicant has relocated the fence that's proposed along the southern property line. Originally, that fence just ran across that southern property line and it was 6 feet in height. The applicant has increased the height of the fence to 8 feet and a portion of the fence will be located on the retaining wall along the southern portion of the property. This is a landscaping and driveway exhibit that has been submitted since the last public hearing, and it shows improvements to the driveway of the adjacent property to the south and also some plantings along the southern property line. Both of these improvements are now proffered. The exhibit shows two rows of evergreens and also a widening of the driveway such that the inner portion would be widened 18 feet and the outer portion of it would be widened to 50 feet.

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Mr. Randall: Mr. Valotta, I have a quick question for you. So, what am I looking at here? Am I... I'm looking at the retaining wall and the fence on top of the retaining wall, correct?

Mr. Valotta: Correct, yeah.

Mr. Randall: And then, what's the drop from the... from that fence, what's the drop from the retaining wall down to where these bushes or evergreens are going to be planted? Do you know?

Mr. Valotta: No, I don't have the topography on hand. I would need to defer to the applicant.

Mr. Randall: Okay, thank you.

Mr. Valotta: So, highlighting some of the proposed proffer revisions, the proffers as proposed would require development to be in general conformance with the GDP and the architectural renderings would require improvements to the adjacent driveway as shown on the exhibit from the last slide; also require plantings of evergreens as shown on the exhibit from the previous slide. The proffers would require site entrances and sidewalk as shown on the GDP and require transportation improvements as shown on the GDP. And the transportation improvements include a southbound right-turn lane on Route 1 with 97 feet of storage and 97 feet of taper. And also, a 200-foot eastbound right-turn lane on Hospital Center Boulevard. Some of the proposed conditions for the Taco Bell would require conformance with the GDP and the renderings; require a drive-through stacking lane that would be designed so as not to impede traffic circulation; require sidewalk along the frontage of Jefferson Davis Highway; and staff is proposing one new condition since the last public hearing. The new condition with the Taco Bell CUP would require temporary fencing to be placed along the western boundary of the property line, and the condition would require that the fencing is maintained until that inter-parcel connection is constructed. And the purpose of this condition is to eliminate trespassers from crossing into the residential property to the south. Some of the conditions with the 7-Eleven conditional use permit again require conformance with the GDP and the renderings; limit the use to 16 fueling positions; and require sidewalk along the frontages of Route 1 and Hospital Center Boulevard.

Mr. Bain: Mr. Valotta, excuse me one second. Just to go back to the Taco Bell facility, if I remember right the stacking lane will not have a bypass lane associated with it, will it?

Mr. Valotta: Correct, no bypass lane.

Mr. Bain: So, if a car breaks down, everything's stopped. But that's... yeah, get out and push. Okay, I just wanted... *inaudible, being talked over.*

Mr. Apicella: Hey Joe, can you clarify? Because I'm looking at the package, the staff report. Condition number 6 requires a bypass lane.

Mr. Valotta: That might have been a mistake on my part. I meant to remove that condition from the proposed conditions. Staff is no longer recommending that condition.

Mr. Apicella: Okay, just to be clear, Ms. Lucian, do we need to go ahead and make that change since it was in the staff report?

Ms. Lucian: You can just include it in the motion when it's made.

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Mr. Apicella: To remove condition number 6.

Ms. Lucian: Correct.

Mr. Apicella: Okay, thank you.

Mr. Randall: Mr. Valotta, I have another question for you. The condition for the Taco Bell that you just added with the required temporary fencing, what makes it temporary? Are they going to move it on Sundays and... why temporary? Why not require fencing along the western property line?

Mr. Valotta: Right. Well, if it was permanent fencing, it would impact the inter-parcel connection that's proposed along that property line. So, the intent of temporary is until that inter-parcel is constructed.

Mr. Randall: Okay, and will that temporary fencing run all the way to Hospital Center Boulevard?

Mr. Valotta: No. Hospital Center... or... I need to look at the GDP, give me one moment.

Mr. Randall: That's why we have it up. So, I'm assuming it's going to follow that somewhat of a crooked line from Hospital Center Boulevard all the way down to the property line on the south?

Mr. Valotta: Yes, that's correct. The condition says that it would run across the western property line, so from...

Mr. Randall: Okay. What's the status of this fence? Is it a 3-foot barbed wire or a 6-foot board on board or an 8-foot? Do we have some stipulations of what that fence is going to look like?

Mr. Valotta: Currently, the condition doesn't include any sort of stipulation, but we could certainly change it to be a 6-foot board on board...

Mr. Randall: I was just wondering, when staff puts it in there, if you had an idea of what you expected that to look like and how you define temporary. Is it... I mean, is it post holes 3-foot in the ground with cement, you know, that I could cut off at the front and be done? Or is there some type of something else that's going to make it temporary? So, I agree with the fence; I just think there needs to be more clarity to that before we just say, you know, a temporary fence and leave it at that. Over.

Mr. Apicella: So, Mr. Valotta, is that something you want to take a look at while the applicant gives their presentation and give us some specific language or recommendation on what that...?

Mr. Valotta: Yeah, yeah, I can do that.

Mr. Apicella: Okay, great.

Mr. Valotta: Okay, so going back to the Comprehensive Plan, the Comp Plan identifies the property within the Courthouse Planning Area and Targeted Residential Growth Area. And the more detailed planning concept shown on the screen identifies the property within the Commercial, Retail, and Office designations. TGAs are areas of the County where urban or higher density suburban development patterns are most appropriate. Staff finds that the proposed uses are generally consistent with the Comprehensive Plan's recommendations and policies. Looking at the overall evaluation for all three requests, for positives staff notes that the project is consistent with the land use recommendations of the

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Comp Plan; consistent with the established development pattern along Route 1; proffers and conditions would help mitigate potential impacts on adjacent properties and would ensure that the buildings are consistent with the renderings and the Neighborhood Design Standards Plan; and the proposed sidewalk would improve pedestrian connectivity in the area. For negatives, staff still notes that this project is inconsistent with the Comp Plan policy discouraging further degradation to failing intersections as was mentioned in the presentation on December 9. The Comp Plan recommends Level of Service C for roads within the County. Here, the studied intersection, Route 1/Hospital Center, is projected to operate at a level D without this development, but this development would degrade Level of Service to a level E. And moving to the recommendation, staff recommends approval of the Reclassification application with proffers pursuant to Ordinance O21-11, approval of the Conditional Use Permit, CUP20153243, with conditions pursuant to Resolution R21-49, and also approval of the Conditional Use Permit, 20153244, with conditions pursuant to Resolution 21-51. And that concludes the staff presentation.

Mr. Apicella: Thank you Mr. Valotta. Questions for staff on items 4 through 6? Alright, seeing none, would the applicant like to make a presentation, answer questions?

Mr. Payne: Thank you Mr. Chairman and other members of the Planning Commission. This is Charlie Payne here. I hope you all are doing well. Happy New Year to you; I don't think I've had a chance to say that this year. As staff had noted, this initial public hearing was in December. At that time, the adjoining neighbor, or relatives of the adjoining neighbor, had asked us to look into mitigating impacts of the project. We met with the Bumbrey family on this; in fact, we communicated with them right away after the hearing and we set up a meeting onsite. Mr. English also was at that meeting. And the major issue was basically screening and safety. And one of the issues they wanted us to address was expanding the driveway. So, we did redo that and you can see that's in our proffer statement. And that's the max width that we could get VDOT to approve as they must approve any driveway or access that touches Route 1 or any VDOT public road. So, we agreed to do that. We also agreed to plant additional evergreens in the location that you see on our exhibit. And also locate the 8-foot privacy fence on top of the retaining which basically gives us 13 feet of additional screening. I believe Mr. Randall had asked what does the grade drop to on the adjoining parcel, and I wasn't quite sure what particular location. We did provide an exhibit to that effect where you see the grading, in addition to the screening. So, basically along the driveway it's about 190 or so and, you know, up to the fence with the... up to the retaining wall with the fence is about 213, and Jenn, you can correct me if I'm wrong. And back to the house, the grade level is about 194. And again, with the fencing, about 213 and then we're also going to add the plantings near the residence as we show on the exhibit. So...

Mr. Randall: Mr. Payne?

Mr. Payne: Go ahead.

Mr. Randall: If I could, this is Mr. Randall.

Mr. Payne: Yes.

Mr. Randall: Really, the question I had was you're planting evergreens as kind of a shield, as another buffer between the house in that location and the Taco Bell. My question was, you know, if you plant 4-foot trees in that area, how long will it take for them to actually be a buffer that it's intended to? You know, if it's 50 feet down from the Taco Bell to their property line and you're planting 4-foot trees, I just want to know how long it's going to take? Or if you're planting 12-foot trees, maybe they'd provide

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enough buffer already. I was just looking at that timeframe to find out when those trees will actually perform the function for which they're being planted. Thank you.

Mr. Payne: Although I do cut my own grass, I'm not a landscape expert. But I believe these trees are about 6 feet in height at start and they are the fastest growing trees that you can plant. I believe the County requirement is that you have a mix of different trees to plant as part of the landscaping plan. But the adjoining property owners specifically wanted us to include evergreens because they grow faster. Jenn, I don't know if you have more to add to that as to how quickly they will grow, or Steve, I don't know if you guys have some history there.

Ms. Shea: *Inaudible*... like Leland Cypressess grow about a foot or two a year. Probably not the first year once they're planted, but they certainly do take off.

Mr. Apicella: Can you announce who you are?

Ms. Shea: This is Jenn Shea with Fairbanks and Franklin.

Mr. Apicella: Great, thank you.

Mr. Randall: Roger that. That's all I need, thank you. That answers my question. Soon or... soon after planting, it'll provide. I mean, the retaining wall, it does a great... the retaining wall and the fence I think answers my question. And I think the evergreens, I think they'll add an extra layer that will help. Thank you.

Mr. Payne: Great. I don't know if there's any other questions for us. We do appreciate staff taking out the bypass lane. In your packet is a letter from the user. They've been in the business for 33 years and they've never had an emergency in their drive-through lane. And half of their stores, or 46% of their stores do have bypass lanes and about 53% don't without incident. And we sort of did a sort of anecdotal analysis ourselves of bypass lanes of fast food restaurants in Stafford, and many of them, or most of them that we looked at, did not have them. So, we just wanted to share that with you as well. So, we did look into it. We didn't want you to think that we ignored it.

Mr. Apicella: Other questions for the applicant?

Mr. English: Mr. Payne, I guess Mr. Bumbrey's okay with everything; I haven't heard anything from him, so I'm assuming he's okay with everything, correct?

Mr. Payne: The last communication that I saw I think you all saw, or staff saw, was that they wanted us to address the concerns that we have presented.

Mr. English: Yeah, I think you have. And let me ask you one question; I don't know if I talked to you or not. Will there be a crosswalk light there right there where the 7-Eleven's going to be across the Stafford Hospital Boulevard right there?

Mr. Payne: Route 1 or across Hospital Boulevard?

Mr. English: Excuse me?

Mr. Payne: Across Route 1 or Hospital Boulevard?

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Mr. English: Across Route 1 from the 7-Eleven to Route 1. Did they address that or did we talk about that? Are they going to be able to put like a walking signal for pedestrians there? Or do you know?

Mr. Payne: Jenn can correct me, but my understanding is VDOT would not allow us to do that.

Mr. English: That's what I thought. I just wanted it on record. Okay.

Mr. Payne: Yeah, traffic is where it picks up right when you come by the courthouse area.

Mr. English: Understood. Thank you. Thank you, Mr. Payne.

Mr. Apicella: Other questions?

Mr. Cummings: Steven, I have another question. I have a question for staff again. Is that possible?

Mr. Apicella: I'll tell you what, can we just finish with the applicant and then we can go to staff?

Mr. Cummings: Yes sir.

Mr. Apicella: Alright. If there's nobody else with a question, Mr. Payne, I have a quick one. While Mr. Valotta's anxiously drafting the language on the fencing, do you have any thoughts about that? The temporary fencing, what that might look like?

Mr. Payne: Well, I'm going to defer to Steve maybe, Steve Jones with Silver Companies, the developer on this and the property owner. You know, the intent is for it to be temporary because there will be an inter-parcel connection. As you all know, the property all to the west of Route 1 is Future Land Use Plan for commercial. The property adjoining us is obviously A-1 or R-1 zoned, but the property to its south is already zoned B-2. So, you know, there's going to be an inter-parcel connection that's going to benefit the property owner to the south in the future, so we can have access to Hospital Boulevard. So, if you put... you know, I want to avoid putting something very expensive and very permanent in there because, you know, it may very well be removed sooner rather than later. But Steve, I don't know if you want to add some more to that.

Mr. Jones: Yeah, I'm here. This is Steve Jones; I'm the applicant. Can everybody hear me?

Mr. Apicella: Yes.

Mr. Jones: When we met with the Bumbrey's, one of their concerns was we were showing that open drive that will connect in with that future inter-parcel connector. And one of their concerns was somebody could wander from the parking lot down through that, and they wanted that blocked off. So, we committed to go from the end of the 8-foot privacy fence that we're putting in, the nice board on board fence, with something like a chain link fence that would go up beyond that crossover so somebody couldn't just wander down over toward their mother's house. Knowing that that fence will, once that inter-parcel connector is built and ties in with their property when they so choose to do something with it, that that fence would just be torn out.

Mr. Apicella: And do you have a suggestion on the height of that chain link fence?

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Mr. Jones: We were thinking just a 6-foot fence to discourage somebody from wandering down there. They just want to keep people from walking over into their woods.

Mr. Apicella: Okay, I just wanted to make sure that we're all on the same page as to what that might look like. Thank you, Mr. Jones.

Mr. Jones: My pleasure.

Mr. Apicella: Alright, I believe Mr. Cummings has a question for staff. Thank you, Mr. Payne and the other folks, on the line. Your question Mr. Cummings?

Mr. Cummings: Yes. I know we have a... *inaudible*... with the traffic and that it's going to further degradate the traffic in that area. And I know this is just from this one development and other developments planned in that area. There's another parcel, a couple parcels across the street from this and actually on either side. So, what... and they're probably zoned for... can you tell me the zoning on those two particular parcels and what we can expect from that corridor if we allow this one and then, you know, what the plans, you know, what can we expect from that, the further impacts?

Mr. Valotta: I'm sorry, which two parcels? The subject parcels or were you referring to two adjacent parcels?

Mr. Cummings: No adjacent actually but the one directly across the street to the, I guess it would be the north of the property and to the east? I'm just trying to get a sense of, you know, if this parcel is already going to degradate this particular traffic in this area, I'm just trying to see how... what this area is going to look like, this intersection is going to look like when... *inaudible*.

Mr. Valotta: Right. So, yeah, the parcels to the north are currently zoned B-3. And they are part of the current Downtown Stafford development concept. I don't believe a site plan has been submitted for those two specific parcels yet, so there is no projected traffic volume for those particular parcels that I'm aware of. I will note that the subject property, it's in our Courthouse Small Development Plan Area, which is a concept plan that was developed almost 9 years ago at this point. However, that plan does take into account that there will be a future downtown in this vicinity. And with that consideration in mind, it recommends highway commercial use for this property.

Mr. Payne: Can I add something real quick to that question, Mr. Cummings, if I could? You know, we looked at that extensively. Obviously, this is a new intersection and you'd expect a new intersection not to be performing at a level E or D. Much of the traffic we had to include in our analysis because this is what we're required to do. It's pass-by traffic. It's traffic that's already on the road, not necessarily that's coming to our site just because it's already on the road and, of course, they're attracted to get into the site for whatever purpose, going to 7-Eleven or going to get something to eat. So, the analysis, even though it appears that, you know, we're adding more of an impact, the reality is more than half the traffic is already on Route 1 or Hospital Boulevard; it has nothing to do with us. If that helps with your analysis.

Mr. Cummings: Yeah, thank you.

Mr. Apicella: Okay, Mr. Valotta, while I have you up, I'm going to propose some language based on what Mr. Jones said. And if you have something different, that's fine. For number 5, a 6-foot tall chain link temporary fence would replace the words temporary fencing on number 5. Does that meet with what you drafted up?

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Mr. Valotta: Yeah, that's exactly what I had.

Mr. Apicella: Great. Alright, any more questions of the applicant or staff on items 4 through 6? Alright, seeing none, I'm going to open the public hearing on this matter. Just for transparency sake, Mr. Harvey, were any written comments submitted to the County on any of these three items?

Mr. Harvey: Mr. Chairman, we have not received any new written comments since the initial public hearing.

Mr. Apicella: Okay, thank you. With that said, I'm going to close the public hearing and bring this matter back to the Commission for consideration. Mr. English, these are in your district, how would you like to proceed? And we would need to take up each on separately.

Mr. English: Okay. With number 4, the Reclassification of Courthouse Tracts Proffer Amendment, RC20153242, I make a motion to approve.

Mr. McPherson: Second.

Mr. Apicella: Okay, thank you gentlemen. Any further comments Mr. English?

Mr. English: No.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: No.

Mr. Apicella: Anyone else? Alright, so there's a motion to approve RC20153242, Reclassification, Courthouse Tracts Proffer Amendment. Mr. Bain, how do you vote?

Mr. Bain: Aye.

Mr. Apicella: Ms. Barnes?

Ms. Barnes: Yes.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: No.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?



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Mr. Randall: Yes.

Mr. Apicella: And Mr. Apicella votes aye. The motion carries 6 to 1. On the item number 5, Conditional Use Permit, Courthouse Tracts Taco Bell item. Mr. English?

Mr. English: I'd like to make a motion to approve CUP20153243 with number 6 being removed as a reference to the by-pass lane, that number 6 be removed, and also added the 6-foot chain link fence as a temporary fence added to that.

Mr. Apicella: Great, is there a second?

Mr. Randall: Second.

Mr. Apicella: Okay. Any further comments Mr. English?

Mr. English: No, uh-uh.

Mr. Apicella: Mr. Randall?

Mr. Randall: No. Thank you.

Mr. Apicella: Anyone else? Alright, so there's a motion to approve CUP20153243, Conditional Use Permit, Courthouse Tracts Taco Bell with revised conditions as stated by Mr. English. Mr. Bain, how do you vote?

Mr. Bain: Aye.

Mr. Apicella: Ms. Barnes?

Ms. Barnes: Aye.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: No.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes.

Mr. Apicella: And Mr. Apicella votes aye. The motion carries 6 to 1. Last item, number 6.

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Mr. English: I make a motion to approve number 6, Conditional Use Permit, the Courthouse 7-Eleven, it's CUP20153244.

Mr. McPherson: Second.

Mr. Apicella: Okay. Any further comments Mr. English?

Mr. English: No, I'd just like to thank Mr. Payne and Mr. Jones for working with the Bumbrey's on this. I hope that... I think we came up with some good solutions and I hope it all works out for them.

Mr. Apicella: Okay, Mr. McPherson, I think you were the second on that one.

Mr. McPherson: Yep, no additional comments, thank you.

Mr. Apicella: Anyone else? Alright, motion to approve CUP20153244, Courthouse Tracts 7-Eleven Conditional Use Permit. Mr. Bain, how do you vote?

Mr. Bain: Aye.

Mr. Apicella: Ms. Barnes?

Ms. Barnes: Yes.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: No.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes.

Mr. Apicella: And Mr. Apicella votes aye. The motion carries 6 to 1. Thank you everybody for those three items. Alright, moving onto Unfinished Business, item number 7, Downtown Stafford.

UNFINISHED BUSINESS

7. Downtown Stafford - Authorize public hearings for a Comprehensive Plan Amendment and a Zoning Ordinance Text amendment regarding the UD-5, Urban Development, Zoning District, and a zoning reclassification application for approximately 29 acres to the UD-5 Zoning District, in the Courthouse Planning Area. **(Time Limit: March 29, 2021) (History: PC Work Session**

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**December 2, 2020) (Deferred to January 13, 2021) (Deferred to January 27, 2021) (Deferred to February 10, 2021)**

8. RC21153698; Reclassification – Stafford County Board of Supervisors, Courthouse Road Property - A proposed zoning reclassification from the B-2, Urban Commercial Zoning District to the UD-5, Urban Development 5 Zoning District on Tax Map Parcel Nos. 30-43, 30-43A, 30-43B, 30-43C, 30-43D, 30-43E, 30-43F, 30-43G, 30-44, 30-45, and 30-46, consisting of approximately 16.11 acres; and from B-3, Office, to UD-5, Urban Development 5 on Tax Map Parcel Nos. 30-50 and 30-53, consisting of approximately 13.08 acres, in the Hartwood Election District. **(Time Limit: 100 days from Public Hearing)**

Mr. Harvey: Thank you Mr. Chairman. For items 7 and 8, Brian Geouge will give the update for staff.

Mr. Geouge: Good evening, again Mr. Chairman, members of the Commission. This is a continuation of a discussion on Downtown Stafford which is comprised of three action items, Comprehensive Plan amendment, a Zoning Ordinance amendment and a... last one to be discussed separately, a Reclassification of the County and JPI owned land to UD-5. The UD Ordinance and Comp Plan amendment were discussed at the December 2<sup>nd</sup> work session and also the December 9<sup>th</sup>, January 13<sup>th</sup> and January 27<sup>th</sup> Planning Commission meetings. The latest comments are summarized here, the first of which was to consider increasing the Comp Plan recommendation of 100 square feet of commercial use per one dwelling unit. So, staff has modified the recommendations in the Comp Plan to break out the ratio of desired development by phase. So, the first phase would consist of the County and JPI owned property, which is currently proposed for UD-5 rezoning. Within that area there's 115,000 square feet of proposed commercial square footage. Residential dwellings units, there's 979 proposed. So, basic division, you come up with roughly 100 to 1 ratio, which is recommended for the first phase of development, similar to what was recommended previously. However, the build out phase recommends much more commercial in comparison to the dwelling units. So, 1.1 million square feet of commercial with about 1,500 dwelling units so, that equates to a 700 to 1 recommendation. So, that was reflected in the proposed Comp Plan language. Since this may be impractical in all situations, there was also criteria added that, if a project is proposing more residential than was recommended and the concept plan that a fiscal impact study would be needed to help insure that the impacts of that development are appropriate. Furthermore, criteria was added to reinforce that the recommended total of 2,490 dwelling units across the downtown area should not be exceeded. There were also concerns about parking space dimension, these were more so concerns from JPI, who noted that typical garage spaces are smaller than our standard 9x20. So, staff has done some research on that and looked at several locations which are summarized here. We found that in the City of Fredericksburg, they have a standard of 8 ½ x 18. City of Rockville Maryland, or Rockville Town Center has 9x18 standard, Prince Georges Maryland, the location at National Harbor, has 9x18 standard as well. And we came across some other studies that recommended 9x18 as sort of a comfortable standard, so on the high end of space size for parking garages. So, in light of that we are proposing a change to the Ordinance that would require a minimum parking space of 9x18, for parking garages and decks.

Mr. Apicella: Mr. Geouge, before you move on I have a question for you on this. Do any of these peer localities set aside a percentage of spaces that should be larger to accommodate bigger vehicles, like trucks?

Mr. Geouge: I do not believe so.

Mr. Apicella: Okay, so someone's got a big truck, they just got to make it work in one of these 9x18.?

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Mr. George: I guess maybe on street parking would accommodate that kind of vehicle better. So, they would have to look at other options for parking, that is correct.

Mr. Bain: Mr. Geouge: I have got some experience in parking deck design. Generally, it's not the length of the space, it's the width that they try in reduce because they get more parking spaces in the building. Changing it to 18 feet but keeping 9, I am supportive of but it also ties into the width of the drive lane for vehicles to maneuver. Does this... does our Ordinance have anything on that requirement?

Mr. Geouge: It's in large part, that's driven by Fire and Rescue needs. So, they would dictate the widths necessary to navigate that with a comm... emergency vehicle if need be.

Mr. Bain: Okay, that's good. I should have asked, or thought about that before and raised that question before the meeting. But, I know I have been in the parking deck near the Baltimore Airport with my pickup truck with full 8-foot bed and a cab crew.

Mr. Geouge: Yeah.

Mr. Bain: I couldn't get in and out and barely got through because of the height of the vehicle. So, thank you.

Mr. Geouge: Yeah, I think Fire and Rescue typically looks for a minimum of 20-foot...

Mr. Bain: Yeah.

Mr. Geouge: ... travel way.

Mr. Bain: Yeah, that's good. Thank you, sir.

Mr. Geouge: The Commission also asked what would be considered infeasible in regards to the proposed Comp Plan language requiring... not requiring but recommending pro rata share for public amenities. So, the pro rata criteria was expanded to clarify that the situation would be determined infeasible if the limits of development contain less than half or none of the recommended park area as defined on the Downtown Stafford concept plan. So, deferring park construction for any other situation would need to be justified. There were also concerns raised regarding the size of the...

Mr. Apicella: I am sorry, I am going to take you back. My apologies. So, are parks the only public amenity that we are interested in?

Mr. Geouge: Uh...

Mr. Apicella: Just by the way it is written, it just speaks to parks. If they can't make a park work then they have got to provide a pro rata share. So, I just want to be sure that we are not limiting ourselves on this language, only circumstances where it's beyond a park... *inaudible*...

Mr. Geouge: I don't believe we would be, we have other methodology is outlined in the appendices of the Comp Plan that guide us through mitigating other appropriate mitigations for other public facilities.

Mr. Apicella: Do we need to say that though?

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Mr. Geouge: Well, my inclination would be no, but Mike Zuraf is on the call, if he wants to chime in on that.

Mr. Apicella: Or Ms. Lucian?

Mr. Zuraf: Yeah, Mr. Chairman, if I could... while Brian is going through, to just review the language just to see how that could be adjusted if it needs too. And I can follow up as we get to the end of the presentation. If that's acceptable?

Mr. Apicella: Sounds good. Thanks Mr. Zuraf.

Mr. Randall: Can I expand on that just for a minute?

Mr. Apicella: Please.

Mr. Randall: So, would be determined to be infeasible if the limits of the development contain less than half or none of the recommended area for a park. So, we have one of those sections, and I don't know exactly what sections it is, what number it is, where half of it is residential and half... I mean half of that block, half of it is residential, half of it's a park. So, are you saying that if they are development comes in... they are the owner of that property and they come in and say my development is going to take up three quarters of the block versus half the block, and therefore I can give you \$100,000 and I don't have to build a park? Is that what that is saying to me?

Mr. Zuraf: If they have three quarters of the area where a park is recommended, then we would ask that they build their portion.

Mr. Randall: Build what, I am sorry, I didn't hear you.

Mr. Zuraf: That they would construct their portion of the park.

Mr. Randall: Where?

Mr. Zuraf: If they... in the area where it is recommended.

Mr. Randall: So, we would have a park that was only half the size of what we wanted.

Mr. Zuraf: Well, then it would be completed by... you would have to... in that event, rely then on a future development to come through and build the rest.

Mr. Randall: Right, and then it says in here lies the problem. Nobody is going to want to build a park, right? So, either we have to pay... we have to help... we have to get from the developers, enough money for the County to buy one of those sections and make it a park. Or we have to put something in place that says there are no options, if you buy that block and it's a four-acre block, two of it has to be a park. There are no other options, you don't get a choice to pay money for a park somewhere else. You don't get a choice to... we have to insure otherwise it won't happen. I just don't know if this is going to be enough language to ensure that, that nine acres, which is a pretty small amount by the way, of all of that. But that nine acres that we have told... we have said are going to be a park that in the end we end up with nine acres. We don't end up with three acres and \$500,000 in the bank. That doesn't help us. It may help the general fund, but it doesn't help the parks in that location. And so... again, I mean how

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are we making sure that that happens? When I want a park there, the park goes there. And I don't know, you know, we are giving outs and I don't... if I had the answer I would give it to you. I don't have the answer. But I just don't think this is going to get us to where we want.

Mr. Geouge: Again, this is Comp Plan proposed language, not Ordinance language. So, the comp plan is intended as a guide to informed decision making. So, that would need to be evaluated on a case by case basis and comparatively to that concept plan.

Mr. Zuraf: And, I guess to respond... so, the idea is and maybe it's.... so, if somebody only controls half of that block and that is where the park is recommended then they could not build the whole park because they wouldn't control the rest of the land. So, it would rely on future development to build the remainder.

Mr. Apicella: I think the bottom line is we want them to either build their portion or set aside their portion for the park and if it's not as you say, feasible, then they have got to provide their pro-rata share. And I just want to make sure... or whatever that public amenity is, I just want the language... my preference is the language to be clearer, crisper so that there isn't a way out, as Bark aptly points out. So, again if you could think about while the presentation is going and then tighten up the language.

Mr. Zuraf: Okay.

Mr. Apicella: Please go ahead Mr. Geouge.

Mr. Geouge: Okay, moving on there were also concerns about the size of the proposed plaza area, which is shown to be about a half an acre. It is noted that this should be at least one acre to accommodate special events and outdoor markets. There are no proposed changes by staff at this point, but we do remind the Commission that the County does have control over the property where the proposed plaza is located. And ultimately the Board will have control through an agreement with the perspective developer, exactly what that plaza area is going to look like.

Mr. Randall: But staff's recommendation is to keep it at half an acre?

Mr. Geouge: We don't have a specific recommendation per se, other than having the concept plan adopted or proposed as being part of the Comprehensive Plan.

Mr. Randall: Okay.

Mr. Bain: Basically, if that area was to increase the road alignments would have to change, if I recall.

Mr. Geouge: Road alignment and/or building locations...

Mr. Bain: Would make... *inaudible*.

Mr. Geouge: Yeah.

Mr. Bain: Yeah.

Mr. Geouge: There was another comment about sidewalk widths and having areas that can accommodate outdoor dining. Staff believes that the proposed sidewalk widths are appropriate and offer variations in

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sidewalk widths. Again, this essentially 16-foot area would be a minimum, a developer could go above that. If specified specific proposed uses require outdoor seating, we feel like this would best be evaluated at the time of rezoning. Because different situations may require different accommodations. For example, in certain area you may want a whole block that has a little bit wider sidewalk or you may have one or two small restaurants and whole section of block that maybe you could accommodate through other means. So, staff has incorporated language in the Comp Plan also that will include recommendations for outdoor dining areas to be incorporated into the design of sidewalks. And we do note that the Planning Commission may agree upon specific changes to the Ordinance to express any further concerns, however if changes are desired, staff first asks for consensus from the Commission about what those specific changes and design details would be. And also recommends that some flexibility be retained to hopefully reduce the need for future Ordinance amendments to accommodate specific users or scenarios. There was also concern about overall traffic impacts not being considered, again we note that any future proposed rezoning outside of the County and JPI owned properties would be required to conduct a traffic study if they are expected to generate more than 1,000 vehicles per day and each development would be responsible for addressing specific road improvements attributable to their development. In conclusion, the next step is to authorize a public hearing for this. The deadline is March 29<sup>th</sup>, so the Planning Commission would need to authorize a public hearing by the next meeting. And I am taking any questions.

Mr. Apicella: Questions for staff?

Mr. English: Steven, should we go ahead and try to set a public hearing on this thing now?

Mr. Apicella: Well do want to have the... can we get the presentation on the next item and then we can decide what we are going to do?

Mr. English: Yep, okay.

Mr. Harvey: Mr. Chairman, Ms. Baker will give an update on the rezoning application.

Ms. Baker: Good evening Mr. Chair, members of the Commission. Kathy Baker, Assistant Director Planning and Zoning. This reclassification application by the County Board of Supervisors for the Courthouse Road Property, just to recap, is a request for proposed rezoning of about 29 acres from B-2, Urban Commercial and B-3, Office to UD, Urban Development 5 Zoning District for mixed use development. The Stafford County Board of Supervisors and JPI, Fountain Park LLC, which I will refer to as JPI, owns the properties and the Board of Supervisors is the applicant. This project has been discussed over several Planning Commission meetings in conjunction with the proposed Comp Plan Amendments and Zoning Text Amendments. The reclassification application would obviously be subject to adoption of those amendments. We did present detailed background information on the rezoning application to the Planning Commission at your January 27<sup>th</sup> meeting, to receive some input prior to scheduling the public hearing. Several issues were raised at that meeting, I will just go through those briefly. First of all, there was a concern that no proffers were proposed with the rezoning application and so how would impacts be addressed by the development. As the Board is the applicant, we can't provide proffers towards this project, but as previously noted a Memorandum of Understanding between the County and JPI established certain responsibilities about the rezoning project and certain improvements to the roads and utilities and other site features. Staff does note that the proposed improvements specified in the MOU specific to the JPI property would have to offset the cost of their development impacts. For example, construction cost involved in clearing and grading the surface parking lot on the County owned land would be money that they are contributing. Also, the construction

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of an access road that would serve the overall Downtown Stafford area, as well as construction of a building for County office use. Also, any future proposed development of the County owned properties would be subject to future MOUs with the perspective developers and that would ensure conformance with the Comp Plan and the Downtown Stafford concept plan. And in your packet, we did include the... uhm... a fiscal impact analysis that the Economic Development Department prepared and it showed some of those impacts and how they might be offset in more detail. The next question was regarding recommended traffic patterns, with regard to the proposed parking garage and whether there would be any improvements to preclude backups particularly on Courthouse Road. So, we... I believed mentioned traffic patterns really have not been assessed yet. The impacts and patterns would be necessary at the site development plan stage, because more engineered plans would be presented at that time and provide the opportunity for VDOT to make specific comments regarding the developments at that time, based on size of buildings, etcetera. The parking garage in particular and how it relates to the other buildings and how it's laid out on the property. Staff does note that there are proposed improvements with the Courthouse Road and Route 1 widening project and other projects such as the Burn's Corner development and there is a new Hot Lane entrance proposed near the commuter parking lot down near the western end of Courthouse Road near I-95, so these projects will also have some impact to the area, so at such time that any specific site plans are submitted there could be some changes that are already taking place. The next... there was a question regarding the MOU between the County and JPI to specify what is required versus what is recommended. So, the staff report really goes through that in detail, I am not going really go into that here, unless you have any discussion or any further questions on any of those. The next question was why to rezone the County property at this time instead of waiting until the uses are determined. And as we did note, the Board determined it's appropriate to initiate this reclassification at the same time as the JPI property in order to achieve a more commonality with the internal project improvements and insure they are completed in a timely manner. There are some joint efforts that would be best to do all together. Also, the establishment of the UD zoning on the County property will allow the County to attract and work directly with potential developers to achieve the division for the future development of Downtown Stafford. So, our Economic Development Department has a lot... has made a lot of effort already in working with potential developers and will continue to do so. And lastly the Commission asked what the timeline for necessary completion, a PC action on the reclassification is in order to meet the contractual deadline of July 9<sup>th</sup> that is spelled out in the MOU. We do note it is desirable to have the Comprehensive Plan amendment, Zoning text amendment and the reclassification all considered at the same time, at the same meeting. And the deadline for action is noted for the Comprehensive Plan and Zoning text amendment is March 29<sup>th</sup>. So, the public hearing for those should be authorized at you next meeting in order to go to public hearing on March 24<sup>th</sup>. The rezoning could also be potentially scheduled for March 24<sup>th</sup>, we are working to finalize our analysis and report and to ready by that date. So, in order to meet the July 9<sup>th</sup> meeting the latest date that the Board could take their action on the rezoning would be July 6<sup>th</sup>. So, that would require final action by the Planning Commission on June 9<sup>th</sup>. But we would recommend that the Planning Commission provide their recommendation earlier, potentially the May 12<sup>th</sup> meeting. That way if there are any unforeseen issues that would still allow us appropriate time to advertise for the Board's public hearing. And could potentially even go to the Board at their June meeting. So, with that I will address any questions you all may have.

Mr. Apicella: Okay, questions on item number 8?

Mr. Bain: I have got one, just out of curiosity. Rezoning to UD-5 for these properties, assuming that this whole area will eventually be UD-5. Does that increase the value of the properties outside of what we are looking at right now? Do you think? The potential value?



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Ms. Baker: I am not sure I can answer that question.

Mr. Bain: I would...

Ms. Baker: *Inaudible.*

Mr. Bain: I would accept a general opinion.

Ms. Baker: Well we can ask our Commissioner of Revenue his thoughts.

Mr. Bain: Well okay. My opinion that is will increase the potential value of the adjoining properties and so they will receive a windfall in value by the action of the County, the Planning Commission and ultimately the Board of Supervisors. And we have heard on some other items that the Board is considering that several of the Supervisors are... abhor the idea of a windfall going to any property owners. So, I am just stating a...something that seems obvious to me but maybe other are overlooking. Thank you.

Mr. Apicella: Thank you Mr. Bain. Other questions? Ms. Baker, just real quick, so one option for us tonight is go ahead and put the Ordinance change and the Comp Plan change to a public hearing on the... what is it, the 10<sup>th</sup> March. That would give us an extra meeting if we needed to defer action on those. Am I correct?

Ms. Baker: Well, we were proposing March 24<sup>th</sup> for the public hearings. I guess we hadn't anticipated that you all would be ready to move forward. So, we didn't look at March 10<sup>th</sup> yet. But...

Mr. Apicella: That is March. I mean, I guess my concern is having to vote on something this significant in one meeting, we might need to take two meetings. So...

Ms. Baker: And that is why we have tried... been trying to hash this out in advance of authorizing the public hearing so hopefully all of those issues would be addressed and in a final format. But, I understand if you all still want extra time. We'll just have to...

Mr. Apicella: We don't have any public comment, that is my concern. So, we have been discussing it. It hasn't really been an item in front of the public for them to comment on, other than during the general public comment period. By giving us and extra meeting, it gives us more time to get those comments and consider any potential changes over two meetings.

Ms. Baker: Umm...

Mr. Harvey: Mr. Chairman.

Ms. Baker: Okay, go ahead Jeff.

Mr. Harvey: If the Commission is satisfied with the Ordinance and the Comp Plan amendments as described tonight, staff can move forward with advertising for the March 10<sup>th</sup> hearing date.

Mr. Apicella: Okay, so I am going to go back to Mr. Zuraf. We talked about one potential issue that could be a small but significant stumbling block. Have you thought about any tweaks to that language?

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Mr. Zuraf: Yeah, If I could share my screen, it might make is easiest. Can you see the work document?

Mr. Apicella: I can see Mike Zuraf... oh, now I can.

Mr. Zuraf: Alright, the yellow highlighted text is the specific provision, green is new deletion and blue new additions. So, just reading it through, it would be new developments should make a pro rata contribution towards community amenities where it is feasible... where it is infeasible to construct said amenities identified in the plan. It would be determined to the infeasible if the limits of the development do not contain any recommended community amenities as defined on the Downtown Stafford Concept Plan.

Mr. Apicella: So, if I were to change any to the, how would that work? Would that achieve the same end? So, it does not contain the recommended community amenity.

Mr. Zuraf: Yeah, that... that is just as good.

Mr. Apicella: Okay, I am personally okay with that I don't know about everybody else. And so, folks can look at that while it is on the screen. The one other thing I would ask you Mr. Zuraf, you and I had a conversation about numbers and making sure those numbers are accurate in the Comp Plan Amendment. Did you have a chance to look the specific one I was talking about?

Mr. Zuraf: Yes, and I will make that correction. Yeah, thanks for catching that. It was just a, yeah, needed to add those to the total.

Mr. Apicella: I would just ask that if anybody makes a motion to, again, put this ... these packages forward for a public hearing on the 10<sup>th</sup> of March. That would give staff no leeway to make any necessary minor, non-substantive, editorial changes. Just to make sure, you know, there's no i not dotted or t not crossed. So, I will just sort of throw that out there. So...

Mr. Bain: Steve?

Mr. Apicella: Yes.

Mr. Bain: I am confused by that wording.

Mr. Apicella: Okay.

Mr. Bain: To me it says if a parcel that a developer owns does not have any amenities shown on the Concept Plan, then that developer has to make a contribution towards amenities that are shown on the plan but not on his parcel. That is the way I am reading that.

Mr. Apicella: That is why I change any to the. So, the County has an idea of what it wants in these specific areas, right, and if the developer is not able to make it work for whatever reason...

Mr. Bain: But that is not what it said. It says if his parcel does not contain any of the recommended amenities...

Mr. Apicella: Yeah, I get it, we took out any. It says the.

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Mr. Bain: Yeah, if his parcel does not contain the amenities...

Mr. Apicella: Right.

Mr. Bain: ... he still needs to make a contribution. Is that what we are trying to get?

Mr. Apicella: Yes.

Mr. Bain: So, how would that contribution be determined then?

Mr. Apicella: Yes...

Mr. Bain: If his parcel is on the outer limits and there are no parks in the Concept Plan shown in that area. So, his parcel does not have any parks associated with it then he has to pay some fee. Is that what we are saying?

Mr. Apicella: A pro-rata fee, a pro-rata.

Mr. Bain: Pardon...

Mr. Apicella: Right at the front, now development shall make a pro-rata contribution. So, I think that to mean in proportion to the size and scope of their piece of the overall Downtown Stafford area. Is it... somebody else see it differently?

Mr. Cummings: It could be interpreted differently...

Mr. Bain: I guess I am having trouble... suppose then you have a parcel that does have the park on it, does that developer receive those pro rata contributions for developing the park or does he still have to shoulder the cost because the park was shown on his property?

Mr. Apicella: Mike, so you want to...

Mr. Bain: Who is getting those pro rata contributions, when they don't have any park shown on the concept plan? Where do they go? Just to the general fund?

Mr. Zuraf: The County would collect the fund and hold the money in a fund, and yes, if then a developer comes along and they have a significant area that shows a park, then typically some of those funds that have been collected would help to offset the developer who has that land and would be building that park. That is done, for example, for water and sewer utilities, there is usually pro rata fees that are collected in the areas and then a developer comes in and has to upsize or add a new pump station, then there's funds that help towards that cost, because they shouldn't alone have to shoulder all the cost.

Mr. Bain: Well then, should we not add a sentence that said those pro rata funds will be used towards development of the amenities in the Downtown Stafford area? And actually lock it in...

Mr. English: They may not want to do that.

Mr. Bain: Well, I am just asking, why would we not want to do that?

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

Mr. Zuraf: Sure, that could be added in.

Mr. Randall: I guess the answer... I guess right now what happens when we get money for parks and recreation from developers for from... in these types of situations, my understanding is that those funds go to the general fund and then if Parks and Rec has a project in the CIP, then they can take that money and use it for that particular project. The problem is that there are no parks on the current CIP. There are not Parks and Rec in the current CIP. And so, my understanding is most of that money goes to the general fund and then it is used for something else, because a Parks project never rises to the top of the priority list. And I think that defeats the purpose of having community amenities, have recreational amenities per the Comp Plan in fact, that says hey the Courthouse TGA should have, I think it has around 295 acres of park, parks and recreational area. 295 acres per our Comp Plan now, so yes, I think we definitely need to define that, if we get the pro rata contribution for community amenities that that should be used for community amenities. And it should be used as our Comp Plan says now, inside the TGA or close enough in the TGA to be affective for those who are living in the TGA. Thanks.

Mr. Harvey: Mr. Chairman, may I make a clarification?

Mr. Apicella: Sure.

Mr. Harvey: Under the State Proffer Law, we cannot use proffer money that was dedicated for parks for some other general government purpose. It has to stay with parks. And the money, once the proffer payment is made, it is fenced off by category and also specifically by proffer. If there is a proffer that designates a specific proffer contribution towards a specific park, that money will have to be spent on that park. It can't be used on any other park in the County. But part of the analysis that the staff goes through when it discusses whether the Board wants to appropriate those funds for a CIP project, is based on the State Code. Is the project that is being proposed to use those capital funds in proximity and serves the community in which made that contribution. So, we have to go through a test to see whether or not the money that is being proposed to be used is being used in the appropriate manner for the communities that contributed that proffer fund.

Mr. McPherson: If I could ask a quick question Jeff, so that the pro rata contribution would count as a proffer or is that a different money source?

Mr. Harvey: Well in this case, this would be a pro rata proffer so to speak.

Mr. McPherson: Oh.

Mr. Harvey: We would take a look at what the cost to build a certain park would be, estimate what the pro rata contribution would be when we talk to a developer, then they can make that proffer if they so desired.

Mr. McPherson: So, this counts as a proffer then, which makes what you just explained.

Mr. Harvey: Yes, because under State Code we are authorized to collect pro rata funds for utilities and certain road improvements. But beyond that we have to deal with proffers.

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Mr. Apicella: So, can I add a couple of words, maybe overly wordy, but I think it just makes this a little bit crisper and I think may address some of the concerns. So, new development should make a pro rata contribution to the County, so add those words for now...

Ms. Barnes: Mr. Apicella, could I ask a quick question if you don't mind?

Mr. Apicella: I tell you what, can I just finish my thought and then...

Ms. Barnes: Oh, I am sorry I thought you were finished. I couldn't hear... sorry.

Mr. Apicella: ... towards community amenities within the Downtown Stafford area. That's it. Okay, go ahead, Ms. Barnes.

Ms. Barnes: So, a lot of this is new to me so forgive me if this question is... seems intuitive. So, basically you are telling me that a developer can come in and he had proffered to put in park and decided you know what, I could make a lot more money putting something else there and I will just chip in the money to the County and basically buy his way out of an amenity? Am I correct in assuming that's what could happen?

Mr. Apicella: Yeah, that's not how I read this. I don't think they necessarily get a choice. I think as it says in the second sentence, it would be determined to be infeasible if the limits of the development, so that specific developers' piece of the development, does not contain the recommended community amenities. So, if as Bart said, if they don't or somebody else said if they don't own all of the area for the park, then they would have to provide their pro rata share. If they do then it is expected that they will provide it, right? So, again no one owns all of the parcels and so we are trying to make accommodation for that fact in this specific language to try and make sure that somebody doesn't get out of providing either the park or their portion of the park, just using that as an example, within their piece of Downtown Stafford.

Mr. Harvey: Mr. Chairman?

Mr. Apicella: Yes.

Mr. Harvey: I think I understand Commissioner Barnes' concern, because it doesn't specifically say that if the amenity is identified on your property, you must provide it. So, that is the piece, I guess, that is kind of missing from this description. Because right now the description talks about providing a pro rata payment but not providing the amenity.

Mr. Randall: Mike, do you have the... Mike do you have the staff report up? Could you show is the current plan for Downtown Stafford on your screen so you don't have to stop sharing it? It's in there somewhere, yeah right there. Alright so... okay so, there are two lots and I don't have the numbers to them, because yours doesn't have the numbers, that look like they have residential or commercial and a park on the same square block. Everybody following me? Right there, yep. Thanks Mike that one and the next one to the left. And so, are we saying we would sell those square blocks so that we would sell some to a developer to build the residential and commercial and then some... one to build a park. Or we sell the whole...

Mr. Bain: The County doesn't own those.

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Mr. Randall: ... or would we sell the whole square block so that the intent would be that they do... that they build both? And if that's the intent would the current language that's... that we have just been talking about allow a developer, let's say in the far left one, to say I am not building a park. I will just pay the \$500,000 to the County and then I can do that whole thing residential and the County will have to figure out where to put the park. Is that what that language is going to lead us to?

Mr. Apicella: So, so, if I can chime in. Let's use the example of the one that you were just mentioning. The one that has residential and the park. And let's just say somebody... that just is a nice example of a perfect world, okay? But somebody might not own that whole block, they might only own half the block. So, let's just say instead of length wise they... instead of ... let me try to explain this the right way. Let's just say they only own part of that parcel that has the park on it, maybe half of it, okay? So, the point is to make sure that somehow, somehow, somewhere within Downtown Stafford, maybe not on that specific block, but somewhere else we have a way of paying for a park that size, right? And so, I know you are giving the example of \$500,000, they don't just get to decide I am going to give you \$500,000, because I think that is the right amount. It's their pro rata share, right. It could be \$500,000 it could be \$250,000 it could be a million, it's their pro rata share. So, that's what I am trying to get to...

Mr. Randall: Well no, Steven...

Mr. Apicella: ... we can't define every situation.

Mr. Randall: Absolutely, I totally agree. You know, for example we have a whole square block, just a little bit north and west, that has an entire square block that's a park, right? It should stay as a park, are we going... is a developer going to buy that for the purpose of giving it to us as a park? Or is the County going to take all these pro rata funds that we get from all these developers, gonna go to that property owner, buy that and develop the park ourselves?

Mr. Apicella: Again, my point, maybe I didn't say it artfully enough. Developer A doesn't own that whole block, he can't give you that size park. Somebody else owns half of that area. He doesn't control it, he can't make it happen, right? So, he's got to find a way to either get that park or pay his portion of the cost of the part of the park that he can't provide.

Mr. Randall: I agree Steven, what I am saying is if every developer in the Downtown Stafford does the same thing, we end up no parks in Downtown Stafford. We have five million dollars in our coffer and no park in Downtown Stafford, because every developer did exactly the same thing.

Mr. Apicella: Well, remember the County owns, the County owns more than just the JPI property.

Mr. Randall: Right, but right now there's no other...

Mr. Apicella: This whole rezoning is...

Mr. Randall: Other than a half-acre, the County is not intending to put a park anywhere in their land.

Mr. Apicella: We don't know what the County is going to do with part of the land, at this point in time, it hasn't been defined.

Mr. Bain: As it turns out, I looked at the map and were those parks are, are owned by private individuals. And this was the thing I start with way back when. Having this little area plan does not guarantee that

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the County is going to get what they want. This plan does not carry, in my mind, the weight of law or spot zoning, which is what it would fall into, in my mind. So, we don't know what they're gonna end of with is the bottom line. It may look like this, it may not have any resemblance to this.

Mr. Apicella: It may not, but we are trying to get as close to what we would like, maybe somewhere else in that whole Downtown Stafford area, because again, nobody owns all of the parcels. It's an imperfect world, we are just trying to deal with that imperfect world. So, we are used to that nice big park almost in the center of Downtown Stafford, that may not end of being the place where it is, it may end up being somewhere else, maybe on County owned property. We don't know. So...

Mr. Randall: No worries to that. I just need to make sure that when it is done...

Mr. Cummings: Let me try to take a stab at it, because I think, I think everyone is right. I think that the pro rata share needs a basis, right? So, it needs to be tied to something. It needs to be tied to either a park, it needs to be tied to a specific park. But... *inaudible*... a park of a certain type and quality or something to be able to, so that we can define, you know, it will help to determine exactly what the amount of the developer's pro rata share would be. So, but it's the size and quality. So, if we can go from that language, Mike, I think we'll be... and tied to it I think we will be there. As far as determining what the pro rata share would be ultimately. As far as the larger question of how do we get what we want, the Comp Plan is supposed to guide us, the Ordinances are supposed to develop... say what can be developed within the different plats of the zone... the, the, the, but it's not enough, right? Bart made a great point... *inaudible*... quality of life that can be viewed or defined as or characterized by the impacts or the effect that that... *inaudible*... has. And I hate to say it but its climate and its quality of life, right? And those things can be gone... *inaudible*... and then form based code, but also, they are driven... *inaudible*... next iteration of this smart city. So, what does that mean, right? For us it means that we need to start thinking about adding different other criteria within the form base... *inaudible*... our planning... developing our planning. And so, the climate will be impacted by having green space and I think that that's one of the things that we have to start reviewing into the Comp Plan moving forward. And also... *inaudible*... using the technology that is going to be afforded to us or... *inaudible*... by this smart city test group that we have and the advantages that are here already, in connection with climate and design of communities. So, we are not there yet, and I understand that we are pushing against the deadline, and I think that one of the other points that I wanted to make was that, what Steven said... everything he says was actually spot on, we don't own it, it's not a perfect world but growth and us being able to try get what we want from the next plat and the next plat, becomes harder and harder because of the impacts created by what goes down the first full block. So, we need to be real clear about, to Bart's point, how we put forward these requirements for the developers as part of the rezoning and part of these agreements that we are doing. It's not just in the agreements, it has to be in our Code and I think that is where we are headed... where we are going, but I think we are not going far enough. We need to use the data that is available to us so we can see what the impacts are. And I am just for a minute, go back to Taco Bell, right? Where I voted no and the reason why. And you've got the future impacts from that Taco Bell, it's nothing against Taco Bell, I love Taco Bell, I love 7-Eleven. But, you know it's going to have impacts there. Exponential impacts.

Mr. Bain: There's one other issue in my mind. Development continues, these funds are contributed on the pro rata basis, the County can't use those funds for park unless it's on a CIP. At what point does the park that is being proposed or a park anywhere in there, where does that get on the CIP? Will it be specified sufficiently in advance that the funds can be uses? I am not sure of the process Mr. Harvey.

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Mr. Harvey: Commissioner Bain, with the CIP process it starts with a proposal for a project and then working with the Finance Department figuring out how that project can be funded. Some of the funding typically is through proffers for a public facility. But, depending upon the availability of funding, depends on whether or not the project can stay on the CIP, because it has to verify that it can be fully funded or have funding in the out years. But, start the engineering and the pre-planning part prior to construction.

Mr. Bain: So, I am sort of thinking that the County would have to anticipate actually purchasing those lands that they want the parks in, in order to get them on the CIP. They could do design in advance, but would they have to purchase that land or could that land be privately held?

Mr. Harvey: Commissioner Bain, for the County to use proffer funds it has to be for County/Public facility.

Mr. Bain: County facility, right.

Mr. Harvey: So, if the County leased the land from somebody, we could potentially use the proffers to build the park. But... otherwise the County is just going to need to purchase the land and that would probably be part of the pro rata calculations as well as the land cost.

Mr. Bain: Okay, yeah.

Mr. Harvey: But the County does not have the ability to accept a proffer and give it to a private developer to build a park.

Mr. Bain: Right, right, okay. That's sort of what I was thinking. So, at some point the land is going to have to be obtained, probably. Or leased long term. Thank you.

Mr. Apicella: So, what I am hearing is, we are still not there. Mr. Zuraf, on this, I think we are close on 95% of the language. So, I would ask you all to continue to take a look at this and see if there is a way we can tighten it up. You have heard everybody's comments and concerns. You know, again, I can't come up with any better language at this point in time. Maybe it just takes a little bit more back and forth. I would just say maybe we can have some dialogue between now and the next meeting so it's not as if we are all seeing it for the first time and we maybe try to tighten it up along the way. Is that possible?

Mr. Bain: Would Mr. Zuraf be kind enough to block that paragraph out and send it to us individually, you know as a separate block rather than the whole document.

Mr. Zuraf: I will do that.

Mr. Bain: Thank you.

Mr. Apicella: Yeah, and in the mean time internally staff can keep working at it and see if they can come up... they've heard what we said.

Mr. Zuraf: *Inaudible.*



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Mr. Apicella: So, what I think I am hearing we are just going to not take action, tell me if I am wrong, on Downtown Stafford and bring it up at our next meeting in February. Is everybody okay with that?

Mr. Bain: Yes.

Mr. Cummings: Yes.

Mr. Harvey: And Mr. Chairman, just as a point of reference, if the public hearings are not authorized tonight, we cannot make the March 10<sup>th</sup> hearing, it would push it back to March 24<sup>th</sup>.

Mr. Apicella: Right, exactly. I know that. I am the one who was pushing to get two meetings. So, it's not necessarily something that has to be done. And I think the concerns are righteous and we just need to keep working at it until we get to a point where everybody is comfortable with it. And also, in the meantime, Mike again, if you can take a look at the numbers throughout the Comp Plan and make sure they are fully squared away, before we advertise it. So, with no one else objecting, I think that's where we are headed and we all understand at the next meeting, on February 24<sup>th</sup>, we have to put something to a public hearing on these two items. Alright, with no further comments, let's move on to the next item. Item number 9, Mr. Harvey.

9. Land Conservation Subcommittee - A draft report with recommendations from the Planning Commission's Land Conservation Sub-Committee to develop a policy for the Board to accept donated open space/conservation easements, and consider additional recommendations for a comprehensive land conservation program.

Mr. Harvey: Mr. Chairman, Ms. Baker will give the update for item number 9.

Ms. Baker: Item number 9 is the Planning Commission, the Land Conservation Subcommittee report. Just provide some background on this, you all received the full report. I will note that I sent you a revised report earlier today that just had some minor... a couple of minor revisions to that. So, to give you a little background the request was referred to the Planning Commission on August 18<sup>th</sup> and the Board had requested the Planning Commission to develop a policy for the Board to accept donated easements or conservation easements and also consider additional recommendations for a overall comprehensive land conservation program. On August 26<sup>th</sup> the Planning Commission established the subcommittee of Commissioners Apicella, English and Bain, and also included one member of our Agricultural/PDR Committee and one owner of a large A-1 property that contains a conservation easement. The subcommittee met, I believe eight times since September and prepared the draft recommendations that you all have received. This included background information on our current conservation efforts, which includes the Purchase of Development Rights, the Transfer of Development Rights, also the ability to accept donated lands and other agencies that focus on land conservation. Also, the report includes the Planning Commission's recommendations for multi-pronged approach to expand and improve efforts for land conservation. So, to go over some of these just generally, the first would be to continue and improve the County's PDR, I will say Purchase of Development Rights, so you don't mistake me for saying TDR, so the Purchase of Development Rights Program and just some of the highlights for this include improved funding. Note that there is... that a consistent source of funding is really key to having a successful program. Right now, roll back taxes are designated to the program and that varies year to year. So, we usually have to build upon several years roll back in order to open application rounds. Additional sources of funding could include a dedicated general fund allocation, tourism funds, certain sales tax. Our Commissioner of Revenue noted that internet sales tax really increased this year, so looking at some different options there. Additionally, a recommendation to hire dedicated staff, right

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now we basically split it among several people and different departments, and that would be an additional recommendation. Also, augment staff report through interested land conservation organizations who might be willing to help. Lastly, the considered changing the name of the Agricultural/PDR Committee to the Agricultural Land Conservation Committee. So, it's a little more inclusive and reinforce their roll to help implement the recommendations from the report. Next would be developing a process and procedures for donation of easements or fee simple land to the County. Right now, the County can accept donations, but by developing some standards and guidelines that would insure a fair and more equitable process. There are many tax benefits potentially to land owners who donate easements or land but there are upfront cost that are associated with that. It is recommended that a portion of that could be... come from the PDR funds to offset the owner's upfront costs. Also... so I included the sample process of how that... how the donation process could work, which is in your report. The next recommendation is considering partnerships with other agencies or organizations. In the past there was a partnership with proposal from Northern Virginia Conservation Trust that would have required a contribution of funds from the County to have a designated staff person from that agency work in Stafford. That never really gained any traction, but having such partnership could potentially bring additional resources including expertise and even fund-raising capacity. The next recommendation is developing a more robust education and outreach program. We have some limitations just based on limitations of staff, but recommending conducting regular sessions and now that we know how to do things virtually, we could expand that part of the program... outreach program. Utilizing partner agencies for assistance and working through our Communications Office and social media to try and expand that. Next would be consider a strategic limited expansion of the County's TDR program. The Board has been hesitant to do a countywide transfer of development rights program, just based on the complexity and the potential impacts. So, this identification of significant lands that might be... the Board... that the Board may want to consider for future TDR expansion... Transfer of Development Rights expansion. And that can be done throughout the 2021 Comprehensive Plan, the 5-Year update. And then a couple more things just to consider, using revised cluster development improvements, looking at the recommendations that the Planning Commission is currently making with regard to cluster development and open space. Also considering a potential preservation overlay district. This would be similar to our County's Historic Overlay District. It has the potential to provide additional tax benefits to property owners. So, something that would require more research and learning from other localities. I believe there is one other locality that we know does this type of a district. Lastly creating a map of potential preservation areas which may help identify and guide investments in the conservation of land throughout the county. So, at the February 4<sup>th</sup> meeting of the subcommittee, you did finalize the report recommending forwarding to the full Commission for final input. We do have a deadline of February 22<sup>nd</sup> on this. So, really looking at the full Commission's support at tonight's meeting in order to move forward to the Board and meet that deadline. So, I will be happy to answer any questions or ask the Committee members for their additional thoughts.

Mr. Apicella: Questions for staff? I know there is a lot here. So unfortunately, we are backed up against the wall in terms of the timeframe as Kathy just said. We need to make a recommendation on the report and potentially move it forward this evening. So, questions?

Ms. Barnes: Steven, could I ask a quick question about the recommendation for the TDR?

Mr. Apicella: Sure.

Ms. Barnes: So, basically what we are doing is in this report you're recommending to the Board of Supervisors that they expand the TDR program and expand the receiving areas and the sending areas?

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Mr. Apicella: So, I will take a shot at that. Kathy, you can back me up. There are areas of the County that may be on a conservation value basis, highly... or the preservation, not a large swath of the County, just specific areas, maybe a farm here a farm there, that we think... or some specific wetlands, whatever, that really aren't on anybody's radar screen but we think we should consider saving those conservation worthy properties as best we can with limited tools that we have. So, PDR is one tool, TDR is another tool. And to identify those potentially in the Comp Plan. So, we are not talking about thousands of acres, it could be a hundred, two hundred acres or less. And so, we thought using TDR as a strategic tool that we might take the opportunity to identify where those highly valuable parcels are and try to preserve them as best we can. Does that make sense?

Ms. Barnes: So, we are not necessarily talking about taking the TDR program and saying hey let's expand the receiving area for the TDR program to the entire Urban Services Area. This is just... okay.

Mr. Apicella: Again, strategic and targeted.

Ms. Barnes: Thank you, thank you.

Mr. McPherson: Steve, I have one question if I may.

Mr. Apicella: Sure.

Mr. McPherson: What are some of the ideas about the conservation overlay? You said it would be some tax benefits to landowners.

Mr. Apicella: Well that's much broader with the whole... with conservation there are tax benefits both at the state level and the federal level. There's a lot there, I can't even begin to try to explain it, but I would say for some localities throughout the Commonwealth their citizens take advantage of the tax benefits associated with land preservation. Not as much here in Stafford County, there may be various reasons why that happens. But, the bottom line for those who want to conserve property, there are tax benefits associated with it.

Mr. McPherson: That's for the Preservation Overlay that you brought up?

Mr. Apicella: That's a little bit different. Kathy, do you want to expand on that, on the overlay?

Ms. Baker: Well, we did find out the Loudon County has a program, they call it a sliding scale land use program. Taxes may be lowered, based on the length of the time that you stay in that program. We would have to seek authority through State legislation if the County opted to go this direction. But, it would... it's just a different way of, if you specify a certain area where you have these overlay districts, those properties may be eligible to do that. Again, it's something that we would have to evaluate and do more research on as we go through the particularly the Comp Plan update or have our Ag/PDR Committee do some more work on this through their... when they meet. But, it's something that came up from one of the non-Planning Commission landowners, that was part of the Committee. And recommended that we at least look into that.

Mr. McPherson: Okay, thank you. I think it's a good thing to look into.

Mr. English: That was brought up by the Commissioner, right. Scott brought that up.

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Mr. Apicella: I am wondering if Jeff can chime in too and give a parallel with the Historic Overlay District and again, we certainly would need to noodle the Preservation Overlay District a lot more. But, just by understanding how the Historical Overlay District works, you can see how one might create a Preservation Overlay District as well. Mr. Harvey.

Mr. Harvey: Yes, Mr. Chairman, with the Historic Resource Overlay District, that is a overlay district that is property specific and the Board's policy has been for property owners to agree to be in that district. And what constitutes eligibility is based on a specific criteria. In the Historic Resource Overlays specifically you've got historic structure or features on the property that qualify for the National Register of Historic Places. In the case of an Agriculture Preservation District, it could be that someone has a century farm or some other type of unique characteristics to their property that is worth preserving.

Mr. Apicella: Does that help answer your question Mr. McPherson?

Mr. McPherson: It does mostly, I think it's a good idea to be looking into. Thank you.

Mr. Apicella: Okay, any other questions? So, what we really need is a motion to forward this report and it's associated recommendations to the Board. Is there a motion to that effect?

Mr. Bain: I make that motion.

Mr. Apicella: Thank you Mr. Bain. Is there a second?

Mr. English: I will second it.

Mr. Apicella: Thank you Mr. English. I hop there is support from the rest of the Commission.

Mr. English: Me too.

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

Mr. Bain: No.

Mr. Apicella: Mr. English?

Mr. English: No, just thank staff for all the hard work they did for those meetings, especially Kathy.

Mr. Apicella: Anybody else. I am going to echo what Mr. English said. Again, we had eight meetings, a lot of time was spent on this by staff, the Commissioners that served on this and the outside parties. A lot of good information was collected and digested and put into this report. And I think it's a good solid set of recommendations. And the bottom line is the Board gave us direction to come up with this report and I think we've answered the mail. At the end of the day it will be up to them to decide what, if any of these recommendations that they want to push forward and as Kathy indicated, we think that the current Agricultural Commission might have a significant role to play. So, again thank everybody who participated in this effort and especially Kathy and Mr. Harvey. Alright, with that said on the motion to move this report forward, Mr. Bain how do you vote?

Mr. Bain: Yes.

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Mr. Apicella: Ms. Barnes?

Ms. Barnes: Yes.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: Yes.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: Mr. McPherson?

Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes.

Mr. Apicella: And Mr. Apicella votes aye. The motion carries unanimously. There is no new business. Planning Directors Report, Mr. Harvey.

10. Amendments to the Comprehensive Plan and the Zoning Ordinance - Discuss proposed Resolution R20-81 and proposed Ordinance O20-20 to amend the Comprehensive Plan and Zoning Ordinance for the Implementation of the Board of Supervisors Healthy Growth Strategic Plan Priority. **(History: PC Work Session October 7, 2020) (BOS-PC Joint Public Hearing October 29, 2020) (BOS Deferred)**
11. Amendments to the Zoning Ordinance - Amend Stafford County Code Sec. 28-25, "Definitions of specific terms," Sec. 28-35, "Table of uses and standards," and Sec. 28-39, "Special regulations" in regards to cluster development regulations. **(Time Limit: March 15, 2021) (Authorize for Public Hearing by: February 10, 2021) (Potential Public Hearing Date: March 10, 2021)**

NEW BUSINESS

NONE

PLANNING DIRECTOR'S REPORT

12. Cluster Ordinance Time Extension

Mr. Harvey: Thank you Mr. Chairman. The Board of Supervisors granted an extension for the Planning Commission to consider the Cluster Ordinance. That extension goes out until May 30<sup>th</sup>. Also, staff had asked the Planning Commission to reconsider your vote on item number 3 on the agenda, the telecom tower, Brent Marsh. Based on guidance I have gotten from Ms. Lucian the additional condition asking

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for County space on the tower is not proper. State Code section 15.2-2316.4.2.8 specifically prohibits a locality from doing that. So, we ask that you reconsider that motion and that vote.

Mr. English: Even if he offered to put it on there? He offered to do that.

Mr. Harvey: It says that we cannot do it as a condition of approval.

Mr. English: Okay. Well I make a motion that we...

Ms. Lucian: You just...

Mr. English: You want... we have to make a motion to rescind that or revote?

Ms. Lucian: You can just make a motion to amend something previously adopted. So, you can just make a motion to amend, what your previously had as a condition to remove it.

Mr. English: Okay, I make a motion that we amend, you said number 3, CUP20153255 to take the public safety element out of that. Is that good?

Mr. Cummings: I second it.

Mr. Apicella: Okay, there been a motion to rescind the condition associated with the public safety equipment on this particular CUP item and it was seconded by Mr. Cummings. Mr. English, any further comments?

Mr. English: No.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: No.

Mr. Apicella: Anybody else? Okay, we will do a voice vote. Mr. Bain how do you vote?

Mr. Bain: Yes.

Mr. Apicella: Ms. Barnes?

Ms. Barnes: Yes.

Mr. Apicella: Mr. Cummings?

Mr. Cummings: Yes.

Mr. Apicella: Mr. English?

Mr. English: Yes.

Mr. Apicella: Mr. McPherson?

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Mr. McPherson: Yes.

Mr. Apicella: Mr. Randall?

Mr. Randall: Yes.

Mr. Apicella: And Mr. Apicella votes aye. Does that take care of it Mr. Harvey and Ms. Lucian?

Mr. Harvey: Yes sir, and that concludes my report.

Mr. Apicella: Alright, thank you. County Attorney's Report?

**COUNTY ATTORNEY'S REPORT**

Ms. Lucian: I have no report, thank you.

Mr. Apicella: Okay, moving on to Committee reports, nothing new on Healthy Growth. A-2 Zoning Subcommittee Mr. Cummings.

**COMMITTEE REPORTS**

13. Healthy Growth Subcommittee  
*Next Meeting – TBD*

14. Uses in A-2 Zoning Subcommittee  
*Next Meeting – February 17, 2021 @ 3:30 PM; Virtual*

Mr. Cummings: The Committee met for the first time. Went through a lot of the uses for the A-2 and are looking at making... providing some consistency in definitions across A-1 and A-2. So, we made some great progress. And Kathy Baker again is a rock star.

Mr. Apicella: Thank you Mr. Cummings. Alright, the next committee is the Comp Plan Update Committee, Mr. Randall?

15. Comprehensive Plan 5-Year Update Subcommittee  
*Next Meeting – TBD*

Mr. Randall: We had our first meeting on Monday, the 7<sup>th</sup>. Our next meeting is on the 18<sup>th</sup> at 3 o'clock in the afternoon. Again, I will ask all the Commissioners, we are trying to ... we are trying to solidify the scope of what it is that we are trying to do by the next meeting on the 18<sup>th</sup>. So, if we have... if any Commissioners have things they would like to see looked at or from their Supervisor's direction... from their Supervisors, please get that to us so that we can add that to our agenda and our list of things that we will be looking at revising in this upcoming update. Thank you.

**CHAIRMAN'S REPORT**

Mr. Apicella: Thank you Mr. Randall. That concludes the committee reports item. Moving on to Chairman's Report. I have nothing other than to say again pursuant to our by-laws, I hereby authorize the Vice Chairman to sign any documents in my absence. Other Business, TRC it looks like we got

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some stuff involving Falmouth and Rock Hill Districts. I have got my information, presumably Ms. Barnes got hers. No minutes to approve. So, with no further business before the Commission, we are hereby adjourned.

OTHER BUSINESS

16. New TRC Submissions
- \* 7-Eleven at Deacon Road – Falmouth Election District
  - \* Joshua Landing – Rock Hill Election District

APPROVAL OF MINUTES

NONE

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 7:53 PM.