

# **STAFFORD COUNTY PLANNING COMMISSION**

**March 9, 2022**

The meeting of the Stafford County Planning Commission of Wednesday, March 9, 2022, was called to order at 6:00 PM by Chairman Kristen Barnes, in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Kristen Barnes, Albert Bain, Dexter Cummings, Steven Apicella, Martin Martinez, Laura Sellers, Willie Shelton, Jr.

MEMBERS ABSENT: None

STAFF PRESENT: Jeff Harvey, Lauren Lucian, Stacie Stinnette, Kathy Baker

## DECLARATIONS OF DISQUALIFICATION

### PUBLIC PRESENTATIONS

#### Presentation of Proclamations

Ms. Barnes: Do we have any declarations of disqualifications? Hearing none. Any changes to the agenda? Okay, hearing none. Okay. At this point, we normally go into public presentations. But we do have some special guests here that I would like to invite up to the stage. We have former Commissioners, Mr. Randall and Mr. McPherson. Would you please come up and join me? Well, first and foremost, can everyone hear me? You got it? Okay, good. Thank you. First and foremost, thank you very much for coming. I want to start with thanking you all for your service and dedication to Stafford County and making Stafford County a better place to live. These gentlemen put in a great many hours working on the Commission, especially I think, Mr. Randall with the, with the Comp Plan last year; that was, that took a lot of time. You know, certainly this is... some people ask us why do we do this? This takes a long time. And I think that we do this because we love our community. And you know, we want to make a better future for our children and for the future of Stafford. I think it truly takes a servant's heart. And I think that's what these gentlemen have. They exemplify this kind of service and dedication. So we thank you and because of you, Stafford is a better place to, to work, live, and play. So thank you. And we have a couple of things for you here. We have some proclamations, which I will get these out. And we'll start with Mr. Randall's here, alright. Whereas, and this is long, Barton Randall served as Garrisonville representative on the Stafford County Planning Commission from January 1, 2018, through December 31, 2021; and Whereas, Mr. Randall served as Secretary of the Planning Commission in 2020, and Vice Chairman of the Planning Commission in 2021; and Whereas, Mr. Randall served on the Comprehensive Plan 5-Year Update Committee as Chairman, Planning Commission's Cluster Ordinance Committee, the Land Dedication Committee, Senior Housing Committee, Minor Proffer Amendment Committee, A-1 Uses Committee, E-Commerce Committee, participated with TRC meetings and review of plans, and attended the Parks and Recreation Committee meetings as the Planning Commission representative from 2018 through 2021, and participated in such major initiatives as Healthy Growth and Downtown Stafford; and... there's more Whereas... the Planning Commission desires to thank Mr. Randall for his outstanding efforts to ensure that Stafford County continues to be one of the best places in Virginia to live, work, and play and to preserve the County's unique history and environment for future generations; and Whereas, the Planning Commission desires to recognize Mr. Randall for his commitment and service to the Planning Commission and the community. Now, Therefore, be it proclaimed by the Stafford County Planning Commission on this day... that we did cancel the last meeting so we have the prior date on it so the date's sticking, 23rd day of February, 2022, that it be and hereby does recognize and commend Barton Randall for his outstanding and dedicated service to Stafford County and its citizens. Thank you. Here we go. Stacie had them,

*Planning Commission Minutes*  
*March 9, 2022*

and we have a little gift for you as well. This is from our own Anita Dodd. And she signed it for us. Yes, thank you. Would you like to say something?

Mr. Randall: Well, it's been a privilege. You know, I never, didn't realize what it was gonna be like when I accepted the opportunity to do this. But it was three very rewarding years, three and a half very rewarding years being up here. You hear a lot you see a lot, you take in a lot, and you hopefully make good decisions. And you look back on some decisions and think maybe I should have been a little more involved or a little more detailed. But in the end, I think we got a lot accomplished. As you can see, I like to stay involved, especially with the Comp Plan update. So I appreciate the opportunity to serve. I appreciate the people who are behind me who I was able to serve with. They are good people doing good work, and sometimes don't get the recognition they deserve. So I thank you very much for this. I appreciate the opportunity so much, and good luck going forward. Thank you.

Ms. Barnes: And it looks like our own Mr. Al Bain has made a nice little plaque for everybody. Very nice. Okay, and as for Mr. McPherson here. Whereas, Fillmore McPherson served as the Aquia representative on the Stafford County Planning Commission from January 1, 2013 through December 31, 2021; and Whereas Mr. McPherson served on the Planning Commission's Cluster Ordinance Committee, Land Dedication Committee, Lot Shape Committee, Rural Zoning Committee, Landscaping and Buffer Standards Committee, Parking and Drive Aisle Committee, and was the Planning Commission representative for, on the Architectural Review Board from 2018 to 2019. And the Planning Commission liaison to the Economic Development Authority from 2019 to 2021, participated with TRC meetings and review of plans, and contributed early... or contributed directly to the discussions of major initiatives such as the Healthy Growth, Downtown Stafford, and the 5-Year Update to the Comprehensive Plan; and Whereas the Planning Commission desires to thank Mr. McPherson for his outstanding efforts to ensure that Stafford County continues to be one of the best places in Virginia to live, work, and play and to preserve the County's unique history and environment for the future generations; and Whereas the Planning Commission desires to recognize Mr. McPherson for his commitment and service to the Planning Commission and the community; Now, Therefore it be proclaimed by the Stafford County Planning Commission on this 23rd day of February, and March 9th as well, that it be and hereby does recognize and commend Fillmore McPherson for his outstanding and dedicated service to Stafford County and its citizens. Thank you.

Mr. McPherson: Saying pretty much what Bart said, too, it was very much a privilege working with great Planning Commission and the County staff. Everybody did great jobs. It was so fun working with everybody and living in a great County. It was very fun and very rewarding and makes somebody feel very good helping to keep Stafford great. And it's been great working with everybody. Thank you so much.

Ms. Barnes: We also have the same thing for Mr. English but we have to be reminded that these folks work, so and he's at work tonight so we won't be able to do that. And I just want to say one last thing I remember when Crystal first approached me about taking this seat and, you know, tried to sell me on working on a Planning Commission. And the one thing that stuck out with me most of all was at the end she said, you know, they're just great guys and you'll like to work with them. And that's exactly; we will miss you, great guys. We will miss you a lot and we will miss working with you. Thank you for coming tonight. Okay, onto our regularly scheduled programming. Okay, at this point, we will have Public Presentations, a portion of today's meeting. The public may have up to 3 minutes to comment on any matter except for those items which appear as public hearings on today's agenda. There will be a separate comment period for these public hearing items. Before starting your comments, please state your name

*Planning Commission Minutes*  
*March 9, 2022*

and address. The clock starts when the green light appears. Yellow means there is 1 minute left. And red means your time is up. If you would like to speak please come forward.

Ms. Callander: Good evening Ms. Barnes and members of the Planning Commission. I'm Alane Callander. And it's been a while since I've been here. But I'm just here to make a brief comment. I glanced at the agenda online and saw this item about the Lidl at Mine Road, number 3, it's not a public hearing. So I wanted to just make a brief comment. I was surprised that you were considering another grocery west of Route 1 when they're still waiting for a grocery at Aquia Town Center. Years ago, we kept hearing that they couldn't put in a grocery at the Aquia Town Center after Shoppers moved. And that was because there were too many groceries on 610. So given the traffic at Mine Road and Greenspring, it seems to me that grocery, the Lidl, which is a fine grocery, it should move over to Aquia Town Center. And if it does, I'll even make a trip up from Falmouth once in a while to shop there. Thank you.

Ms. Barnes: Thank you, Ms. Callander. Are there any other speakers? Okay, seeing none, I will close the public presentations and we'll move on to the next agenda item and that comes to number 1, the reclassification of Berea Market.

PUBLIC HEARINGS

1. RC22154278; Reclassification – Berea Market, Take 5 - A proposed zoning reclassification, with proffers, from the B-1, Convenience Commercial Zoning District to the B-2, Urban Commercial Zoning District on Tax Map Parcel No. 44GG-3, consisting of approximately 0.75 acre (Property), to allow for the development of an automobile service (auto service) facility. The Property is located on the east side of Warrenton Road, at the intersection with Stafford Lakes Parkway, within the Hartwood Election District. **(Time Limit: June 17, 2022)**
2. CUP22154279; Conditional Use Permit – Berea Market, Take 5 - A request for a conditional use permit (CUP) to allow an automobile service (auto service) facility in the B-2, Urban Commercial and HC, Highway Corridor Overlay Zoning Districts on Tax Map Parcel No. 44GG-3 (Property), consisting of approximately 0.75 acre. The Property is located on the east side of Warrenton Road, at the intersection with Stafford Lakes Parkway, within the Hartwood Election District. **(Time Limit: June 17, 2022)**

Mr. Harvey: Madam Chairman, for the staff presentation, Kathy Baker will be leading the discussion, and staff will have a combined presentation of items 1 and 2 dealing with the zoning reclassification and the conditional use permit.

Ms. Barnes: Thank you.

Ms. Baker: Good evening Madam Chair, members of the Commission, Kathy Baker, Department of Planning and Zoning. You may recognize this item. This is, as said, Berea Market, the reclassification and conditional use permit. This is a request to rezone .75 acres from B-1, Convenience Commercial to B-2, Urban Commercial, as well as the associated conditional use permit for an automobile service facility in the B-2 zone, as well as the Highway Corridor Overlay District. And this is in the Hartwood District, with Berea Market LLC as the owner. I also wanted to mention that the same application was heard by the Planning Commission in September and voted 7-0 to recommend approval. The item then went to the Board of Supervisors in October where the Board voted 6 to 0 to deny the application. There were some concerns, which we'll talk about in just a minute, from the Board at that time. So the applicant

*Planning Commission Minutes*  
*March 9, 2022*

has come back and basically requesting the same application that they presented the first time. They did have to go to the Board to get a waiver of a 12 month requirement in order to reapply for these applications. And this is the, shows the location and the zoning of the property which you see highlighted in blue. Warrenton Road is to the left and it's located across from Stafford Lakes Parkway. The current zoning being B-1 with B-1 to the north and south, and B-2 zoned property to the west, and A-1, Agriculture to the, to the right, or to the east. And this is an aerial view of the existing conditions. You see, again, Warrenton Road to the left of the property, Fleet Road to the right. There's also a private road that connects the two; we'll just refer to it as the Fleet Connector Road on this. You also see that there's a private driveway, drive aisle that crosses the property into the bank property to the north. And this is, was developed at the same time these two... the property was cleared at the same time that that property was developed as well. There's shared access and would continue to be shared access between the two properties. There aren't any sensitive resources that are on this property. You'll also note to the west of the property is an office building and to the south is a convenience center. And this is just your street view looking east from Warrenton Road. And this is looking east from the Fleet Connector Road/Warrenton Road intersection, which you see the 7-Eleven convenience to the south of the property. This is the Generalized Development Plan. As you can see, it's for Take 5 oil change facility. And this is primarily oil change. There are some accessory uses such as... or uses that would occur such as changing wiper blades, that type of thing. But there's no... you might put air pressure in the tires, but there won't be any tire rotations or anything like that occurring. As you see, the Fleet Connector Road to the right, that's going to be your primary access into the site. You can enter in from Warrenton Road at the signalized intersection, or you can enter from Fleet Road, and then the access would be off of the Fleet Connector Road. You'll note that there are shared access points with two-way traffic circulating throughout the entire property. The entrance would be from the southern point or where you see the arrow. There are three bays that will enter into the facility for service on the vehicles, and then the vehicles would exit to the left or the north side of the building. And then they could exit either going back, circulating through the site, they could exit through the bank property, or they could go back to the exit towards Fleet Road. Mr. Bain: Ms. Baker? Ms. Baker: Yes.

Mr. Bain: And maybe the applicant would have to answer this. I assume a car would come and pull into a service bay, get the oil changed, and then they would back out of that service bay to leave the site or is it a drive-through?

Ms. Baker: It's a drive-through.

Mr. Bain: Okay.

Ms. Baker: That's why I'd say they would I guess exit on the opposite side of the building and just pull through.

Mr. Bain: Okay.

Ms. Baker: And then they could take a right or left once they exit the building.

Mr. Bain: I see. Good, thank you.

Ms. Baker: This just shows the traffic circulation. I know there was some discussion about that. And that was one of the reasons that the Board did not recommend approval of the application. There were concerns about the traffic stacking into the Fleet Connector Road which could possibly impact the entrances into the site. So this red line that you see would show the traffic circulation that I described.

*Planning Commission Minutes*  
*March 9, 2022*

So first of all, you could access from Warrenton Road, as noted, to the entrance off of the Fleet Connector, or you could enter from Fleet Road. And then once going in, circulate around the building and into the service, into the service bays. There was some discussion about trash trucks circulation and would that potentially block any of the travel ways. And this is just a schematic that was sent by the applicant. It was not included in your package. But they... this shows where the dumpster location is and where the trash truck could potentially come in and pick up the truck... excuse me, the trash. So this is the dumpster location. The truck would come in, pick up the trash here and, when they leave, they're going to back and pull out and circulate back to the signalized entrance. They do plan on trash pickup only once a week and it would be in the early morning hours. So hopefully there would be no conflict with any other traffic either on this site or going to the bank property. And this is just a review of the building elevation. The south elevation that you see basically facing the Fleet Connector Road and the west elevation which would be facing Warrenton Road. The proposed proffers on the property require the property to be developed in general conformance with the Generalized Development Plan. There are certain uses that would be proffered out that would otherwise be permitted in the B-2 district. The proffers would require the building to be constructed in general conformance with those architectural renderings. It would prohibit the development of any uses that exceed 1,000 vehicle trips per day, and also prohibit any additional driveway entrances onto Warrenton Road. The proposed conditions include developing the site again in conformance with the GDP. It would provide vehicle access into the service bays being limited to the south side of the building. We've recommended the added condition ensuring the traffic circulation is controlled with pavement markings and signage. We actually gave you a handout this evening that shows that addition to the resolution, including that language in condition number three. The building would include no more than three service bays and all the vehicles would be... the service of the vehicles would be conducted within the service bays and not outside the building. There'll be no new driveway entrances on Warrenton Road. They'll have the limited hours of operation, 7 AM to 8 PM, Monday through Saturday, 9 AM to 5 PM on Sunday. Also, any vehicle which might leak fluids should immediately be taken into the service bay if it is sitting outside waiting for service. There would be no inoperable vehicles parked on the property. Also, there would be no outdoor display or storage of automobile parts. Any hazardous materials or products would have to be disposed in accordance with County and federal and state laws and regulations. The dumpster and the pad site would be screened from view and have materials similar to the primary building. The building would be constructed in general conformance with the styles and materials depicted on the architectural renderings. Any signage would be of complimentary color and design. Mechanical equipment located on the west elevation, if that occurs, would be screened from view of Warrenton Road. And no carnival style flags, banners, or lighting used on the site. This is the Comprehensive Plan designation showing the property within the commercial corridor in the Suburban Land Use designation. And staff notes that the positives – generally consistent with the land use recommendations in the Comprehensive Plan. The use does not change the character of the established pattern of development. The proffers limit the uses that generate no more than 1,000 vehicles per day. And the proposed conditions would help to mitigate any potential negative impacts, which we don't find at this point. We are recommending approval of the reclassification with the proffers, as submitted, and also approval of the conditional use permit with the conditions and we recommend the conditions that were amended and handed out to you this evening. So with that, I'll be happy to answer any questions.

Ms. Barnes: Okay, any further questions for staff?

Mr. Apicella: Just for clarification. It's still the same GDP that was presented to the Board. Was it just not clear to them at that point in time that this was the traffic circulation pattern, since they brought it up as an issue? Because nothing's changed.

***Planning Commission Minutes  
March 9, 2022***

Ms. Baker: There was just general discussion about the potential to back up into those ... into the entrance way which might potentially block traffic.

Mr. Apicella: Okay, so again, how has that been addressed since there's been no change?

Ms. Baker: I'll let the applicant address that, but they feel that they just wanted to resubmit the same application because they felt that it met all of the needs of the Comprehensive Plan, as well as meeting the intent of the zoning district. So they felt it was appropriate to come back through the process.

Mr. Apicella: So, so they're going on some risk that the Board might still have the same concern.

Ms. Baker: Obviously, yes.

Mr. Apicella: Okay.

Ms. Sellers: Can you talk to us about the waiver that they requested to have the 12 months? Is the 12 months, is that a state thing? Or is that a local guidelines?

Ms. Baker: Jeff, is that a state or just County?

Mr. Harvey: Commissioner Sellers, that's a local ordinance requirement that if an application is denied, they have to wait 12 months before they can refile. State Code allows that for localities. The applicant did seek a waiver of that requirement and it was granted by the Board.

Mr. Bain: Do you, do you know roughly how many cars could be waiting in line before it would actually impact traffic on either the Fleet Connector Road or on the portion of the driveway that the bank would access? Do you have any idea... maybe the applicant?

Ms. Baker: They might tell you the number of cars. Could I have the computer please? I should have pointed out on this slide, Mike did some calculations. It's actually... it would be 450 feet from along that red line that you see is the distance and from the bottom of the screen just where you see the portion onsite that's about 200 feet. Typically, a regular drive-through has 150 feet of stacking; that's the requirement through the Ordinance. So that total of 400 plus feet would exceed that.

Mr. Bain: Really that's probably sufficient, unless they, unless they offer free oil changes. *[Laughter]*

Ms. Barnes: Okay, any other questions? I do have one point of clarification. We got a, it looks like an updated CUP and there's one change in here that's highlighted. And that's traffic circulation on the site as shown on the GDP shall be controlled with pavement markings and signage.

Ms. Baker: Correct. That's just staff recommended that modification.

Ms. Barnes: Thank you. Okay, seeing no more questions, would the applicant like to come up?

Mr. Payne: Good evening, Madam Chair, other members of the Planning Commission. My name is Charlie Payne, I represent the applicant. I too just to digress real quick, want to thank Mr. Randall and Mr. McPherson for their service. I enjoyed working with them and it looks like going to be working with Mr. English on another board. And welcome to the new Planning Commission members, Mr. Martinez, Mr. Shelton, and Ms. Sellers. I look forward to working with you all. And I'm not going to

*Planning Commission Minutes*  
*March 9, 2022*

say I look forward to working with the old Planning Commission members, but the current Planning Commission members have likewise had a good working relationship. And I appreciate your engagement and putting Stafford County first and its citizens. And I'm going to... I do have a presentation, but Ms. Baker handled most of what's in our application, and it is the same application. I'll give you a little background on why we reapplied and why we requested a waiver. I think at the Board level, there was some confusion over the stacking issue and access. And I think this was perhaps the last Board meeting before the election. And as you guys know, the by-laws of the Board of Supervisors says you can't take it... make a land use decision after the election. So I think this was kind of rushed a little bit. So anyways, we were able to explain for purposes of the waiver, why we need... why we should, you know, why the Board should grant it if they're so willing to do so. And we clarify the confusion on the stacking and access. So I think that's why the Board went ahead and granted the waiver. So that's why we're back here so quick. And I'll go through this real quick as well and not take up too much your time. As staff had noted, the property has already been zoned B-1. It was developed together with Atlantic Union Bank, which is to the west of it and does something in our parcel connection. As you can see, with access to Warrenton Road and Fleet Road Connector. The request is to rezone it from B-1 to B-2 is basically being driven by the use, no pun intended, for, as an oil change facility and auto service facility. It's a small facility, it's got three land bays... it's three bays I should say. It's about 1,432 square feet. We do need a conditional use permit for the use as well. Given its low traffic impact, you'll see here as we go through this, the AM and PM traffic hours are really low. You're probably talking about 35 cars, Mr. Bain, per day, that enter this site. The circulation on this site of 450 feet I think it's bigger than most Chick-Fil-A's and if you've ever been in a Chick-fil-A line, you know what I'm talking about. I mean, that's out to Warrenton Road I promise you. And, you know, fast food, and no joking here, the minimum is 150 feet of stacking. So this has got more than adequate stacking and access. But the intensity is similar to B-1 so you're really getting a B-1 use with a B-2 zoning is my point. Consistent with the County's Comp Plan. It is within your Urban Services Areas so it has access to public services, water and sewer. It is in your HCOD, which is the reason why we have proffered the architectural features so we meet the Neighborhood Design Standards. There's no direct access to Warrenton Road. That access is via the Fleet Road Connector. There is an inter-parcel connection to where the bank location is. So if you come out of your bay, you can simply if you want to go west, you can do that. Or you can go back to the Fleet Road Connector to get to Warrenton Road, and that's a full light intersection right there as well, as you probably know. Again, the AM peak hour trips are 9, and PM are 15, so not a big traffic generator. It is open seven days a week, 7:00 to 7:00 Monday through Friday, Saturdays 7:00 to 6:00, and 11:00 to 4:00 on Sundays. And it's one of these 10-minute service deals. So you stay in your car, you go into the bay, they do the service, and you're out. And that's, that's become something very convenient, 1, and 2 because of COVID folks don't like getting out of the cars and go sitting in the waiting room. So it's been a very popular type of service. I would also note, and I've heard some of this discussion in the prior minutes with the Board, as you know, we have a lot of these on Warrenton Road. But this is to the further western edge of Warrenton Road. So it'll be serving the residents, and the folks who work out at GEICO, etc., in that area. And I think it'll be very popular. Here is the Generalized Development Plan. As we noted, access off of Warrenton Road onto the Fleet Road Connector into the site. And staff has already been through the access to the bays and the travelway through the, through the development.

Ms. Sellers: Madam Chair, I have a question. This connector road, is that the name of the road? I couldn't... is it just called Connector Road?

Mr. Payne: It's Fleet Connector Road. It lines up with Stafford Lakes on the other side.

Ms. Sellers: Is it a state road?

*Planning Commission Minutes*  
*March 9, 2022*

Mr. Payne: That I don't know the answer to. No, it's a private road.

Ms. Sellers: So who owns the road?

Mr. Payne: Well, this was probably developed, I assume, when Atlantic Union Bank did this development. They created the pad site, the vacant pad site for another use and this road is probably shared by those property owners and they have a road maintenance agreement. I haven't the title work on it. But that's typically how it works. So they would be paying for any improvements that had to be made to that road.

Mr. Harvey: Commissioner Sellers, you can see from this diagram that Mr. Payne has on the screen that the property line actually extends to the centerline of the road. So there's an easement across the road that allows access in that area.

Mr. Payne: Yep. I don't know why I picked black; looks like the worst one I could have picked.

Ms. Sellers: So that line shows what they're responsible for? I don't know if I'm understanding.

Mr. Payne: It's where the property line extends out into the road. So we have to maintain... we in essence we own to the middle of the road. We'd have to maintain it.

Ms. Sellers: Okay.

Mr. Payne: I haven't done the title work on it, but I assume there's a road maintenance agreement; there typically is.

Ms. Sellers: Okay. Thanks.

Mr. Payne: I messed up, didn't I? Right now it's got a mind of its own. I'm good? Alright, thank you. Here are the elevations that have been proffered and also conditioned as part of the CUP. Again, consistent with your Neighborhood Design Standards. And they've also proffered out certain uses that would not be desirable on that site. Plus that site is really small. Building materials sales, funeral home, lumber, building, electric, plumbing, etc. Again, architectural features are in accordance with the renderings, and this project did not exceed 1,000 vehicles per day, so a traffic study wasn't required. And I'm happy to answer any questions you may have.

Ms. Barnes: Okay, any questions for staff? Mr. Shelton?

Mr. Shelton: Mr. Payne, I have a question. Is the facility sub-level? Are they working in a pit? Or do they have lifts?

Mr. Payne: They have lifts. So that's one level, they do have lifts, you go into the bay and just wind up with a lift and they get you up now there in 10 minutes, I hope.

Mr. Shelton: Thank you. That satisfies my question.

Mr. Payne: Yes, sir.

Ms. Barnes: Okay, any other questions for the applicant?



*Planning Commission Minutes  
March 9, 2022*

Mr. Payne: Thank you Madam Chair.

Ms. Barnes: Okay. Alright, thank you. So we will go ahead and open up the public hearing on this matter. This is the opportunity for the public to comment on this public hearing item on the Berea Market, Take 5. Before starting your comments, please state your name and address. The clock starts when the green light appears. Yellow means there's 1 minute left. Red means your time is up. If anyone would like to speak please come forward. Okay, seeing none, I will close the public hearing on this matter and bring it back to the Commission. Mr. Shelton, this is in your district. What would you like to do?

Mr. Shelton: I recommend approval.

Ms. Sellers: Second.

Ms. Lucian: You have two items. You might want to do them separately. First, the reclassification and then second the CUP.

Ms. Barnes: Let's do the reclassification first.

Mr. Shelton: Reclassification, I recommend approval.

Ms. Sellers: Second.

Ms. Barnes: Okay, so I have a motion by Mr. Shelton, a second by Ms. Sellers, for reclassification Berea Market, Take 5, RC22154278. Do we have any discussion? Okay, seeing none, go ahead and cast your votes. I saw a brief field of green so I'm assuming, I'm assuming that it was passed unanimously, 7 to 0. I don't know what happened to it. Okay, thank you and congratulations. Oh, that's right, okay. I wanted to get it all done in one fell swoop. Alright, so Mr. Shelton, would you like to make a motion for the conditional use permit?

Mr. Shelton: I recommend approval on the conditional use permit for Berea Market.

Mr. Apicella: Madam Chairman, for clarification, just to be clear, is Mr. Shelton suggesting or making a motion on the CUP conditions as presented tonight with the modification that was made by staff?

Mr. Shelton: That is correct, sir.

Ms. Barnes: Okay, so moved. Okay, so we have a motion by Mr. Shelton and a second by Ms. Sellers, with the included modification on the conditional use permit that we got tonight. And that is for conditional use permit Berea Market, Take 5, CUP22154279. Any discussion? Seeing none, go ahead and cast your vote. And a field of green; 7 to 0, that passes unanimously. Okay, now we can say congratulations again. Thank you. Okay, we will move on to Unfinished Business and that is the reclassification Lidl at Mine Road. And for this I believe that we again, recognize Ms. Kathy Baker.

UNFINISHED BUSINESS

3. RC21153778; Reclassification – Lidl at Mine Road - A proposed zoning reclassification, with proffers, from the R-1, Suburban Residential Zoning District to the B-2, Urban Commercial Zoning District on Tax Map Parcel No. 21-27, consisting of 0.93 acres (Reclassification

*Planning Commission Minutes*  
*March 9, 2022*

Property); and a proposal to amend proffered conditions in the B-2 Zoning District on Tax Map Parcel No. 21-28G (portion), consisting of 1.37 acres (Proffer Amendment Property). Collectively, the Reclassification Property and the Proffer Amendment Property are referred to as “the Property.” The Property is located on the northeast corner of the intersection of Mine Road and Greenspring Drive, within the Garrisonville Election District. **(Time Limit: May 20, 2022) (History: Deferred from February 9, 2022 to March 9, 2022)**

Ms. Baker: Good evening. So this project, as you know, is Unfinished Business. I'm just going to give you a brief summary on the project. This was a rezoning reclassification for a, from R-1, Suburban Residential to B-2, Urban Commercial, of .93 acres and also a proposal to amend proffered conditions within the B-2 zoning district on the 1.37 acre adjacent parcel as you see at the intersection of Mine Road, Greenspring, and Wicomico Drive in North Stafford. The Planning Commission held a public hearing on this item on February the 9<sup>th</sup> and the public hearing was closed and deferred back to this meeting. It was to allow the district representative, Ms. Sellers, to meet with the applicant and adjacent property owner to discuss some of the issues that were raised at that public hearing. And the applicant has submitted a revised proffer statement that deletes the original proffer with reference to the Generalized Development Plan. And this was to address the potential, if they were able to acquire some adjacent property, whether they would have the flexibility to expand onto that adjacent property without having to go back through a proffer amendment application. What I would like to do, because I know the applicant has a pretty detailed presentation for you that's basically going to cover all of the background information that I have, and they can provide you new information, I would like to just defer to them to their presentation, if that's okay with you.

Ms. Barnes: That's fine. Does anyone have any real quick questions for Kathy?

Mr. Apicella: I do. I'm sorry, I didn't catch this last time. I do notice that if they don't do a grocery store, that they could do something else within the B-2 district up to I think it's 1,500 vehicles per day. I should have asked this last time, but are there any B-1 or B-2 uses that you think would not be appropriate on this site? For example, a funeral home?

Ms. Baker: I think we can take a look at that and let you know...

Mr. Apicella: Okay.

Ms. Baker: ... if we have any thoughts unless...

Mr. Apicella: Thanks.

Ms. Baker: I don't know, Jeff, if you already had any discussions on that to make note of that.

Mr. Harvey: No.

Ms. Baker: Okay, I just didn't know if I missed anything. We'll be happy to take a look at that.

Ms. Barnes: Okay, any other questions for staff?

Mr. Bain: Just one, and maybe it's a multiple question. By eliminating the GDP from the proffer, if they were to acquire that additional property, could they relocate or expand the building footprint without coming back to the Commission and revising their application?

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Baker: If that proffer is removed as they are proposing so that it, it's not going to limit the development as shown on the GDP as far as where the building location is. So that's something that they would present on a major site plan when they came in to develop the property and include any requirements that would be addressed at that time.

Mr. Bain: Okay. And I asked this at another meeting. This has been done before in the County, applicants not having a GDP as a proffer. So this isn't the new approach.

Ms. Baker: That's correct. We have done that in the past. They're, typically within the proffers, there are references to certain aspects that the developer will have to comply with, even though they're not shown on the Generalized Development Plan.

Mr. Bain: Okay. Alright, thanks. I just wanted to get that cleared up. Thank you.

Ms. Barnes: Okay, would the applicant like to come up?

Ms. Baker: And I'll be happy to answer questions after their presentation as well.

Ms. Barnes: Okay, thank you, Kathy.

Ms. Baker: Thank you.

Ms. Cameron: Good evening. My name is Jonelle Cameron with Walsh, Colucci, Lubeley, & Walsh, here tonight on behalf of the applicant. And I want to first answer Commissioner Bain's question because I might forget. Our proffers still limit the VPD for a grocery store. And so the building wouldn't be able to be expanded if it expanded or increased that VPD limit for a grocery store. At the public hearing, it was deferred for Commissioner Sellers again to reach out and meet with Lidl and the adjacent property owner. And at that public hearing, if you all may remember, one change that we had introduced to the proffers was specifically proffered an inter-parcel connection to the adjacent property. So the slide that you see here shows a potential inter-parcel connection location, so it would be in this area here, and that is a potential location; the final location would be determined at site plan. The applicant has been talking to the property owner for the Pancho Villa to figure out if there are other alternatives that would be able to work to better help Commissioner Sellers' concerns about access and limiting access specifically on Greenspring. And so, we've provided a couple of options. This option here shows the inter-parcel connection further up, and relocates parking spaces along the Pancho Villa property line here. It actually gives them more parking spaces than they have currently. But it would allow for an inter-parcel connection and flow. And finally, in order to help Commissioner Sellers with what she... her ultimate goal is, which is to try to eliminate as many curb cuts on Greenspring. If there can be an agreement between the property owner and Lidl, this would be the ultimate. So essentially, the applicant would be willing to pay for and close the access on Garrisonville and then continue the sidewalk in this area in here. And so that proffer change to eliminate the GDP is really to allow for the flexibility for the various parking areas along this property line in here.

Ms. Sellers: Madam Chair, I have a question. So about this inter-parcel connector, a question that was brought to me by the proprietor is, will this impact his current business today?

Ms. Cameron: And the answer is no. So the first inter-parcel connection that we are required to provide at site plan is this area in here. And that would not connect until there is an easement agreement between the two parties. And so if the Pancho Villa property owner was to ever redevelop and they went through

*Planning Commission Minutes*  
*March 9, 2022*

with a site plan, then we would connect in that area in there, and it wouldn't have any impacts on the parking. But the applicant is working with the property owner today to figure out alternatives. So some of those alternatives could look like this and this. Neither would impact, immediately impact... it would actually probably be better for the property owner to have that inter-parcel connection and also have the additional parking spaces. But that's something that we would continue to work through with the actual property owner. And I can answer any questions you all have.

Ms. Barnes: Any more questions for the applicant?

Mr. Apicella: Yeah, I don't know if you heard my question to Ms. Baker. I didn't think about it before and I apologize that I didn't. So again, if it doesn't become a grocery store, and I'm sure lots of folks hope it does, but there's still an option to go to another B-1 or B-2 use with a vehicle cap I think of 1,500 vehicles per day.

Ms. Cameron: Correct.

Mr. Apicella: There are a lot of B-1, B-2 uses that would be under that cap. So did you all think about any uses that you would consider proffering out?

Ms. Cameron: We did not, but we are open to working with Commissioner Sellers, between the Planning Commission and Board and working with the plan... the Board members as well. So if there are some uses that the Planning Commission or the Board would like for us to proffer out, that is something that we would look into.

Mr. Apicella: Okay, thank you.

Ms. Cameron: You're welcome.

Ms. Barnes: Okay, is that what we were going to work on tonight, or we can bring it back to you and Ms. Sellers.

Ms. Sellers: If Mr. Apicella would feel more comfortable as taking a look at that, we can defer it because I think we probably want to defer it, wouldn't we, if we're gonna change the proffer statement?

Mr. Apicella: I think it probably would make sense. You know, I know they probably want to move forward. But again, I would I know there's some... again, I use the, the funeral home is an example because if you don't know it there's a funeral home across the street that was allowed. I don't know if the property was rezoned or it ultimately happened by-right, but I don't think that's the kind of use folks would like to see on that part of 610. So there may be some other things that may not be a good fit that fall under the B-1 or B-2 zoning district if it happened by-right.

Ms. Cameron: To avoid a deferral, is there the opportunity to make a recommendation for approval with the condition that the applicant proffer out uses that are not appropriate in this corridor?

Mr. Apicella: Unfortunately, that maybe a little too vague, right, because who makes that determination?

Ms. Cameron: Planning staff?

Mr. Apicella: I don't think it works that way.

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Cameron: Okay. Can we have a 15 minute delay to look at the zoning ordinance?

Mr. Apicella: I'm okay with that.

Ms. Barnes: Ms. Sellers, you're fine with that? Okay. We'll take a 15 minute recess. Thank you.

Mr. Apicella: Well, I think what they're saying is they're going to defer this item for 15 minutes, and then potentially come... and move on to the next agenda item and then come back.

Ms. Cameron: Yes.

Mr. Apicella: It'll probably be more than 15 minutes. I suspect the next agenda item might take a little bit of time.

Ms. Cameron: Okay, so we can do that.

Ms. Barnes: We'll just go on to the next item and, is that what you're saying?

Mr. Apicella: Yes, Madam Chairman.

Ms. Barnes: Okay, thank you. Alright. We'll move onto the next item on the agenda, which is the preliminary subdivision plan and waiver of subdivision ordinance for Celebrate Virginia Celebrate Now. And for this, it looks like we recognize Mr. Harvey.

*Discussion continued after item 4.*

4. SUB21153852 and WAI21153933; Preliminary Subdivision Plan and Waiver of Subdivision Ordinance; Celebrate VA – Celebrate Now - A preliminary plan for 99 townhouse units located on Tax Map Parcel No. 44W-2, on approximately 62.32 acres, split-zoned RBC, Recreational Business Campus Zoning District and M-2, Industrial-Heavy Zoning District, on Celebrate VA Parkway north of Sanford Drive, within the Hartwood Election District. This item includes a request for waivers of Sections 22-177(1) and 22-191(a) of the Subdivision Ordinance, relating to number of lots served by an access easement and number of lots on a cul-de-sac street. **(Time Limit: April 6, 2022) (History: Deferred from January 12, 2022 to February 9, 2022) (Deferred from February 9, 2022 to March 9, 2022)**

Mr. Harvey: Thank you, Madam Chairman. This is an item that the Commission has currently on its Unfinished Business list. As you may recall, this was first presented to you back in January, and then subsequently was deferred to handle some questions and some concerns about waivers. And the applicant has provided some additional information which we'll get into in a little bit with regards to their justification for the waiver. The property is Assessor's Parcel 44W-2. It's located on west side of Celebrate Virginia Parkway, and it's part of a 63-acre parcel which is zoned Recreational Business Campus and Heavy Industrial. The development itself is limited to the RBC zoning category, and it includes 99 townhomes in the subdivision. Just as a refresher to the Commission, a preliminary subdivision plan is a schematic with limited engineering, which gives the Planning Commission and County an idea of how many potential homes would be on the site, as well as street configuration, inter-connectivity between neighborhoods, any recreational amenities, and also open space. Preliminary subdivision plans are a ministerial act for the Planning Commission. In other words, if it meets the code requirements, the Planning Commission needs to consider an approval. If there's a denial, then the

*Planning Commission Minutes*  
*March 9, 2022*

Commission needs to state what the denial is and the applicant has the opportunity to cure the problems in a subsequent submittal. This is the location map for the entire parcel which is highlighted in the orange color. As you can see from the map, the RBC zoning of the property is, or I should say the RBC zoning portion of the property is at the south end of the property, and the area where the proposed subdivision is located would be – and the pen has stopped working for some reason – but it's in that southern part of the property. There initially were three waivers requested when the plan was first submitted to the County, one of which has been approved, which is section 22-190. That allows an administrative approval where the subdivision agent, which is myself, can grant a waiver in a situation where there is significant environmental features or other factors that limit the applicant's ability to provide an inter-parcel connection between communities. In this particular case, the property to the north is built as a gated apartment complex, and there is no opportunity for inter-parcel connection. Also to the west and south, there's a major stream in this area known as England Run, and England Run has a significant Resource Protection Area and results of conservation easements recorded in that location. So that prohibits again inter-parcel connection in that direction. And that's why that administrative waiver was granted. However, there are two other sections of the County Code which the applicant is requesting waivers of, which is Section 22-177 for access in townhouse subdivisions. And it limits the number of dwelling units on a private access easement to no more than 28. Then also, there's another Code section that dealt with 22-191 for cul-de-sacs which limits the number of lots on a cul-de-sac based on the length of the cul-de-sac. The applicant has submitted a number of concepts which we'll get into in a moment as to how they believe the waivers can be cured. With regard to this image here, we're pointing out that the length of the cul-de-sac and the number of units that could be permitted. Again, the applicant has made an attempt to cure that concern. But also, too, that this image shows that there's more than 28 units on Sugarland Drive and Gingerbread Lane as an example. This is the additional information that was included in the applicant's justification, modified justification for the waiver. The image on the left shows what is known as Exhibit B in their additional information and the image on the right is the original submission, if I recall correctly. Exhibit B that's shown here on the left, they reoriented some of the lots so there would be fewer lots fronting on Sugarland, and now they'd be on Gingerbread. So that would alleviate the concern about the number of lots on a cul-de-sac. The diagram also shows that there's a potential for breaking up the subdivision into multiple pieces. The highlighted oval on the top of the image there shows a break in the street, where Sugarland becomes two streets. You have Sugarland and Gumdrop, which run together in that location and there would be a sidewalk and raised curb area that would prevent vehicles from traveling through. And to recap, with regards to the application, the Planning Commission must consider the waivers requested and also based on the recommendation of the waivers, would consider acting on the subdivision plan itself. And I'd be happy to answer any additional questions that the Commission may have.

Ms. Barnes: Alright, questions for staff?

Ms. Sellers: I have some questions.

Ms. Barnes: Ms. Sellers?

Ms. Sellers: And it feels like a really stupid question, but by flipping those houses from facing Sugarland Drive, does that remove the need for a waiver? Or how many are we at now? How many houses are then on Sugarland?

Mr. Harvey: As far as the number of lots on a cul-de-sac it would resolve that but not the number of lots on a private access easement. Because the way staff is interpreting it is that all of the lots on Sugarland

*Planning Commission Minutes*  
*March 9, 2022*

and Gingerbread would count towards the lots on the easement, and they would exceed 28. And similarly on the other two streets and Gumdrop.

Ms. Sellers: Okay.

Mr. Shelton: Madam Chair? Mr. Harvey, I have a question. You mentioned something about a curb that would not allow anyone to go over top of it. Would you clarify what that curbing is?

Mr. Harvey: Commissioner Shelton, I defer to the applicant on the specific details on how they're treating that situation. It's staff's understanding by looking at the concept plan that there would be essentially like a raised median with head curb on both sides and a sidewalk in the middle. So a head curb is a curb that has a 90 degree angle, rather than a roll curve which allows you to drive up on it. But again, the applicant can answer that question in more detail.

Mr. Shelton: Thank you very much.

Mr. Bain: Mr. Harvey, at our last meeting the issue that was brought up, at least in my mind, was that the applicant was not offering justification for granting the waiver. The way the ordinance is written, the applicant must prove that the application of the ordinance requirements would impose an unreasonable burden on the owner. I have not heard anything that you've presented so far that addresses any sort of unreasonable burden other than we can't build as many houses as we want. Is there any additional information documenting some sort of burden that the applicant wants? It looks to me like what they're offering is an unwelcome alternative to try and get around an ordinance. And in my mind, there are some issues with that, but we'll get to that later. But there's still no definition of what the burden is. Can you address that at all?

Mr. Harvey: Commissioner Bain, in the end result, I'd have to rely on the applicant to further elaborate on the information they submitted to the Commission. The consideration as to whether or not the ordinance is an unreasonable burden on the subdivider, that's ultimately a decision made by the Commission, not by the staff. I will say in talking to the applicant, their information was intended to show or demonstrate that there are other alternatives that might be pursued but may not give the most desirable outcome as far as a subdivision.

Mr. Bain: So either approve the waiver request or we're going to screw the people that are going to move into this area, because now they're living on Sugarland Drive. In order to get to the clubhouse, all the way over on the end of Gumdrop Drive, they've got to come out, turn right down Celebrate Virginia Parkway, make a U-turn, come back up, and turn into the subdivision. So, you know, basically, screw you, owner of the condominiums or retirement home, because the County wouldn't give us our waiver. I don't mean to put words in your mouth. That's the way I see it.

Mr. Harvey: Madam Chairman and Commissioner Bain, the applicant is here to further explain their waiver request modification and any other questions that the Commission may have.

Mr. Bain: Okay. On a follow-up then with this Exhibit B, is that officially part of their application now? So is it something that we are officially considering as part of the application or is it just they wanted to show us something else that could be done?

Mr. Harvey: Commissioner Bain, Exhibit B has not been reviewed as a formal submission. So if the Commission is inclined to go with the recommend... or what is shown on Exhibit B, staff would

*Planning Commission Minutes*  
*March 9, 2022*

recommend that the Commission ask the applicant for a time extension so they could submit it to us and we can review it to verify it meets the code requirements. So it would likely require a time extension until one of your meetings in April.

Mr. Bain: Okay, yeah, that... because I have concerns about, again, fire and emergency access under this situation. So I'm glad you pointed that out. Thank you.

Ms. Barnes: Any other questions for staff?

Mr. Apicella: Madam Chairman, I have a couple of questions.

Ms. Barnes: Okay.

Mr. Apicella: First of all, was Willy Wonka consulted in naming these streets? So seriously, as far as I can see, there are no environmental issues in the area of the parcel where the townhouses are proposed, is that correct?

Mr. Harvey: Correct.

Mr. Apicella: And there are no environmental issues where Celebrate Virginia Parkway abuts the parcel.

Mr. Harvey: No, there are not.

Mr. Apicella: Can you bring back up the preliminary site plan? So where, where are the townhomes... or what numbers are the townhomes where the PAE issue is raised?

Mr. Harvey: The issue is that the ordinance says that there should be no more than 28 units on a private access easement. All the streets proposed in this subdivision are private access easements. So staff's perspective, and there was a little bit of confusion on that and I apologize to the Commission and the applicant, that we would look at this as a cumulative number of units on a private access easement unless there was a public street that extended into the subdivision. So right now you have 99 units on a private access easement. If they were to pursue option B, you would have two private access easements, one of them which would have Sugarland and Gingerbread as one set of lots, and then also the Gumdrop and the other two streets as the other set a lots on private access easements.

Mr. Apicella: I have to admit, I'm still a little confused, based on your, your comments, Mr. Harvey. So you can't show me where the 29 units are versus what would be required under the code, which is a cap of 28?

Mr. Harvey: Commissioner Apicella, if I could get the pen to work, I might be able to put dots on the map. But unfortunately for this presentation, it's not functioning.

Mr. Apicella: Tell the pen it's fired. Alright, and about the block length? Are you able to tell me what from... is it from end to end on Sugarland? So all those units that are adjacent to Sugarland, is that, is that where the block length issue is?

Mr. Harvey: Well, block length is not really an issue that I'm aware of. It's more so the number of lots on a cul-de-sac relative to the length of the cul-de-sac.



*Planning Commission Minutes*  
*March 9, 2022*

Mr. Apicella: Okay, and so can you show me where those are?

Mr. Harvey: Let's see if this other diagram... you can see a little bit more in this zoomed in picture. Originally, lots 13 through 19 were oriented differently to where they were on Sugarland, and that segment of Sugarland between Gingerbread and the left side of the screen was where there was the violation in need for a waiver for the number of lots on a cul-de-sac based on the distance of the cul-de-sac. So the applicant was proposing that this is maybe an alternative to alleviating that problem.

Mr. Apicella: So, so is it fair to say, and maybe I'm not characterizing it correctly, but the predominant issue here is along Sugar... both issues are along Sugarland. Is that correct?

Mr. Harvey: Well, the issue with the number of lots on a private access easement would be for all the streets.

Mr. Apicella: Okay. Can you help us understand why the PAE and cul-de-sac cap?

Mr. Harvey: The cul-de-sac ordinance goes back to the 1980s prior to me working with the County, but my recollection in talking with Commissioners at that time, there was concern about overcrowding on streets and having too many houses over a short street segment where, you know, if you have driveways that are close together and on-street parking, it can be fairly congested. So that's why they have a certain number... maximum number of lots per certain length segment of road. With regard to the private access easements, that's something that has changed over time. Since I've been working with the County there was a new requirement to add the 28 lot cap. The idea was to try to have more public streets within the townhouse neighborhoods.

Mr. Apicella: Okay. What's the width of Sugarland Drive?

Mr. Harvey: Commissioner Apicella, I'd have to defer to the applicant for the exact details on the typical sections of the street as how wide they are and pavement width.

Mr. Apicella: Okay. I could be off on my numbers, I probably am. But this, I think this is, in my opinion, this is not the right plan to look at. Can you go back to the plan that's actually in front of us? Okay, so, again, my numbers could be off, but I think I counted a total of 12 visitor parking spaces. Where will people park once all those vehicle... once all those visitor spaces are, are maxed out? And I don't mean the people who own the townhomes. I think they're single car garages, so presumably, you can get a car in a garage and another car at the front of the townhome. But where, where else would people park once the visitor parking is maxed out?

Mr. Harvey: Commissioner Apicella, I'd have to defer to the applicant, whether this design includes enough area for on-street parking. But normally that would be the case; people would park on the street. I will note that the driveways for each unit would have to accommodate at least two parking spaces, since our code requires more than two parking spaces per townhouse within the overall project.

Mr. Apicella: Okay, thank you. Just a few more questions, Madam Chairman. Other than complying with federal, state, and local requirements, the layout of the townhomes and where the clubhouse is aligned within the subdivision on this parcel, that's completely within their control, right?

Mr. Harvey: Yes, it's subject to the applicant's desire for development and how it can be engineered.

*Planning Commission Minutes*  
*March 9, 2022*

Mr. Apicella: Alright, and maybe I'm overly focused on Sugarland. But again, looking at this proposed preliminary plan, what I'm seeing is that there are nine, I think they're called blocks of townhomes or segments of townhomes along Sugarland, and they range in size from four, six, or eight units per block. And I counted a total of 50 units along Sugarland. Does that seem about right to you?

Mr. Harvey: It seems right. I haven't physically counted them.

Mr. Apicella: I gotcha. So kind of going back to Mr. Bain's point, this hardship, again, how this subdivision is laid out is completely within their control. They decided to put 50 homes along Sugarland. It seems to me that this hardship or this burden is largely self-imposed. Again, they have other options. They've even identified other options, although at least one or both of the options don't seem to address one or both of the waiver issues. Does that seem about right?

Mr. Harvey: Again, Commissioner Apicella, it's the applicant's burden to convince the Commission as to how the ordinance unreasonably burdens them and their ability to subdivide the property.

Mr. Apicella: Well, again, it seems like they have a lot of flexibility to meet the overall number. Again, I'm not quite sure, based on your earlier comment, what number would be allowed based on the waiver requirements. Originally, I think we said there's plus one for the PAE and plus five for the cul-de-sac issue; that's six total. So isn't one solution to these issues that they reduce the total number of units, again, primarily along Sugarland? Right now, again, they have four, six, and eight units per segment. If they went down to an average of five units per segment, that would get them pretty close to the number of units that would keep them within the cap and not necessarily require a waiver. Is that...?

Mr. Harvey: Commissioner Apicella, there may be other ways to handle this if some of the streets became public streets, or if all the streets became public streets, there would not be a private access easement issue. So again, with townhouse developments, the code does allow for private access easements, but has that 28 lot limitation on it.

Mr. Apicella: What's required for it to become public streets?

Mr. Harvey: And I'd have to defer to the applicant on the details, because I know there are certain VDOT requirements and sometimes townhouse neighborhoods are a little bit difficult to meet the entrance spacing requirements that VDOT has. Again, I'll have to defer to the applicant as to whether that would be a feasible alternative.

Mr. Apicella: Okay, so I'm just going to summarize what I think I'm driving to. They are the masters of their own solution here to stay within the confines of the County's requirements without necessarily needing a waiver, in my opinion. And going back to Mr. Bain's point, I'm not seeing an issue that creates a hardship from the... driven by the County. I'm seeing an issue driven from a hardship perspective based on the way that they've decided to configure the townhomes. Thank you, Mr. Harvey.

Ms. Barnes: Okay, any other questions?

Ms. Sellers: I have one.

Ms. Barnes: Ms. Sellers, go ahead.

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Sellers: On this Exhibit B, this... sorry I'm a little late because I just figured out what we were looking at here... this planter thing that's in the middle that separates Sugarland and Gumdrop – can they do that? Like, without having to come to the County and get some sort of approval, they can just put this planter right in the middle of the road and...?

Mr. Harvey: Commissioner Sellers, say, for instance, this plan was approved, and they decided to come in with this alternative, this could possibly qualify as a technical change where it would have to go through a staff review to see if it met all the code requirements. And if it did, it could potentially be approved administratively. If they did any significant rearrangement of the subdivision, then it would have to come back to the Planning Commission.

Ms. Sellers: So it depends.

Mr. Harvey: Yes, it depends.

Ms. Sellers: Okay. But this is not the one we're looking at for today. Correct?

Mr. Harvey: Correct. It was originally presented to the Planning Commission in January. That's the plan that we're referring to.

Ms. Sellers: Okay, thank you.

Ms. Barnes: I'm glad I'm not the only one confused. I just have a quick question. You said something about the driveway. So each unit has a single car garage. And you said that on the driveway, you did have to have room for two cars? Or is it just... because wouldn't that make the driveway wider than the garage? Am I missing that?

Mr. Harvey: The County Code requires that for every parking space, that has to be a minimum of 9 feet wide by 20 feet deep. So in order for the townhouse project to meet its parking requirement, it has to have I believe it's 2.2 spaces per townhouse unit. So by looking at the plan, it appears that they're providing two parking spaces for each unit on the driveway. And any additional spaces are in the overflow area.

Ms. Barnes: Okay, so technically they can, they could have three cars, one in the garage, two in the driveway.

Mr. Harvey: Yes. And I'll have to defer to the applicant, if they have determined plans whether or not these are one or two car garage units.

Ms. Barnes: I thought they looked like they were one. I wasn't... okay. Any other questions? Okay, would the applicant like to come forward?

Mr. Towery: Good evening Madam Chair, members of the Commission, Jason Towery with Legacy Engineering. We're the engineer of record for this plan. Computer, please. Thank you. And I hope this pen works, because I wanted to circle a few things myself. So let me just start off real quick and I'm going to go over a couple things, hopefully clarify a few things for the Commission here tonight, and why we believe that these waivers are appropriate. But I just wanted to rewind real quick on the density issue. Because I think that there's a perception that what we're trying to do here is waive certain code requirements to get more density. And that's not the case. The current density approved for this parcel

*Planning Commission Minutes*  
*March 9, 2022*

right now, for the 2018 concept plan is for 125 units. So we're actually putting on the table before you a proposal tonight that allows you to reduce 26 units out of the overall density that we could be placing on this parcel. So that, that, that... I just wanted to be candid and upfront with that; this is not about achieving additional density out here. Of course, yes, we are trying to maximize the use of this land that we have here. That's what every, every reasonable developer is going to do. But there is more density that could be taken on this parcel. So I just wanted to point that out real quick.

Ms. Barnes: Ms. Sellers, you want to jump in? I'd like to jump in on that one, too.

Ms. Sellers: Yeah, because never have I sat through a presentation where a developer said they're going to reduce the density they're going to have. So I'm curious where those units are gonna go. And is that just for this particular parcel? Or is that for the entire concept plan like... what are you talking about here?

Mr. Towery: We are not, and correct me if I'm not... *inaudible*... we are, we are not using those units. They're going away. So I...

Ms. Sellers: Why?

Mr. Towery: Because we believe that this is a better layout, both for what the ultimate product that they want to achieve, but also for the County, frankly, candidly. So I just... I wanted to be very clear about that upfront. Also, additionally, we're here tonight in part by choice. We've talked about using simply a condo approach to this plan. If we were to use condos on this, we do not subjugate ourselves then to the subdivision ordinance, which means that these waiver requests go away. And so do a lot of the minimum parking requirements and so forth. So we could actually increase our density if we went to condo units, and candidly that, that is an option that we've considered. But again, we're here tonight because we believe this is ultimately the best layout both for the developer and for the County.

Ms. Barnes: Can it be the best layout with six less townhouses?

Mr. Towery: Well, we've already given 26. I would say that first, first off. So we've given 21% of the overall density up. So...

Ms. Barnes: So, that's a yes or a no?

Mr. Towery: I don't... I'm not here tonight to... And candidly, I'm not sure what, which six would be requested to be removed, because we've... other than the two waivers we're requesting here tonight, and I want to explain why we're requesting the waivers, this is a good layout. Let me talk through it a little bit. There's a couple of competing things within the code that happen when you get into a townhouse subdivision like this. First, the County Code requires for a townhouse subdivision of this nature, for something of this nature, that you have to have a 50-foot minimum right-of-way. Now VDOT allows you to go down to 40, even 30-foot and smaller road sections. We did a little more research since our last discussion with the Planning Commission to try and understand better how that would work. But again, then, when we go to a public road, we also lose the ability to add in some of that additional parking that's been required. One of the other things that we show tonight on Exhibit B is some additional parking that we would be proposing. So, because we did hear that from the Planning Commission last time. You can see we've added an additional parking bay towards the end of lots 20 through 23, which is down in the far left. I'm going to try to circle here.

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Sellers: Are we looking at A or B? I don't know... *inaudible, microphone not on.*

Mr. Towery: This is, this is B. I'm just showing you a little bit of the additional parking that we're proposing. Let me see here. We seem to have done something incorrect. I'm not sure. You know what? I can maybe use the mouse to point. Can you all see the mouse up there on the screen? Okay, good. So I'm going to try to use the mouse to point, thanks. Not sure where that is? Boy, strike two; let me try again. Alright, thanks. Thank you, Stacie, appreciate it. So you can see we've added in some additional parking down here. But again, when you go to public roads, you cannot add in that parking on the streets. So we felt that overall the balance of this, the private streets allowed us to add in additional parking and make this application of the land a little bit better overall. And again, that was something that we heard from the Planning Commission. So let's talk for just a moment here about the 50-foot right-of-way. Even if we could go, and we did talk with the Zoning Administrator about this, to a 50-foot right-of-way, you're required to have the parking areas outside of the right-of-way in that case, which again, is what would be precluded if we went to a public road. So we looked at the 50-foot going through all of these units back here. And what ends up happening is pretty much every single bumper of every single car overhangs into the right-of-way by a foot or two. Because instead of having that nice, as was referenced before, 20-foot depth, now you've got about 18 because you lose a couple feet on either side. So in... practically what the Code says in the zoning subdivi... I'm sorry, in the Zoning Ordinance, it says that the parking must be outside of the right-of-way. So technically, you've got the bumper hanging over into the right-of-way. So again, we were unable to make the public right-of-way work through here with that and still be able to accommodate the parking that's required by the Code. So again, on the balance, we felt that overall, it was better to go with the private street out here. The private access easement, and we got a little bit of additional information this afternoon. The point of showing you Exhibit B tonight was not to, and I apologize if it came across wrong, we weren't trying to show you guys this was put before a screw you kind of scenario. What we were really trying to show you guys is what the PAE access agreement... what ultimately that forces a subdivision like this to do is to break it up into segments. And we candidly agree that it's not in good planning use overall to break this up into segments. We've spoken to the applicant about this and said that this could be an option, they've said don't like it, we would prefer to keep the overall continuity out here, continue to pursue the waiver. So again, that's why we're here tonight. And ultimately, I do believe that while we've rotated, and it's lots 16 through 19, so it's these ones right here that we rotated 90 degrees, they were previously shown fronting on Sugarland Drive. So when we rotated those four units, which we felt worked a little better back on Sugarland Drive, but we rotated them over. And that does alleviate the need for the cul-de-sac waiver, which the applicant's fine with; we're happy to do that, if that alleviates that concern. So I do believe at the end of the day the only real concern we have here tonight is the private access easement waiver. I did want to address just briefly to the overall constraints of the plan. The developable area. Obviously on the front, we're very constrained by Celebrate Virginia Parkway. In the back and I don't know if it's, you can see clearly the RPA back here which is a dark line. What's unclear, hard to see, is there is a conservation easement riding right along the back of these parcels. You can see it comes out just a bit here. So we are fully constrained not only by this RPA and the other environmental features further back, but we're further constrained by the conservation easement. Which leads us to ultimately what we like, which would be the spine road in the back, okay, we did talk with VDOT about taking the... punching through Sugarland Drive onto Celebrate Virginia Parkway, the minimum amount of or access points required for this subdivision. Anything less than 100 lots is two points of connection. Obviously, we've got three; we felt we were right there at the edge. Let's get that third one in and try to meet the intent of the code. VDOT did not like the idea of us punching into more access points along the Parkway; we did talk with them about that. And candidly there is some topographic constraints down at that end which makes those entrances very difficult to design and construct.

*Planning Commission Minutes*  
*March 9, 2022*

Mr. Martinez: Madam Chair, I have a question.

Ms. Barnes: Go ahead.

Mr. Martinez: Looking at the Exhibit A, I'm looking at the houses...1, 2, 3, 4, 5, 6... 14 through 19. That's six townhouses. Why not get rid of those, move the clubhouse to where those townhouses were? Not only do you get rid of the need for the waiver, but you also give the residents a bigger clubhouse.

Mr. Towery: True. Well, again, as we understand the request for the need for the waiver now is that it is comprehensive for the, for all 99 lots. That staff's point of view on this. And this we were... this was a conversation we had this afternoon. Our previous understanding was that you would be limited to no more than 28 units on each street. So each street would be treated, each street segment essentially would be treated as its own private access easement in light of the Code. So the 28 would be, in this case, the concern was along Sugarland Drive only. Because only Sugarland Drive which currently in this configuration has 44 units on it okay, those 16 additional units there along Sugarland Drive in our initial understanding was the need for the waiver, okay. So instead of being able to have 28 on there, we had requested 44. Our understanding now this afternoon is that the entire subdivision, all of the private access easements to include the three roads coming down to Celebrate Virginia Parkway would all be lumped in to the overall private access easement. And so, again, for us, this waiver is really for us to put 99 lots on a private access easement at this point. That's really what we're requesting. Again, that was a little bit of additional information that we got today, which may have driven previous decisions a little differently. But nonetheless, here we are. We still believe that this is the best layout. We still believe that this gives the best overall continuity, flow of traffic, access within subdivision, best public safety concerns. We still believe that this is the best density for this parcel. So I'd be happy to answer any other questions.

Mr. Bain: If I could, Madam Chairman.

Ms. Barnes: Mr. Bain.

Mr. Bain: Let me paraphrase what you've been saying. From the perspective of me as a Commissioner, you indicated that you had not used up all the allowable density of this site. But then you pointed out that there were site constraints; the Resource Protection Area and the conservation easement, and you are right up to them. You could not develop this site with any more units than you have. You haven't given us 26 units by not meeting the density. You said that you looked at doing public streets, but you couldn't have those little parking areas. That's not allowed by the VDOT. And so if you went public streets, in reality, you would have to have parking lots with separate entrances, which would mean you'd have to take some of the units away to make room for those parking areas that are... would be required. So in essence, you're still trying to get more houses than you need. And the only hardship that I see is that you can't build as many houses as you want. We're talking about six units. And all these other options that you've talked about have nothing to do with what you're limited to and have presented to us. It's just that you want those additional six units. The world is going to end if you don't get those six units. And I still haven't heard any justification for granting the waiver. And my personal opinion is, if I... if it was in my power, I would require you to make those public streets and have off-street parking because I think other elements of this plan, like the really terrible size of the clubhouse for a development this big and only a clubhouse, no outside activities like tennis courts or swimming pools, I think is terrible that you haven't included stuff like that. So that's the way I see what's been presented tonight.

*Planning Commission Minutes*  
*March 9, 2022*

Mr. Apicella: Madam Chairman, just to kind of piggyback off of Mr. Bain's point, I go back to the fundamental issue. Why is there a requirement to have a cap, a PAE cap and/or cul-de-sac cap? And I'm going to paraphrase again what Mr. Harvey said. The original intent was to alleviate concerns of overcrowding along street segments. I lived in a townhome subdivision. I was the HOA President. I can tell you that traffic and the blocking of traffic is a huge issue in townhome subdivisions. So I don't see... I'm hard-pressed to understand why. I appreciate that they have constraints on their property, that the property isn't perfect, and that they can't do everything that they want to do. But the bottom line is, we have a requirement for a reason. And to me, the justification that's put in front of us doesn't ameliorate the waiver of that requirement. Just so again, they can maximize, in my opinion, the yield of townhomes. I appreciate that you might be able to do something else on that property. Maybe, maybe not. But at the end of the day, we have to deal what's in front of us. You've proposed... the applicant has proposed a townhome subdivision. That's what we've looked at. All these other plans that are... have been provided today, they're interesting, but that's not the plan that's in front of us. The plan that's in front of us is completely different. And again, to me, it butts up against the very issue that the County is trying to avoid by having these requirements in place.

Mr. Towery: I'll try to address two of those things. The first, to the question of the 125 units, Mr. Bain, we have previously put together and I believe actually had reviewed and possibly approved a layout. I'd have to go back and look but there was a layout done for this that accommodated 125 units. I believe it was 40, 44 townhomes and then a number of multi-family units. So to be able to have some additional density, absolutely. It could be done. We could, we could do some additional density. But again, and I'll just point out that we're here, we're here tonight by choice because we believe that the subdivision ordinance provides the best density and overall layout for this. Again, the applicant could choose to use a condominium approach. A condominium approach would actually again, allow us to, we've already... we could add additional units in here. And overall, we believe that this is the better layout for the community. So it again, it's not a question of trying to get additional density. We can, we can add some more units here, if we have to go to a condo layout. If that's the direction that we have to go, we understand that. But again, we believe that this is the best layout. This provides the parking necessary according to the County's zoning ordinance. And again, with the condominium layouts, a lot of that parking is not required. And so we're here by choice because we believe that this is the best layout overall. We believe that in line with the subdivision ordinance, that this is the best use of this land. We're balancing a number of competing factors here. It's not only just the-of-way and the number of units, but it's also the requirements for parking. I mean, if we could go to a 50-foot right-of-way and if there was a way that we could all agree that the bumper hanging over into the right-of-way, which is beyond the sidewalk, well beyond the sidewalk now – I want to point that out, we're not interfering with the sidewalk or the rightful use of that right-of-way – then we'd be happy to go to a public road. Again, VDOT allows you to waive down to a 40, even a 30-foot, for these types of situations. So it's, it's foreseeable that these types of uses come up. And even VDOT again says yes, if you have these more dense uses where the street sections should be smaller, could be smaller, you can waive that down to a smaller requirement. But again, we prefer the wider road on this. We prefer to be able to have the additional parking for the residents on this. And so that is why we're here with this layout. And we prefer the additional overall access within the subdivision for this. So again, I understand where it appears that yes, you guys are just trying to maximum of every square inch and get as much density as possible. Of course, he's going to try and develop his land as best, to the best use possible. But we're trying to balance that and that's the reason for the additional layouts here that we've presented tonight and the additional information so you could understand our logic, our thinking, how we got to this point tonight to say yes, we believe that these waivers are in line with the overall vision of the County and what the County wants.

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Barnes: Okay, I have a quick point of clarification, and this may be backtracking again, but on this plan B where you put the little sidewalk in. Even with that you're still going to need a waiver and I'm trying to remember which waiver what that was for the PAE or for the cul-de-sac.

Mr. Towery: Yeah, the cul-de-sac waiver I think is at this point unneeded, just simply because those four units, and I believe staff agreed that rotating those four units was a reasonable change. So I think we're... the cul-de-sac waiver is done. But the PAE, and again when we did need that...

Ms. Barnes: You're still going to need that.

Mr. Towery: Yes, because we're... as our understanding, and this has changed this afternoon. So when we... understand this, too, when we did that break, that break was strategically done to show this is what 28 units looks like to one side, okay, because we believed at that point – and I'll just go back here one slide. I don't want to confuse people, but I want to, I want to be clear for why we presented that specific point.

Ms. Barnes: It's kind of moot.

Mr. Towery: We proposed Sugarland would become 28 units here, and then Gumdrop, the other Willy Wonka name, would be I can't remember how... it would have been... I think 26 units at that point because we... no, I did my math wrong. Hold on... 16 units, yes. Sorry.

Ms. Barnes: Okay. So but what we have tonight in front of us is we... *inaudible*... ordinance 22-177 and 191 regardless. Those are the waivers that are in front of us tonight. Correct?

Mr. Harvey: Madam Chairman, yes, based on the plan that's been originally presented to the Commission, if the Commission's inclined to work with the applicant to modify their plan to where they could flip those lots on Gingerbread, as previously discussed, that would alleviate the need for the cul-de-sac waiver. But still the PAE waiver would still apply.

Ms. Barnes: Okay. But just for clarification, when we, when we do discuss this tonight, we've got the preliminary subdivision plan and the two waivers in front of us immediately. Mr. Sheldon, go ahead.

Mr. Shelton: Would you clarify the width of your street? From my venue, I'm concerned about how first responder vehicles are going to get in, how they're going to get out. Not only our fire apparatus, but our SWAT units, also utility vehicles, as well as other large vehicles. And from my perspective, you're looking at a neighborhood that you're going to have grandparents in, grandchildren in, and you're going to have problems in parking because I see limited excess parking.

Mr. Towery: Sure.

Mr. Shelton: So how are you going to get a 42-foot aerial through that area, and a 28 and a half-foot pumper and a SWAT unit?

Mr. Towery: Yeah, absolutely, yeah.

Mr. Shelton: So those are my concerns from public safety.

Mr. Towery: Absolutely.



*Planning Commission Minutes*  
*March 9, 2022*

Ms. Barnes: I'm glad we have an expert on the Commission up here now.

Mr. Towery: And I appreciate the utilities perspective, too, that we have some rather large utility vehicles. So yes, so it's 24-foot wide, face of curb to face of curb, which is the larger of the available sections that VDOT would typically do. So that was, and I'm glad you brought this up because that was one of the other reasons why we wanted to do this because we would be able to provide that 24-foot width. If we waived... if we went with a public street, okay, and we were to request a waiver from a 50-foot right-of-way to say a 40-foot right-of-way, then VDOT requires that your street section gets smaller. Okay. So we were trying to balance the larger street section for vehicular access, emergency vehicles, those of those natures with, with the overall constraints of the site and trying to try to balance that out. So again, we're trying to provide that larger section with the parking. In this case, it has gone obviously through fire and rescue review. We have met all of their comments and concerns. I'm not aware of any additional comments that have been generated by fire and rescue.

Mr. Shelton: I still have concerns about transportation...

Mr. Towery: Sure.

Mr. Shelton: ... just getting to ingress and egress.

Mr. Towery: Well, and again, and that's part of... this 24-foot is a very typical section for these types of roads. It's on the larger end, okay. It's not the largest, right. But it's, it's on the larger end of a road section. If we were to go down to a 40 or a 30-foot right-of-way, those would typically go down to like 20 or 22-foot wide roads. So we've got that extra width.

Mr. Shelton: Thank you.

Mr. Towery: Yep.

Ms. Barnes: Okay, I think we've maybe talked this to death. So at this point, I think we bring it back to the Commission. And, Mr. Shelton, this is in your district. What would you like to do?

Mr. Shelton: From my personal standpoint, we're still looking at two waivers. Am I correct? Then I'm not in favor of the two waivers. If we want to take them individually, and vote on them, but a motion to deny the waivers.

Ms. Lucian: It's probably cleanest to take them up separately, just in case there are differing votes.

Ms. Barnes: Okay, so let's do the Subdivision Ordinance 22-171, the Private Access Easement waiver first.

Mr. Shelton: Motion to deny.

Ms. Sellers: Second.

Ms. Barnes: Okay, I have a motion to deny by Mr. Shelton, a second by Ms. Sellers for a waiver of Subdivision Ordinance 12... excuse me, 22-177. Do we have any additional discussion?

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Sellers: I do. I have a comment on it. And I think I said at the first meeting that you guys kind of inherited this hodgepodge that is Celebrate Virginia and it's kind of unfortunate for you. And it's something that we're going to be dealing with I think into the future as we're starting to see different parcels come before us. I do not like the way this is situated. I see the three entrances, potentially five entrances, and I spent four years on FAMPO where all we did was look at transportation. And every single one of those entrances begin to back traffic up. So as you see with the one we're gonna vote on next, I don't like entrances onto our main road. I want to minimize the number of entrances onto our main road to minimize traffic. So I, I wish we could find another way to do it. I'm also a little hesitant to accept this notion that you're just giving up 26 units. I've never, I've never seen that happen. And so in the future if you're going to give up units, I'd like to see a proffer statement with that to show me that you're not going to bring it up again. So I... but at this time, I am going to vote against this. Thanks.

Mr. Barnes: Any other discussion? Okay, so we have a motion and a second once again for denial of a waiver of Subdivision Ordinance 22-177. Please cast your votes. Okay, that passes 6 to 1 (*Mr. Martinez opposed*). Okay. Mr. Shelton, do you want to make a motion for Subdivision Ordinance 22-191?

Mr. Shelton: Motion to deny.

Ms. Sellers: Second.

Ms. Barnes: And the usual duo down there, Mr. Shelton and Ms. Sellers has a motion and a second to deny the waiver for Subdivision Ordinance 22-191. Any further discussion? Okay, seeing none, please cast your votes. Okay, and that passes unanimously, 7 to 0. So now, I know we've discussed this, where exactly are we going from here?

Mr. Harvey: Madam Chairman, the Commission still needs to dispense with the preliminary subdivision plan.

Ms. Barnes: Okay, so if we've denied those waivers and the subdivision plan in front of us includes houses for those waivers, I'm confused as to how that's relevant.

Mr. Harvey: Madam Chairman, under State Code the Commission's required to act on a preliminary subdivision plan within a certain time period, or your inaction is deemed approval.

Mr. Apicella: So if someone wanted to make a motion based on the previous motions that passed, in theory, they would recommend denial of the proposed preliminary subdivision plan.

Ms. Barnes: So Mr. Shelton, this is in your district once again, what would you like to do?

Mr. Shelton: I recommend denial.

Ms. Barnes: Okay, we have... go ahead, Ms. Sellers, did you want to second that? Okay, I'm gonna give it to you. Alright, so we have a motion by Mr. Shelton, and a second by Ms. Sellers to deny preliminary subdivision plan 21153852. Any further discussion?

Mr. Martinez: Madam Chair, I do have a quick comment.

Ms. Barnes: Okay.

*Planning Commission Minutes*  
*March 9, 2022*

Mr. Martinez: I just... I'm going to predict that this is not going to go the way the applicant wants. I hope that they will reconsider and they will look at other options, particularly hopefully not the condo option. I echo Mr. Bain's comments about the clubhouse. I feel like it... something like that just wouldn't benefit the residents of this community. So I hope the folks go back to the drawing board and get something that would be, that would benefit the community. Thank you.

Ms. Barnes: Thank you, Mr. Martinez. Any other comments? Okay.

Mr. Apicella: Madam Chairman, I echo Mr. Martinez' comments. And I just want to add that, procedurally, it just makes sense to deny the preliminary subdivision plan because it's predicated on approval of the waivers and the increased number of units and density. So you couldn't act, in my opinion, you couldn't vote for it having already voted against the waivers. So I didn't support the waivers. I'm not going to support the preliminary subdivision plan. I'm not going to reiterate my reasons. I think it's already been kind of expressed by the Commission. Again, I hope they'll take another look at the site. I know it's not perfect, and it may not achieve everything that they want. But I think there's other options they can pursue while still meeting the County's requirements.

Ms. Barnes: Okay, thank you, Mr. Apicella. I think that that wraps it up. So cast your votes, please. Okay, and that passes 7 to 0. Thank you very much. And now are we going to loop back to Lidl? Is that what we're going to do? Okay, let's go back to public hearing... the reclassification of Lidl at Mine Road.

3. *RC21153778; Reclassification – Lidl at Mine Road – Continued Discussion*

Ms. Cameron: The applicant has provided proffers to planning staff. And it says, all uses permitted in the B-2 zoning district shall be permitted on the property except the following uses shall be prohibited. And we have proffered out adult business, building materials sale and storage yard and mulch sale, club lodge/fraternal organizations, funeral home, indoor flea market, lumber/building/electrical/plumbing supply with covered storage, nightclub, and outdoor flea market.

Mr. Bain: Quick question. Does nightclub by the code definition include bars?

Mr. Harvey: Commissioner Bain, if I recall correctly, the definition speaks to a facility that provides live entertainment for more than 100 people.

Mr. Bain: I'm not against bars. I just I wanted that clarified. *[Laughter]*

Mr. Martinez: Thank you for that clarification, Mr. Bain.

Ms. Barnes: Okay, any other comments, concerns, questions from the Commission? And just to clarify that if we do have a motion or whatever we decide to do, that we need to make a motion first to accept these new proffers that we've just been handed. Ms. Sellers, this is in your district. What would you like to do?

Ms. Sellers: So we need a motion for I'm assuming just the reclassification or reclassification and the proffer amendment?

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Lucian: You first need to make a motion to accept the revised proffers. Anything that's presented to the Planning Commission for the first time at a meeting must be voted on in order to proceed on it by two-thirds vote.

Ms. Sellers: Okay. I make the motion to approve the proffers that we were just handed.

Mr. Martinez/Mr. Shelton: Second.

Ms. Barnes: I'm gonna go with Mr. Martinez on that one. Okay, so we have a motion by Ms. Sellers and a second by Mr. Martinez to accept the proffers as written and presented to us this evening. Any further discussion?

Mr. Apicella: I just want to thank the applicant and staff for adding the additional proffers limiting some of the uses that would not be appropriate in this area.

Ms. Barnes: Thank you, Mr. Bain. Any other comments? Oh, Mr. Bain, I'm looking at you; Mr. Apicella, thank you. Any other comments? Okay, let's cast our vote on that. And that passes unanimously, 7 to 0. And Ms. Sellers, reclassification.

Ms. Sellers: I'm gonna make the motion to approve RC21153778 and I'll have a comment.

Mr. Shelton: And I second that.

Ms. Barnes: We have a motion this time by Ms. Sellers and seconded by Mr. Shelton on the reclassification Lidl at Mine Road, RC21153778. Any further discussion?

Ms. Sellers: I do have a comment on this one.

Ms. Barnes: Go ahead.

Ms. Sellers: First, I do want to thank the applicant for at least taking the time and looking at the inter-parcel connector. As I stated on the last one, I do have a lot of concerns with traffic in the area. As somebody stated earlier, I live in the area, I've been there my entire adult life. And as we see it grow, these cuts on Garrisonville Road at every single shop, every single storefront, every single drive-through, and in some cases where you have two entrances into one business, it creates traffic jams. And it wasn't a problem 20 years ago, but it's becoming a big problem now. So I do appreciate the opportunity to look at really a revitalization project like this one where we can start closing off some of those entrances off of Garrisonville Road and maybe get traffic moving along the corridor. I also want to bring attention to the fact that this particular property has been kind of an eyesore for a little bit, especially as it fronts on Mine Road. You know, it's full of trash. It's not maintained by the current owner of the land. And that's what people see when they come in into our County. So, you know, I don't know where it goes from here. I don't know how you guys will do at the next level. But I think for now, you guys have met the concerns for traffic, at least from my standpoint, and are doing at least some long range planning in the area. So I thank you and I will be supporting it.

Ms. Barnes: Okay, last call for comments?

Ms. Barnes: Madam Chairman, again, I agree with the comments made by Ms. Sellers. I just wanted to reiterate a point that was made at an earlier public hearing on this item. I don't think it came up again

*Planning Commission Minutes*  
*March 9, 2022*

tonight. But for anyone who does have pause about a Lidl or similar grocery store going on this particular site, just a reminder that by-right, a shopping center could go on the same site. It would generate potentially up to 3,200 vehicles per day versus 3,005 vehicles per day that's proposed with this Lidl. So just those two being compared, I think folks would rather have a Lidl and it would be a welcome opportunity and grocery store for people who live along 610. And I see Mr. Randall sitting in the audience. I'm sure he'd be one of the first customers there. So for that reason, and the other reasons that were previously mentioned, I'm going to support the motion to approve this reclassification.

Ms. Barnes: And I'll just have a quick comment. I, too, will support the motion. Like Ms. Sellers, I don't know how you're going to do going forward. Best of luck. I'm excited at the prospect of having a Lidl and not having to go down to 17. So as I said, I will support the project, too. And with that, please cast your votes. And the field the green, 7 to 0; it passes unanimously. Congratulations and best of luck moving forward. And thank you for everything tonight. Okay, so now we're going to New Business; it looks like we have none. And so we will go to Mr. Harvey for Planning Director's Report.

NEW BUSINESS

NONE

PLANNING DIRECTOR'S REPORT

5. Discuss Staff Report Format

Mr. Harvey: Thank you, Madam Chairman. I want to make the Commission aware that we are in the process of modifying the format and presentation of the Planning Commission staff reports. Currently, for the Board of Supervisors, we use a software program known as Civic Clerk. And that allows us to better track as a staff level where the staff report is in process, and allows the information all to be posted online. And we've heard, at least I've heard over the last few years about our staff reports and how they're not as readily user friendly for the public, as in that to get to the staff recommendation, you have to pan through all the background information in the report. And also finding more of the meat as that what the subject is, you have to scroll significantly through the reports. So we're going to look at changing the format of the reports so it's more information up front that might be found to be more useful from the reader's perspective. But all the detailed analysis still will be included, but maybe as an attachment. So just to make you aware, that's the direction we're moving in. Not quite sure what meeting we'll have that first initiated for, but that's something we're working on. We're also considering that for the Board of Zoning Appeals as well, to create a uniform process for all the staff reports that we handle for Boards and Commissions where the agenda is posted online. And also, Madam Chairman, looking ahead to the next meeting on March 23<sup>rd</sup>, it appears that we have no public hearings scheduled and no business scheduled. So staff would ask the Commission if there would be consideration to cancel the meeting?

Ms. Barnes: Well, it looks like 2022 is the year of cancelled meetings. Do I have a motion to cancel our next meeting?

Mr. Apicella: So moved, Madam Chairman.

Ms. Barnes: That was quick.

Mr. Bain: Second.

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Barnes: And motion by Mr. Apicella and a second by Mr. Bain. Any discussion? Please cast your votes. Oh, 7 to 0. Okay. Thank you very much.

Mr. Harvey: Madam Chairman?

Mr. Apicella: I thought that would be the most controversial matter in front of us. *[Laughter]*

Mr. Harvey: Madam Chairman, that concludes my report.

Mr. Bain: Mr. Harvey, just one comment on how things are contained when you, when we go in and electronically look at the documentation. I find that the scanning of the engineering drawings on my computer screen, even when I zoom in, the pixels start to break apart and I can't see details. And I'm wondering if there's a way to scan those at a higher resolution? Or do I... I don't know what else you could do other than mailing out full size copies of the drawings. But I like to look at those drawings and, you know, review them in detail.

Mr. Harvey: Thank you for that comment, Commissioner Bain. We'll take a look to see what we can do. Typically, if it's a full size drawing, it's an actual PDF that we've gotten from the applicant. So we may not be able to just the quality of that, but when we insert maps in the staff reports, that's where it's a scanned version where you probably see more fuzziness. But we'll work on that.

Mr. Apicella: It sounds like we were not necessarily having an option here. This is the way the County is going. I've been doing this for 11 years. And there was a change to the way the Board's package was presented. I personally don't find it as user friendly, in my opinion, as the way that the Planning Commission's staff report is teed up. So I'm going to be cautiously optimistic that it's going to work. I find sometimes access issues with the Board's package. I'm not sure if that's going to be the same problem we're gonna have if we try to click on a specific document or attachment when we try to access it. And my other concern is and I know, there's pros and cons to having a very large one document package. On the other hand, when you're trying to deal with it in real time, it's easier to find stuff rather than going back and forth between attachments when you're sitting here on the dais. So, you know, I can't speak for the Board. I don't know, you know, how they review their packages and how they deal with stuff in real time when they're sitting here in front of the public trying to adjudicate a matter. But I would find it hard to go back and forth between, you know, 10, 20 attachments associated with a particular matter, and then having to go when you're dealing with multiple meetings where an item has been discussed, trying to weave through potentially 40 different attachments or 60 different attachments, again, going back and forth. So I hope it'll work, I guess we'll see. I like the layout of the staff report as it is now. I'm hoping that we'll at least have the same amount of information, and maybe in the same order that we have it. But I guess we'll have to see. At a minimum, I hope we can work with it, you know, make some adjustments or fine tune it for the Planning Commission, if we see that that might be the case that there's some things we need to tweak just so it's, again, easier for us and easier for the public.

Mr. Harvey: Yes, and thank you, Commissioner Apicella. I know that with the Board's reports, there's two ways you can view it. One is you can download the whole agenda and scroll through, or you can select specific items and specific attachments. The second option, you do have to be cognizant of having multiple windows open so you can toggle back and forth between what you're looking at. We can provide some training and some guidance on how to best maneuver through that. And you know, like I said, it's something we're working on; we figure we'll have to make adjustments. So once we get some feedback, we can tweak it some more.

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Barnes: And not being a big techy person, I'm just getting this down. And if you change it, I do go... follow the Board meetings and I watch them and I put them up on my computer just at home because, you know, it's so much fun. And I have... I would say that if you open up each attachment to, you know, each separate item, you're... I'm looking at like 40 or 50 windows open. So I don't know if I'm doing it wrong, or if that's the nature of the beast. But if there's some other way that we can do it so that I don't have so many windows open, maybe we can work that out or train those of us who aren't tech savvy. Does that makes sense?

Mr. Harvey: Yes.

Ms. Barnes: Okay, thank you. Okay, County Attorney's Report. Ms. Lucian?

COUNTY ATTORNEY'S REPORT

Ms. Lucian: I know Mr. Randall waited to the very end just to hear my report, but I don't have one. So, sorry. [*Laughter*]

COMMITTEE REPORTS

CHAIRMAN'S REPORT

Ms. Barnes: Okay. No Committee Reports. And Chairman Report. I do have one thing on for the Chairman Report. I wanted to discuss a possible either a subcommittee or some way, one of the things that I have been focusing on is, especially over the last couple of years, the way that we have our due notifications for public hearings. And I know that Mr. Harvey last year, we mentioned this that it seems that every time we have a public hearing, we have notifications going out that many of us are asking for expanded notifications, because we think the current process that we have is inadequate. So I would like to, and I did talk to my supervisor and give a heads up that we, that we are considering this and it was actually something that she said that she had some concerns about, too. So I think that might be receptive in, and maybe we can discuss this as a Commission on how we want to go forward, how to come up with some alternatives or some better processes with our, the process that we use right now to notify people. I think that a short subcommittee might be a good idea. I'm not sure Mr... let's discuss this and see, you know, what we think we can do and how we can go forward with that. I know that we also asked you, or what might be a good idea is for staff to go and look at some other district jurisdictions and to see how they handle it. Maybe there is, you know, maybe there's a really great go by that we can just plagiarize. That would be a nice way of doing that, too. Mr. Harvey, if you have any...?

Mr. Harvey: Yes, Madam Chairman, staff would be glad to provide some input. In fact, today, I was at a meeting with at the George Washington Regional Commission with Planning Directors from City, Spotsylvania County, and Caroline, and I asked that question. And Spotsylvania County has a standard that they require notice for all owners within 3,000 feet of a rezoning application or conditional use permit. They said they may be revisiting that with their Board because what that has done is it's forced them to hire a consultant to do mass mailings. And it's added more lead time for public hearings to make sure they meet that notice requirement. But the same gentleman who's the Planning Director in Spotsylvania said in a previous job that he was in, they did a standard where they notified the adjacent owner, and then one owner beyond that. So again, that's something that we'll look some more into. If you form a committee or choose to just ask staff to bring more information back, we can certainly do that. But I guess the key thing is that if there is some standard that's going to change, it needs to be a

*Planning Commission Minutes*  
*March 9, 2022*

standard that's codified and its objective and we stick to it so we are meeting our standard requirements for notice.

Ms. Barnes: Ms. Sellers?

Ms. Sellers: So is this for the public hearing? Or are we trying to encourage more community involvement? Or both?

Ms. Barnes: For me, well, I would say both, maybe, because I have noticed on some of the public hearings that we've had, that when these notifications go out, a lot of the people who are primarily affected don't get notified. Specifically, if a homeowner has... the property is not necessarily abutting but I think the last one was I think Lake Mooney, there was a 40-foot buffer of HOA owned or common property in between, which was really insignificant. So to me, that homeowner was just as impacted by that application as, you know, the HOA common; more so than the common property. I think the notification actually goes out to the HOA at that point. And then it's up to the HOA to possibly, which that doesn't always happen. And I've had personal experience with that myself. And the other thing that I think is really lacking is when we have a project in which you have an enormous amount of construction traffic that goes along a particular route, it's really going to impact some people in a neighborhood. You have to go through a neighborhood and all of a sudden you're going to build I think the last one was what 20 or 22 houses, not a lot of houses, but you're going to have some construction traffic, and it's going to go along a specific point. And those people were not notified. And I think that that... I think that they should have been notified. So those are the weaknesses that I'm finding in that. You know, it sounds to me like I think staff could probably go back and before we form a subcommittee, we may not need to do that. If you guys can go and look at some possibilities and bring those to us, we might be able to just, you know, parse that out right here real quick. If not, then we can go to a subcommittee. Mr. Apicella?

Mr. Apicella: Just to add on to that, you know, I think it would be helpful number one to understand what are the rules in place now for Stafford County, because some of them seem to be very quirky, just like you said, the HOA having a small buffer or a street, you know, street, somehow a street might change the way some people are notified versus not being notified. I know that cost is a big driver. And I think when we last talked about this, many months ago, I recommended maybe looking at a tiered approach to minimize cost. And my thought was within a certain distance, I'm not going to tell you what that distance is. But let's just say hypothetically, everybody who's within 1,000 feet get a certified letter versus people at the next year, just getting a letter by mail that's not certified as one way to reduce the cost. I don't know what the right solution is. But I know that we want to err on the side of more public notice, rather than less, but also not exponentially increasing the cost, which I think comes out of our budget, too, right. We have a notice... we have a public notice budget that we have to adhere to every year.

Mr. Harvey: Yes, Commissioner Apicella, that is part of the budget consideration is the public notification. There is some offset to that, as far as revenue to the department, because we set up our fee structure with rezonings and conditional use permits where the applicant has to pay a certain fee per number of abutting owners that we send notice to. The unfortunate part is that the fee schedule hasn't been updated since 2010 and it was based on postal rates from 2010. So that right now, in those kind of instances, we're running a deficit. But it doesn't directly affect the Commission's line item other than what the actual cost is, but we're not collecting enough money to fully offset that cost.

Mr. Apicella: Well, then that would be something we can look at as well.



*Planning Commission Minutes*  
*March 9, 2022*

Ms. Barnes: I was going to say we could possibly add that aspect to it. Or would that be completely a different subject matter?

Mr. Apicella: And I guess... I'm sorry.

Mr. Harvey: Madam Chairman, we'd have to talk about that in more detail because I don't think the statute requires that the locality provide notice, just that there be noticed given. So, at one point in time we had the applicant provide the public hearing signs along the road, but the Supervisors had issues with that where they necessarily were not happy with the situation where they lost control of when the public hearing was going to be held because the applicant at that point in time, years ago, refused to post the notice. So the Board couldn't vote on the case because they knew that they were getting a negative recommendation. So you run into those kind of things we'd have to talk through.

Ms. Sellers: Can I play a little bit of devil's advocate here and say, you know, when you start getting involved with constituent outreach, particularly when you're sending a letter directly to constituents, I would want to know what the Board of Supervisors believes our role is in that. Because, you know, while we represent the Supervisor that we support, I don't know if the Supervisor wants us having direct constituent contact, and I loved my Planning Commissioner when I was on the Board of Supervisors. He was incredibly competent and a great asset to me. But I always took it upon myself to have those public meetings and work through the applicant and say, these were the people who need to be notified and that I want to hear from before we bring it to public hearing at the Board of Supervisors level. And it was... it did come down to that constituent outreach and knowing that, that at the end of the day, we are not the names on the ballot, it is their name on the ballot, it is them who they elected. And so constituents can come to us with comments. But at the end of the day that people constituents hold accountable are the elected official of which we are not. So I would say we probably need to hear what the Board of Supervisors has to say about the Planning Commission getting involved and putting any kind of notice at this level.

Ms. Barnes: I don't think that's what we're doing. Am I missing the point on that one? I don't think we're talking about necessarily individually reaching out. We're talking about just altering the formal process in which we notify people so that we hit a slightly... I mean, this is not a personal... this is not us personally. As matter of fact, I think we actually talked to Ms. Lucian about this because my thought was what you had said before is, if we think that we need to notify more, let's just, you know, on a case by case basis, find out who we notify. And I think Ms. Lucian, you had an opinion about that, if you remember.

Ms. Lucian: Well, Jeff has already mentioned it; we have to be consistent.

Ms. Barnes: Yeah. And that was that was the hiccup on that.

Ms. Lucian: Well, I think the question that Ms. Sellers has raised is whether this is a special notice that we're just reaching out to constituents. It's... we're really talking about State Code requirements that have to go out. There's minimum notice, and the discussion is whether we should expand what the minimum notice is, just to notify adjacent homeowners and adjacent lot owners of a public hearing. So it has to go out.

Ms. Sellers: And would it go out at the Planning Commission or would it go out before it goes to the Board of Supervisors?

***Planning Commission Minutes***  
***March 9, 2022***

Ms. Lucian: It does for every public hearing.

Ms. Sellers: So it has to be, it has to be consistent for both?

Ms. Lucian: Yes.

Ms. Sellers: Okay.

Ms. Barnes: Does that make a little more sense maybe?

Ms. Sellers: It does. I still think this should probably, we should probably see if the Board of Supervisors wants to put it on maybe their Economic Development, or not the... they have a subcommittee that they have, where they talk about this stuff, or they can hash the details out amongst themselves and decide what they want. Because it could... it seems simple enough to us. But I've seen the differences in emails I receive on the Planning Commission compared to what I received on the Board of Supervisors and those little yellow signs definitely what got me an email or phone call when I was on the Board of Supervisors. They don't give me those now. So it's a different role we play and I would just say that probably needs to come from the Board of Supervisors of... *inaudible*.

Mr. Apicella: Yeah, I think, I think the way this came up is at one or more of our public hearings last year, several people showed up and said, I never got any notice; I only found out because my neighbor called me or because the HOA told me five minutes ago that there's going to be a public hearing. And I'm literally 100 feet away. And because of the quirks with the way that the County identifies adjacent homeowners, they weren't notified. And in theory, they probably should have been notified. So we missed out on getting value added public comments because people didn't even know that the item was coming up. They don't read the Free Lance-Star, hardly anybody reads the Free Lance-Star anymore, unfortunately. So in the absence of getting that public notice, again, we would have missed something, they would have missed something, something might have gone through, and at the end of the day, we didn't, we wouldn't necessarily have gotten the best product because we didn't hear from people. Whatever we do, we can't do it on our own, we still have to go to the Board; they can accept, reject, or change whatever we decide to push forward. We can't make that change on our own. That's the kind of bottom line. So we just kind of want to maybe noodle a little bit, maybe make an informed recommendation to the Board on how it can be improved. And again, they can choose to move forward or not move forward. What I think that the learning process is, we didn't know that that's the way adjacent homeowners were defined. And now we know a little bit more than we did before. So how can we, how can we fine tune it? And I think you've mentioned a couple of peer localities, maybe we can expand... we have a general list of peer localities. It's not just Caroline and Spotsylvania...

Mr. Harvey: Certainly we would do a more comprehensive search, but start with our adjacent localities and peer localities.

Mr. Apicella: Can we include Albemarle?

Mr. Harvey: That's one of our peer localities, yeah.

Ms. Barnes: That's your go-to.

Mr. Apicella: That's my go-to. So my suggestion is to wait before we do it at the subcommittee level, and maybe just gather, get some more information from staff to see what's the best way ahead.

*Planning Commission Minutes*  
*March 9, 2022*

Ms. Barnes: Okay. I'm okay with doing that. I do like to have a subcommittee. But if we want to... if staff is okay with that, of getting together some information and maybe finding just a real, well, they're never easy fixes, but maybe an easy fix that you can bring to us that might make it I think the notification process a little more thorough, I think that's what we're looking for here, we're just looking for a more thorough notification process. We're not changing it at all, we're just adding a little bit like when I think with the Vulcan application, we really expanded that because the people that were notified were so minimal, and the people that were impacted was huge. And so we had to have a special request to have that notification expanded. And as Ms. Lucian said, that, you know, sometimes that inconsistency can get us in trouble. So I think an expanded... a consistent and expanded notification process might do us good. So was that... did I make myself clear on that?

Mr. Harvey: Yes. Madam Chairman, what I'll do is at the next Planning Director's Report, give an update and have a number of localities listed as to what they provide. And then we can have more dialogue as far as any direction the Commission wants to have for recommendation. Because ultimately what will happen is that the Commission will have to figure out if you want to change the ordinance, and if so, how you want to change the ordinance, and then that could be sent to the Board of Supervisors as a recommendation. If the Board likes the recommendation, they'll send it back to start the public hearings to amend the ordinance. If they don't like the recommendation, they could either not take any action or give you further direction.

Ms. Barnes: Okay. Alright, that sounds good. Okay, so I think that's all I have for the Chairman's Report. Other Business – new TRC submissions. It looks like Hartwood gets all the attention. Seems like you get them all. And our final item on the agenda is approval of minutes for February 9, 2022. Can I have a motion...?

OTHER BUSINESS

6. New TRC Submissions
  - \* Lillian Est – Hartwood Election District
  - \* Centreport Stafford 95 Bus Ctr – Hartwood Election District

APPROVAL OF MINUTES

7. February 9, 2022

Mr. Apicella: Move for approval, Madam Chairman.

Mr. Shelton: Second.

Ms. Barnes: Okay. I have a motion by Mr. Apicella, a second by Mr. Shelton, and all in favor say aye.

All members: Aye.

Ms. Barnes: Any opposed? Any abstentions? Alright, the motion passes. And with that we have no more business and I will adjourn the meeting.

*Planning Commission Minutes*  
*March 9, 2022*

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 8:15 PM.