

STAFFORD COUNTY PLANNING COMMISSION MINUTES
August 14, 2013

The Special Meeting of the Stafford County Planning Commission of Wednesday, August 14, 2013, was called to order at 6:30 p.m. by Chairman Michael Rhodes in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Rhodes, Hirons, Apicella, Boswell, Schwartz, English, and Gibbons

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, McClendon, Stinnette, Zuraf, and Blackburn

DECLARATIONS OF DISQUALIFICATION

Mr. Rhodes: Are there any declarations of disqualification regarding any specific item that's on the agenda this evening? Okay, no dec...

Mr. Hirons: Mr. Chairman?

Mr. Rhodes: Yes Mr. Hirons, please.

Mr. Hirons: I do just want to declare I have met and spoken with the applicant for... I don't know what item it is... for the Leeland Station project.

Mr. Rhodes: For item number 3, very good. Thank you. While not a declaration of disqualification, it's always good to keep everything clear on the discussions that are had. So thank you for that.

Mr. Gibbons: Can we do an addition to the agenda?

Mr. Rhodes: Mr. Gibbons, yes, please.

Mr. Gibbons: I'd like to put R13-251 on; it was referred back from the Board (inaudible - microphone not on).

Mr. Rhodes: R13-251, and which one is that?

Mr. Gibbons: It was the one that was referred back...

Mr. Rhodes: Yeah, I know... I'm trying to find my notes here. Thank you.

Mr. Harvey: Mr. Chairman, that is an item that was in your handout tonight. It is a resolution dealing with the Master Plan issue for the Historic Interpretive Zoning category.

Mr. Rhodes: Okay, very good.

Ms. McClendon: Mr. Chairman, as this is a special meeting, the Planning Commission can only take up the items that are on the agenda itself. So this will have to wait until the next meeting.

Mr. Rhodes: Very good. So, that takes care of that. So, because it's a special meeting that we called...

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Mr. Gibbons: Sometimes you can't win them all.

Mr. Rhodes: Nope. Thank you very much. So that addresses that. Are there... okay, public presentations. There are not public hearings this evening so if there is any item that any member of the public would... excuse me, if you would just indulge me for a moment. I'm sorry, I would like to do two things real quick. First, I would like to recognize that we do have a member of the Boy Scouts of America that is joining us this evening. He is working on requirements for a communications badge. I believe this is your final requirement associated with that badge, correct? Awesome. Well thank you very much for joining us and thank you very much for utilizing this forum to satisfy that portion of that requirement and we appreciate you being here. Also, I just would like to make one other comment about the staff, given that we have added this special meeting. As we looked at the requirements that we had before us, we modified the calendar. This is a period of time where they use to take an opportunity to get their vacations in, get other things in and have some open time. So, it took some changes on their side of things to be able to accommodate this meeting. I believe it was necessary for us to get together and discuss these items and try and move some items a little further down the process given all that we have coming. But I do want to acknowledge the staff and the modifications they had to make to their personal plans to be able to accommodate this change. So I thank them for that. With that, I would like to invite any member of the public that would like to speak on any item... any item whatsoever. You may come forward and do so at this time. But when you do, I would ask that you state your name and your address, and you'll have 3 minutes to speak. A green light will come on after you state your name and address indicating the start of the 3 minutes. A yellow light will come on when there's 1 minute remaining, and then when a red light comes on we would just ask that you wrap up your comments. So, anyone that would like to come forward at this time. Yes sir.

PUBLIC PRESENTATIONS

Paul Waldowski: Paul Waldowski. I thought this meeting was special because I'm here. I missed the July 10th meeting; it's the first time I got to see 5 Commissioners. And just to let everyone know in the County, it's 84 days till Election Day, 85 days till the Lame Duck Session goes into effect. President Obama is already in a Lame Duck Session. Also, on January 1st of 2014, all the members of the Redistricting Committee will be out of County office. So it will be interesting to see when I contact the Justice Department if I can get some kind of petition to make the County look at the redistrict aspects. Last night was an interesting thing about Ferry Farm. When my kids were growing up in this County, we never went to see those aspects of George Washington; we toured Fredericksburg and the monument and all other Washington aspects. But I found out last night, there was a very interesting question. And that is, where is Ferry Farm? Was it in Fredericksburg or was it in Stafford County? Well, low and behold it was in King George County. So, you see? We can go all the way back to where gerrymandering all began. Just an interesting aspect. I also learned about the George Washington Foundation, that they're managing this property. Well, I always used to like to pick on Lieutenant Colonels in the Pentagon, you know, because they were *managing* things; but I always liked those one-stars because they were *leading* things and showed us some leadership aspects. Now, I am a big fan of George... don't get me wrong. You know, he's one of the six Presidents of the United States that came from a Commonwealth to start off. But when you look at 24-year periods, my favorites are Tommy, Jimmy, and James. If you look at Thomas Jefferson, we had that Louisiana Purchase in 1803. And I believe it was Dolly who took care of the War of 1812, so Britain probably didn't show up with their red coats. And then James Monroe was always my favorite because of the Monroe Doctrine, and because if you don't like living here and you don't want to speak English, then go live somewhere else. Now, there's a correlation of the last 24 years. You know, we had this guy

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called William Jefferson Clinton and then we had this Weapons of Mass Destruction President. And now we have Obamacare that we're going to have to live with. And if Lloyd Benson was here, he would say like he did to Dan Quayle, you're no JFK. And the reason I'm such against Obamacare is because it was 57 Democrats, 2 Independents, and 1 Republican from another Commonwealth who is no longer with us. Have a great evening.

Mr. Rhodes: Thank you. Is there anyone else who would like to come forward to speak on any item this evening during the public presentation portion? Sir. Again, if you'd just state your name and your address please. Thank you.

Everett Lovell: I hope I'm speaking at the right time. I wanted to talk about amending the zoning for breweries and microbreweries. Did you want that at this time sir?

Mr. Rhodes: You certainly can now because there's not a public hearing.

Mr. Lovell: Thank you. My name's Everett Lovell. First of all, I wanted to apologize because the last time I spoke, I said there was one microbrewery in Stafford and tied in with a restaurant. It wasn't in Stafford; it's in Spotsylvania County. So, I hope I didn't mislead anybody. In going through the staff's soliciting opinions and all for the microbreweries, I was... staff conveyed to me that they were surprised, and I too was surprised, that there was no dissent to adding microbreweries or breweries to Stafford. And I think that's an indication of what a positive step it's going to be to have something like this. And keep in mind that I look at it from the tourism point of view. I own the Aquia Pines Campground and I have for 28 years, so I'm really anxious to have some of these into the County to bring tourists in. My concern is that the Conditional Use Permit that continues to be in here for gatherings, if you have more than 25 people. And I hope the Board will strike that and allow breweries and microbreweries to exist without Conditional Use Permits and to have larger groups of people come in to sample the beer or to have parties, something like that. I just think the Conditional Use Permit is very burdensome. I did discuss it with the ABC Inspector. I was surprised at his surprise that Stafford County was considering basically a \$10,000 fee and months of hearings by adding the Conditional Use provision. The ABC Inspectors that I've dealt with, and I have had an ABC license for 28 years, they're very strict and they're very fair. And I think they are very good at regulating alcohol consumption, and not allowing overconsumption of alcohol on premises and the like of that. So I would hope that Stafford would remove that Conditional Use Permit to facilitate groups at breweries and microbreweries. Thank you very much.

Mr. Rhodes: Thank you sir. Anyone else that would like to speak on any item, any topic?

Robert Schmidbauer: Gentlemen, my name is Robert Schmidbauer. I'm the President of the Stafford Brewers Club. We have just under a hundred members and we've been in existence for just under a year. We currently do field trips to our neighboring counties to partake in tasting of beer. In fact, this month is Virginia Craft Beer Month; it goes for the whole month of August and we are doing a field trip to The Devil's Backbone which is in Roseland, Virginia. We're spending the entire weekend there. Hotels are sold out in a 50 mile radius. If you go onto the Virginia For Lovers site, there's 54 breweries listed. Charlottesville has 8, Manassas has 9, Woodbridge has 8, Fredericksburg has 3, Ladysmith has 5. Stafford has zero. I hope you pass these ordinances and allow breweries in Stafford. Thank you.

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Mr. Rhodes: Thank you sir. Is there anyone else who would like to speak on any item? Okay. I will close the public presentation portion and we will move onto... there are no public hearings so, therefore, we will move onto the unfinished business with item number 1, Reclassification, Abberly at South Campus. Mr. Harvey?

PUBLIC HEARINGS

N/A

UNFINISHED BUSINESS

1. RC1200009; Reclassification – Abberly at South Campus - A proposal to reclassify from B-2, Urban Commercial and B-3, Office to the UD, Urban Development, Sub-district UD-4, Zoning District to allow 288 multi-family residential units to be developed on Assessor's Parcel 39-16L and portions of Assessor's Parcels 39-16, 39-16B, 39-16H and 39-16J. The property consists of 22.70 acres, located on the west side of Old Potomac Church Road, approximately 2,000 feet south of Hospital Center Boulevard, in the Aquia Election District. **(Time Limit: September 24, 2013) (History: Deferred on June 26, 2013 to August 28, 2013) (Commission voted July 10, 2013 to move to August 14, 2013)**

Mr. Harvey: Thank you Mr. Chairman. Mike Zuraf will give the Commission an update of where we are with this case.

Mr. Rhodes: Thank you very much.

Mr. Zuraf: Good evening Mr. Chairman, members of the Planning Commission. This case, Abberly at South Campus, is a request for reclassification from the B-2 and B-3 Zoning Districts to the UD, Urban Development, Zoning District, Sub-district UD-4. The Planning Commission conducted a public hearing on this request back on June 26 and deferred the request to obtain additional information. You did, over the weekend, in addition to and separately from the typical staff report, you received a separate request for deferral from the applicant requesting moving this issue to a future meeting. They want to re-evaluate their proffer package in response to... they need additional time to re-evaluate their proffer package in response to the requests that were made at the public hearing and other issues that have come up. They did, from contacting them today through email, they mentioned the September 11th meeting would be an appropriate time when they would have information available to come back. But there are issues that we did summarize in the memo and we could go through some things. We have some other people here who can provide some help in explaining some of the issues that came up. And so that can... we can at least maybe try to discuss some of those things.

Mr. Rhodes: Was there a meeting with VDOT, Transportation?

Mr. Zuraf: Yeah, there was a meeting with VDOT.

Mr. Rhodes: And we did get somebody from the Commissioner of the Revenue?

Mr. Zuraf: Yeah, Commissioner of Revenue staff is...

Mr. Rhodes: I think there's still issues to be able to discuss some. Okay, very good.

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Mr. Zuraf: In the memo, what I did provide is a summary of the issues that the Commission and staff had requested the applicant consider in additional follow-up proffer amendments. Those issues haven't been addressed until we get a new version of those proffers so there's nothing to act on there. Also, the Commission requested the applicant provide a breakdown of the number of bedrooms per unit. The applicant was noting that they were going to have a greater number of units that have fewer bedrooms and so they provided that to us. The breakdown would be 142 one-bedroom units, 140 two-bedroom units, and 6 three-bedroom units throughout the complex. And based on that, the Commission did ask if there could be a revised estimate of the potential number of school children since the units are smaller in size. And so staff did talk to the School Board to work out a new estimate. We came up with an estimate of 68 students that potentially would be out of this project. The School Board doesn't necessarily track student generation based on the number of bedrooms in a dwelling unit, so we did have to do some estimations and assumptions. We worked off of a previous evaluation that was submitted to us from a prior rezoning proposal and made modifications to that to come up with this number of 68 students in this project. For comparison purposes, our countywide average for the typical multi-family dwelling unit project would yield 92 students out of this size project. So there is a reduction that might be realized here. Next point, the Commission did request that the applicant continue to consult with the Historic Commission and Cemetery Committee, and that has been ongoing. Since the last meeting, the applicant has been consulting with the Cemetery Committee and Historic Commission; there have been site visits out to the properties. There was confirmation of 3 cemeteries in the vicinity of this site. Through the site visits it was confirmed that there is one cemetery located inside the limits of this property, but there are two other cemeteries that were thought to be in the area were determined to be outside the limits of this site on other properties. And then there was some additional commentary provided from the Historic Commission on the Phase 2 evaluation that was conducted for this property.

Mr. Rhodes: Mr. English?

Mr. English: Mike, I've got a question for you. The cemetery that's on that property, I don't know if you can answer this or the applicant, what are they planning on doing with that cemetery? Are they going to put like a fence around it and reserve it? Do you know what they're planning on doing with it?

Mr. Zuraf: Their intention is to attempt to relocate the...

Mr. English: To move it.

Mr. Zuraf: Yes.

Mr. English: And I was talking to somebody about that; they said it's probably not a good idea about moving the cemetery. I mean, should I address that to you?

Mr. Zuraf: Well, there's a process that they have to go through, through state agencies. And also, I'll note that Anita Dodd, who is with the Cemetery Committee, she's here and can maybe help to kind of clarify some of that process. But there's a regulated process that would be required.

Mr. English: That's the Stevens' property... I mean the cemetery?

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Mr. Zuraf: It's the Stevens' cemetery. But Ms. Dodd is here to kind of... she can help clarify some of that and answer other questions that you might have on the historic issues that have come up. There's also, the next point, request for clarification on the estimations of real estate tax revenue that were made at the meeting and request for more concrete documentation on the economic impacts. And that's one thing that the applicant is working still on, a more detailed fiscal impact analysis. That's not been provided yet so we will get that from them in advance of a future meeting. And as noted, there was a request for a Commissioner of Revenue staff to attend and provide some additional commentary and answer some questions. And Mike Keyes, with the Commissioner of Revenue's Office, is here tonight and he can help answer some of your questions on the valuation of the property that's proposed to be dedicated. The next point, we mentioned there was comments from VDOT; those comments were included in your package. You didn't have them at the time of the public hearing, the follow-up comments from VDOT. And since then, there was a follow-up meeting with VDOT and County officials last Thursday. Many of the VDOT comments were addressed through this meeting and satisfied. The one remaining issue was the potential impact of this proposal on the intersection of Jefferson Davis Highway with Hospital Center Boulevard. At the time when the traffic impact study was developed, the alignment of the I95 interchange wasn't known at that time and since then they are pretty certain that the I95 interchange is going to come out and land right at Hospital Center Boulevard. So VDOT's wanting to get a better evaluation of how this project may impact that intersection. So the applicant is doing some follow-up evaluation to check that out.

Mr. Rhodes: And the applicant was at that meeting, correct?

Mr. Zuraf: Yes.

Mr. Hirons: And Mike, are there any notes or summary of that meeting? Because there seemed to be a heck of a lot of discrepancies that VDOT indicated. And I understand what you're saying but, is there a summary of the meeting of some sort?

Mr. Zuraf: We can provide a summary.

Mr. Hirons: I think it might be helpful with all the discrepancies that were listed.

Mr. Zuraf: Sure. And then you also did receive in your package a letter from Germanna that kind of provides just some information for the Commission as to the educational opportunities that they have to offer should they locate on this site in the County, what they've done in the past and what they will do in the future if they're located there. So, as mentioned, the applicant is requesting a deferral. I don't believe they are actually present even tonight, but the other representatives of the Cemetery Committee, Historic Commission, and County staff are here to help answer questions. And you'll be receiving in the future new proffers, a fiscal impact analysis, and traffic impact assessment on that other intersection. And I'll take any questions at this time.

Mr. Rhodes: Any questions for Mr. Zuraf before we get Ms. Dodd and Mr. Keyes up?

Mr. Gibbons: Mr. Chairman.

Mr. Rhodes: Yes Mr. Gibbons.

Mr. Gibbons: Mike, can we get a copy of your remarks? A soft copy tomorrow that you just said...?

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Mr. Zuraf: Sure.

Mr. Gibbons: Thanks.

Mr. Rhodes: Okay. Other questions of staff before Ms. Dodd and Mr. Keyes come up? Okay. Ms. Dodd? I know there was certainly one question as to the process involved with removing remains.

Anita Dodd: Yes, that is always an option, but usually not done. It can be very expensive but, in this case, it's my understanding that this is what the developer wants to do. He does have to go through a process to get state licensing which requires him to have the proper authorities do the exhumation and re-interment. I had talked to him briefly about because he didn't know where to re-inter them and at the time that I talked to him there were a couple of options on the table. And one is that there is a Stevens Family Cemetery offsite at the family homestead; the house is still standing. And the other option would be I believe it's Register Chapel Cemetery right across the road here really, south on Route 1 but on the left-hand side of the road there on top of the hill. And there are actually some Stevens Family members buried in there already. However, I will say that initially I thought this was a Stevens Family Cemetery but we have discovered that it's actually a slave cemetery. And there are some fairly unique rocks that are being used as headstones and I suggested the developer use those to remark the graves when they get moved and put some sort of a little sign saying who these people are and where they came from and that kind of thing.

Mr. Rhodes: What state agency oversees this?

Ms. Dodd: VDHR, Virginia Department of Historic Resources.

Mr. Rhodes: Okay. And I assume they have some significant documentation process on the frontend of whatever they're doing? Or, what does it entail?

Ms. Dodd: Well, like I said, they have to get a license and it's actually a fairly simple process and, unfortunately, one of the things that the state does not do is that they do not require the applicant to state where they are going to rebury these individuals. So, I've been trying to work on that and get that changed. But that's why in one of the letters that the Historical Commission wrote that we suggested that the Historical Commission and the Cemetery Committee be involved in this process so that we have that information. And the developer has... I've talked to the developer about that and he has no problem with that either.

Mr. English: How many graves are on that site?

Ms. Dodd: There are 10 I believe that were identified.

Mr. English: Do they... just kind of educate me a little bit on a process like that... do they try to find family members that are connected to that? And what if they object to that?

Ms. Dodd: Right. That is part of the process. They have to do... I can't remember now if it's a month or 6 weeks or whatever... they have to advertise in the newspaper, they have to do due diligence in trying to find relatives of those that are there. And then relatives have a chance to say whether they want them moved or not.

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Mr. English: And there's no way that they can just reserve that piece of property? I guess that's probably not a question for you.

Ms. Dodd: Right. Well, naturally I would like to see it stay where it is.

Mr. English: Absolutely.

Ms. Dodd: But, and unfortunately, what's happened with this particular cemetery is that it's one of the cemeteries that the Cemetery Committee had not found prior to the development going in. And what usually happens is that we've identified the cemetery, then the Cemetery Ordinance kicks in and we have a little bit more control over what happens to the cemetery. In this case that didn't happen, so he had already, you know, had his site plan together and that kind of thing, so it made it difficult for him to rearrange things around the cemetery.

Mr. English: Do you know what the cost is just to do that?

Ms. Dodd: I honestly don't, I don't.

Mr. Rhodes: Okay, other questions for Ms. Dodd? Other points you would want to raise from the discussion?

Ms. Dodd: I don't think so, other than the fact that what Mr. Harvey said is true, that the other 2 cemeteries that are within, you know, in that area are offsite. So they are not... it's only the 1 cemetery on the parcel.

Mr. Rhodes: Okay. Very good; thank you very much.

Ms. Dodd: Thank you.

Mr. Rhodes: Mr. Keyes. Thank you as well for joining us this evening.

Mike Keyes: Yes, thank you.

Mr. Rhodes: Appreciate it. Particular questions for Mr. Keyes? Mr. Apicella, I think you had some.

Mr. Apicella: The valuation that the Commissioner... I presume the Commissioner of Revenue's Office... put on the property initially, I want to say it was below \$190,000. I'm curious if you've had a chance to relook at that valuation, if you think that's an accurate valuation for this 25-acre parcel.

Mr. Keyes: Well, I would say I didn't look at the exact figure and restudy our calculations to see if there was any correction in that sense. But what I would point out is that valuation I would think would have little varying of today's actual market value, meaning that that value was placed on there at the beginning of 2012 and based off of what the market was doing in the 2010 and 11 sales and market data. So, really you would be looking at using that assessment to arrive at a fair market value today I think would be a tough thing to do. So, I think the correct answer is that it was a good value for the property as of January 1 of 2012. It just isn't necessarily a good value for the property today.

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Mr. Apicella: So how could we get another perspective or relook at the value of this property? They're offering it up as part of a proffer so it would help us make an informed decision if we knew what they're saying the property is worth from their vantage point versus what the County is saying.

Mr. Keyes: I certainly understand the position that you're in. The Commissioner and I have talked about this and this very problem comes up occasionally for us. We're just not in the position to do a new appraisal at today's market value for you for today. The next one that would be released would be January of 2014. I think the correct answer that we need to look at is hiring a private appraiser to come in and do it to give you a value of what the property is worth today. Something else that you may want to consider based on what they're suggesting that the property may be worth... I don't know that number or how they're calculating that... but are they doing it with a hypothetical condition of pending a rezoning of that property for the uses that they're expecting it to have in the future. That certainly would have a different value. At its current standing, my understanding is the property is zoned A-1 and, at this point, with very limited access down a gravel road, those types of things are not in place. But, if a rezoning were to happen of that property or adjoining properties, it certainly could impact the value of this property. So, it would require some speculation and it's called an appraisal with a hypothetical condition, and those can be done. It's just not something that our office is going to be doing.

Mr. Apicella: Okay, thank you.

Mr. Rhodes: Okay. Other questions? Mr. Gibbons.

Mr. Gibbons: I've known you a long time.

Mr. Keyes: Yes sir.

Mr. Gibbons: And your dad built my house so I'm familiar with your family. But can you hire an appraiser to do that at the request of the Board?

Mr. Keyes: It's not something that the Commissioner of Revenue's Office does. We have, on occasion, done reviews of appraisals that after they're done at the request of the County, and then our office has done some review of that and we can then see if correct procedures were followed and standard appraisal practice and things were used. And sometimes just also some explanation as to what the appraiser might have done to arrive at that value. I think that is something that our office would be able to do and willing to do. But we don't do the actual hiring of the appraiser.

Mr. Gibbons: Okay, thank you.

Mr. Rhodes: Any other questions?

Mr. Keyes: I guess, if you don't mind, I'll add one thing.

Mr. Rhodes: Please.

Mr. Keyes: I think that there is, County Admin may have a list of some appraisers that's been used for some appraisals. And so that may be where you would go to get that. I don't think this is a completely... it's not done daily but we certainly have it come up.

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Mr. Rhodes: Okay, very good. Anything else for Mr. Keyes? Thank you very much for joining us tonight; appreciate it.

Mr. Keyes: Thank you.

Mr. Rhodes: Okay, so we have the applicants looking for some time to rework some elements. We have VDOT that is coming up with some modified transportation impact information and issues of the intersection and the light. We got the information from the Historic Commission; we can certainly follow-up with some other questions on specifically what they are looking at with that with the applicant when they're back here. We got the information (inaudible). This is the Aquia Election District.

Mr. Apicella: Do I need to make a motion given that the applicant's already asked for a deferral?

Mr. Rhodes: I think we can just confirm when we're going to address this again. We're going to move to defer this to some point.

Mr. Harvey: Yes, Mr. Chairman, the applicant has requested to defer this to the September 11th Planning Commission meeting. Normally on a standard deferral, you would defer to your next meeting. So, the Commission may want to consider a date specific deferral.

Mr. Rhodes: Okay. Mr. Apicella?

Mr. Apicella: Mr. Chairman, based on...

Mr. Gibbons: Can I ask you both?

Mr. Apicella: Sure.

Mr. Rhodes: Please.

Mr. Gibbons: I'd like to go to the 26th meeting. I'll be out of town on the 11th.

Mr. Rhodes: We have a time limit on this one though of the 24th, but the second session is the...

Mr. Gibbons: Well, he's asked for deferment himself so we're not deferring it.

Mr. Rhodes: I think in the past they've specifically requested waiving the time limit, haven't they? If we were to consider that.

Mr. Zuraf: September 11th is the last day that the Planning Commission has to consider this.

Mr. Rhodes: Currently. And how have we... just to remind us... how have we gone past the time limits in the past? That was with the mutual agreement of the applicant and did they usually do so in writing?

Mr. Harvey: Yes Mr. Chairman, that's correct.

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Mr. Rhodes: Okay. And did the request or the letter of request say anything about... because they were asking the 11th, I guess they didn't address our time limit issues.

Mr. Zuraf: No, they didn't request... they didn't allow for any... I guess that will probably come up at the September 11th meeting if there are any issues that haven't been resolved, you know, whether additional time is needed and whether they would be willing to grant that additional time.

Mr. Rhodes: Okay. So, Mr. Gibbons, you won't be here on the 11th; it will be a challenge for you. Okay. Mr. Apicella...?

Mr. Apicella: I guess I would appreciate the help of counsel if, again, if an applicant has shortened the window of opportunity for us to take a look at something and the back and forth that would result when they're in front of us, squeezing us down to the one last opportunity to address this, I would think that the fact that they've asked for a deferment, whether it was stated or not, that we would be granted additional time. This is they're asking for the deferment, not us.

Ms. McClendon: Mr. Apicella, I would still believe that we need to have a waiver of the time limit in writing from the applicant to go past the 90 day time limit.

Mr. Rhodes: Okay.

Mr. Gibbons: Well, then, Mr. Chairman... I'm just asking now... can we put this, have them come back at the next meeting which is the end of the month with the letter?

Mr. Apicella: My colleague was just whispering in my ear to that effect, so I would make a recommendation... I'd move to defer this to the next meeting with the hope that, in the interim, the staff would reach out to the applicant to see if they would be amenable to extending the outside window for us to take a look and adjudicate this.

Mr. Rhodes: So, it's a motion to defer to the 28th of August and, in the interim, we would ask staff to communicate with the applicant to see if they would give us in writing a confirmation that we could defer to the 25th and then the intent of the 28th would be to address any other issues we need to but possibly move it out later. Is that what I'm hearing?

Mr. Apicella: Right.

Mr. Rhodes: Okay, so there's a motion on the table to defer this to the 28th.

Mr. English: Before we make the motion, what about the appraisal... how do we ask them to have a private appraisal on this if we don't know what the property (inaudible)? Should that be part of a motion or what because we need to know what this property is worth. And then after they get that private appraisal I think the Commissioner of Revenue should review it also and give us some feedback on it, because we really don't know what the property's worth.

Mr. Zuraf: That's been done in the past. It was most recently done for the Westgate Center rezoning where the applicant provided us an appraisal and the Commissioner of Revenue's Office evaluated that and the...

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Mr. Rhodes: So, Mr. English, you're asking that Mr. Apicella consider part of the motion to be a request of staff to the applicant about an appraisal?

Mr. Apicella: I'll take that as a friendly amendment.

Mr. Rhodes: Okay. So, there's a motion to defer this to the 28th asking staff to engage the applicant in the interim about an extension of the time limit, and also asking staff to engage the applicant with a request to pursue an appraisal on the property. Is that correctly stated?

Mr. Apicella: Yes sir.

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

Mr. English: I'll second.

Mr. Rhodes: Second by Mr. English. Any further comment Mr. Apicella? Any further comment or discussion Mr. English?

Mr. English: No sir.

Mr. Rhodes: Anyone else? All those in favor of the motion signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. Hiron: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None opposed; it passes 7-0. We are deferring RC1200009, Abberly at South Campus to the 28th of August with the two requests of staff to communicate to the applicant. We are now on to item number 2, the amendment to the Zoning Ordinance, proposed Ordinance O13-36. Mr. Harvey?

2. Amendment to Zoning Ordinance - Proposed Ordinance O13-36 would amend Stafford County Code, Section 28-25, "Definition of Specific Terms," to add definitions for the following terms: beer, brewery, distillery, and microbrewery. The proposed Ordinance would amend Section 28-35, Table 3.1, "District Uses and Standards," to allow a microbrewery by conditional use permit in a B-2, Urban Commercial zoning district and by-right in an M-1, Light Industrial and M-2, Heavy Industrial zoning district; to allow a microbrewery with facilities for social events by conditional use permit in an M-1 and M-2 zoning districts; and to allow distillery and brewery use by conditional use permit in an M-1 zoning district and by-right in an M-2 zoning district and allow a brewery or distillery use with facilities for social events

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by conditional use permit in the M-2 zoning district. Lastly, proposed Ordinance O13-36 would add Section 28-39(w), "Microbrewery," to the County Code to proscribe special regulations associated with microbrewery use. **(Time Limit: August 20, 2013) (History: Deferred on July 10, 2013 to August 14, 2013)**

Mr. Harvey: Thank you Mr. Chairman. Susan Blackburn will give an update to the Commission on the status of this ordinance amendment.

Mr. Rhodes: Thank you.

Mrs. Blackburn: Good evening Mr. Chairman, Planning Commissioners. A quick background on proposed amendment 13-36. You first heard this amendment at the June 12th meeting. You agreed on several items within the proposed ordinance and we made the changes, and the public hearing was done on July 10th. At the public hearing, several citizens spoke questioning the need for a Conditional Use Permit, that approval for a microbrewery in a B-2 zoning district and felt that the reason for this was that they felt the application was too expensive and would there be an alternative type of approval process. The Planning Commission listened to the citizens and directed the staff to research a less expensive approval process and to provide language to reflect this. And they also requested information concerning distance requirements that were stated... if they were stated in the State and federal regulations. Well, we drew up an alternative ordinance that did show an approval for a microbrewery in a B-2 as a special exception. And this is a less expensive procedure, approximately \$1,400 for a special exception for a commercial operation versus approximately \$10,000 for a Conditional Use Permit. It is less time consuming. The special exception is only heard by the Board of Zoning Appeals and they can place conditions and time limits on the duration of the permit. And the BZA, or Board of Zoning Appeals, can revoke the permit for non-compliance.

Mr. Rhodes: What type of conditions could they place on the permit? Is it just operational provisions or is it other things about the site or the location?

Mrs. Blackburn: They can place, I know, operational conditions on it and, Ms. McClendon, can they do things with sizes and locations?

Ms. McClendon: Mr. Chairman and Planning Commissioners, I believe that the conditions would be similar to conditions placed on Conditional Use Permits.

Mr. Rhodes: Okay. Generally of that nature and scope?

Ms. McClendon: Yes, Mr. Chairman. Generally it comes under the same provisions of the Virginia Code, so I would assume the conditions are the same.

Mr. Rhodes: That's helpful. Mr. Apicella?

Mr. Apicella: Mr. Chairman, if you don't mind if I chime in. I'm an alternate member of the BZA and we just had a special exception before us. A family wanted to establish a school, sort of, a tutoring school in their home in the Leeland Station area and there were a number of conditions that were placed on the operation of the facility, the hours, parking, noise, etcetera. So, from my experience, it is pretty broad in terms of the conditions that could be placed.

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Mr. Rhodes: Again, I was curious... the intent of my question was that just, for example, hours of operation or something like that or could it deal with some of the appearance dynamics that sometimes we can influence on a CUP. Okay, thank you.

Mrs. Blackburn: And the other issue that you wanted to have additional information on was any kind of distance requirements that may have been presented within the State and federal regulations. I could not find any. I hunted and hunted and I could not find any. I did end up talking to one of the State ABC officials and they said no, they did not have any in the State regulations. If any kind of a facility had complaints brought against them within their review board they could place additional types of information on or conditions on that which could be distance. And I did not find any in the federal regulations. I did mention in the report that the code does use a distance of 500 feet for adult businesses. And I just mention that because that is what we use in the code for distance requirements. And is there any other questions?

Mr. Rhodes: Other questions of staff?

Mrs. Blackburn: I think that was what we discussed last time.

Mr. Rhodes: Okay, thank you very much. Other comments or interests, issues from the Planning Commission? Yes Mr. Gibbons.

Mr. Gibbons: Mr. Chairman, I'll move with the exception process that they came in with because I think that's what we asked them to do and I think it's appropriate.

Mr. Rhodes: And just to confirm from staff, so that's alternate ordinance O13-36?

Mrs. Blackburn: Yes, that's what we drafted up. That does include instead of a Conditional Use Permit, and this is on attachment 2, should be page 2 or 4, under B-2, Urban Commercial, the Conditional Use Permit items are struck through and special exception, microbrewery, in accordance with (inaudible).

Mr. Rhodes: Good. Thank you very much. So, Mr. Gibbons, there's a motion to recommend approval of alternate Ordinance O13-36. Okay? Is there a second?

Mr. English: I'll second it.

Mr. Rhodes: Seconded by Mr. English. Any further comments Mr. Gibbons?

Mr. Gibbons: No sir.

Mr. Rhodes: Any further comments Mr. English?

Mr. English: No sir.

Mr. Rhodes: Any other member? Mr. Apicella?

Mr. Apicella: Mr. Chairman, I think we, as with other proposals, have a balancing act to do which is protecting the public interest, at the same time promoting business. I think this strikes a good balance

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by using a special exception as an alternative to the CUP process. And I think in the long run it will help us better gauge what the impacts might be as we get microbreweries in Stafford which, as I heard earlier, we don't have any. So, down the road it could always be changed. But this gives us a good chance to experiment and make sure we have the right legislation in place.

Mr. Rhodes: Okay, very good.

Mrs. Blackburn: Excuse me.

Mr. Rhodes: Please.

Mrs. Blackburn: If I heard you correctly, you wanted to deal with the alternate proposed Ordinance?

Mr. Rhodes: Yes.

Mrs. Blackburn: Do you want to include... do you realize that that does have the 500 feet in there? At the very, very end? I wanted to make sure you knew that.

Mr. Rhodes: Right, the distance requirement.

Mrs. Blackburn: Okay, okay. And it wasn't just for the special exception that was added.

Mr. Rhodes: Right.

Mrs. Blackburn: Okay.

Mr. Rhodes: Okay. Any other member for any comment? Okay, all those in favor of the motion which is to recommend approval of alternate proposed Ordinance, as written, O13-36, signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None opposed; it passes 7-0. It moves forward. Thank you all very much. Thank you for the work on that. And now we'll move on to item number 3, RC1300138, Reclassification associated with Leeland Station Proffer Amendment. Mr. Harvey?

3. RC1300138; Reclassification – Leeland Station Proffer Amendment - A proposal to amend proffered conditions on Assessor's Parcels 46-92B, 46-93 (portion), and 46-93E, zoned PD-1,

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Planned Development-1, consisting of 131.61 acres. The Property is located on the north side of Primmer House Road, and east and west sides of Leeland Road, within the Falmouth Election District. **(Time Limit: October 8, 2013) (History: Deferred on July 10, 2013 to August 14, 2013)**

Mr. Harvey: Mr. Chairman, Mike Zuraf will give the case update.

Mr. Rhodes: I think we had a lot of brewers.

Mr. English: Scott's still here, isn't he?

Mr. Gibbons: It could be tasters.

Mr. Rhodes: Where are the samples? Okay, very good. Okay, Mr. Zuraf.

Mr. Zuraf: Okay. This item is a proposal to amend proffered conditions in the Leeland Station subdivision. This property, the area of the amendment, covers 131 acres of Leeland Station development, mainly the undeveloped areas. The Planning Commission held a public hearing on July 10th and deferred the request to obtain additional information. I've provided a memo which summarizes some of the requests and additional information that has been submitted by the applicant for this request. The applicant submitted a revised proffer package and, to kind of summarize those changes, the applicant is increasing in proffer 3 the cash contribution that would be offered from \$500,000 to \$700,000. With some of the details, the first payment would increase from \$250,000 to \$400,000 and the second payment increasing from \$250,000 to \$300,000. Within that proffer they would add some language that would clarify that if the funds are not utilized for artificial turf fields or if there are any remaining funds following the installation of a traffic signal, the remaining funds may be used by the County for schools and/or parks and recreation in the vicinity of Leeland Station. On the next proffer... could I have the computer please? So, the next change would remove language that was previously proposed that would have dedicated 3 acres of land to the north of the Leeland Station VRE stop. That area had been designated for this location here. So that's no longer in the proffers. Instead of that, in proffer 8 the applicant is dedicating 3 acres of land to the north side of the existing library site for use as either a County passive park or expansion of the VRE commuter parking lot. That 3 acre area that is being offered in this latest option is right in this location. The 3 acre library site that then would be deleted in these proffers is in this location here. So that would go away and this would be the dedication area.

Mr. Gibbons: Can you go over that one more time?

Mr. Zuraf: Okay. So, basically instead of proffering this 3 acre area for a VRE lot, the applicant would be dedicating this 3 acre area for either a passive park or expansion of the VRE lot.

Mr. Gibbons: And the parcel below it?

Mr. Zuraf: And this parcel below it goes back to the developer.

Mr. Apicella: Mike, is that generally where the paved... not paved... the gravel extension is currently for the VRE station?

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Mr. Zuraf: No it is not. The gravel parking area is in this location, where it's planned for future commercial.

Mr. Apicella: So, if you're riding on the VRE at Leeland Station, how would you get to this new 3 acre site?

Mr. Zuraf: The VRE station is right around here, and also the existing paved parking area is basically this whole location here so they would just have to walk through the parking lot. And it would be an extension of that existing parking lot.

Mr. Apicella: But it would be somewhat more intrusive into the actual development, if I'm seeing this correctly.

Mr. Zuraf: It does get closer to the proposed residential.

Mr. Apicella: Okay. And does staff have a perspective on just this part of the change? Do you think it's viable?

Mr. Zuraf: I mean, it does take away the concerns of getting access and the costs of getting pedestrian access across the rail line which currently is not inadequate to handle. And it would be an extension of an existing lot. There would be the potential buffer concerns maybe between the parking lot and these homes here and here. This area here maybe we could retain... it could possibly retain some landscaping but likely some enhanced landscaping might improve the situation that's being offered.

Mr. English: Where's Leeland Road in conjunction to this? That's Leeland?

Mr. Zuraf: Yeah.

Mr. Apicella: And so the south end would be Primmer?

Mr. Zuraf: Yes.

Mr. Hirons: Mike, I'm going to ask you to find one more feature and you may end up having to get (inaudible).

Mr. Rhodes: What other colors do you have?

Mr. Hirons: Does this configuration... I just saw this... the cell tower that's there and there's a facility there and it's fenced around. Does this cause any issue, whether staff or the engineer might think that? I don't know if that came into the thought of this property at all.

Mr. Zuraf: I believe the cell tower is here and I think they've already...

Mr. Hirons: Is it that far up?

Mr. Zuraf: Yes. And I believe they've already kind of built the parking spaces... the existing expansion is already around it.

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Mr. Hirons: It is, but there's also the required facility and it's fenced around. It's kind of right near the edge. Okay.

Mr. Apicella: So, as a person who goes to that station... so I get into the parking lot by Primmer House Road. It already backs up both in the morning just trying to get into the lot from Primmer House Road, but I expect when you exit in the afternoon it's really going to be problematic because people use the Primmer House Road exit as an alternative than going out to Leeland Road. So, you're adding more cars but you're not necessarily adding more ingress and egress. Do you see that as a potential problem? I mean, how many cars currently...

Mr. Hirons: Can I help this question out a little bit? Because this expansion, number one it's not planned by VRE or the County to happen. But it's basically a replacement for that existing gravel. So the egress would come through the commercial, assuming that the commercial is eventually developed straight out to Primmer House Road.

Mr. Apicella: So that secondary exit and entry would still, from your vantage point, exist?

Mr. Zuraf: Assuming the commercial area develops out as shown. Well, the commercial would likely have an access point out to Primmer House and comments we had received from VRE actually, they really prefer to have that second access to Primmer House as opposed to all the traffic going out at one point onto Leeland Road.

Dr. Schwartz: So the applicant is committed to... there's no Highway Corridor where they're committed to have connecting parking lots in this situation, so the applicant is willing to commit on paper that they'll have access through that parking lot on the new commercial site.

Mr. Zuraf: That I would have to defer to them as to whether they... because that's not specifically written into the... Well, there is within the proffers the requirement that they do provide a connection through the commercial site to the current VRE lot. Now, there's nothing in writing saying an entrance has to be out onto Primmer House but I'm assuming that they would want to have that. We may want to have the applicant address that issue.

Dr. Schwartz: Thank you.

Mr. Zuraf: So the...

Mr. Gibbons: Well, Mike, following up on the VRE, in their letter they requested a proffer to expand the platform. Has that been addressed?

Mr. Zuraf: No, no. That was a comment that VRE had made previously and they're just reiterating that desire.

Mr. Gibbons: Well, we didn't hear anything from the applicant, no cheerleader.

Mr. Zuraf: No. That's not something that's been offered up by the applicant.

Mr. Gibbons: Okay.

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Mr. Zuraf: So, also, the other changes, the applicant is adding a proffer to require construction of a 12 inch water main along Primmer House Road and connecting over to a water main that's on Leeland Road. That's something that the Utilities Department has requested and the applicant is conforming with that request by Utilities. And proffer 16, the applicant is proffering to allow the continued use of the temporary VRE parking until 4 months after the date of submission of a final site plan on any portion of the commercial area on this property.

Mr. Gibbons: Legally, can we change that to include that the access would come out of there? That we'd have an access by the commercial that goes into Primmer? Is that where we would include that?

Mr. Zuraf: I think that would be a reasonable request to see if the applicant could proffer to...

Mr. Gibbons: No, I mean, but is that the right where to put it?

Mr. Zuraf: I would say to specify that an entrance to the commercial site go through Primmer House Road... connect directly to Primmer House.

Mr. Apicella: Again, I would also be concerned about the timing of that replacement acreage. Would it be ready to go once the 4 month period had expired? Because, again, we still have a thousand plus vehicles parking in the main lot itself. The Primmer lot is already over capacity, so what happens with the 300 plus folks who park there if they don't have a place to go?

Mr. English: I guess that should be addressed then saying that that has to be ready before.

Mr. Apicella: Well, that's kind of what I'm (inaudible).

Mr. Hiron: Mr. Harvey, do you happen to be able to provide any insight on how long it takes VRE to actually to a ribbon cutting on a parking lot from the time it's suggested or proposed?

Mr. Harvey: I can't give you specifics but, in general terms, it will probably take several months for engineering design and going through the various permitting processes. If there are wetlands involved, it has to involve the Corps of Engineers and a wetlands delineation and confirmation. There may be other permitting processes that could be involved. So, the best case scenario would be that if there ever was contemplating the parking lot onto that property, engineering funds would be used to go ahead and proceed in that manner so it could start once the need arose and the funding was available. It will take several months just physically to build the lot.

Mr. Gibbons: Well, do we know that this property, that acreage, is acceptable for parking? I think it's a good proffer but if it's wetlands, what guarantee do we have?

Mr. Zuraf: In the General Development Plan, no wetlands are identified in that area. It's like generally along a slope. VRE didn't express any concern with that specific site.

Mr. Gibbons: Because they don't make up the difference, the County makes up the difference. So, it's nice to be the king of the railroad and not the kind of the land.

Mr. Zuraf: Okay, on the next page of the summary provided, the Planning Commission had several requests. They requested that the staff and the applicant look to see what the difference is in the

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playing field cost estimates between the County and the applicant. We noted that the applicant's cost estimate for the proffered playing fields to the north of the rail line from the applicant was around \$450,000; the County estimate \$1.3 million. The difference is, the main difference is that I could see from the two different estimates is that the applicant estimate was basically for gravel parking and access way. The County estimate included asphaltting of the surface for the access road and parking area. Also, the transitional buffer and parking lot landscaping requirements were extra estimates that the County included in their estimation, and we had higher numbers for professional services and design work and construction contingencies. And a lot of those numbers were based on percentages of the overall budget, since we included extra aspects of the job; that's why the overall estimation ended up being higher. So, you have the two estimates; you received those. And also, staff will note that the applicant has submitted a separate site plan to the County for the playing fields that are required under the current proffers. So we included that in your package to see where the location of those playing fields would be and access and parking that was proposed under the site plan that they submitted to the County.

Mr. Apicella: Mike, so if I'm to understand what you've just put in front in us, or discussed, the original proffer was to provide us 3 I'll call it turnkey playing fields with parking lot with landscaping, etcetera, etcetera. And if we were to do this on our own, the delta between the applicant's estimate and our estimate is about a little over \$800,000 if we were to do this somewhere else?

Mr. Zuraf: Right. Well, that would be if it was done here...

Mr. Apicella: Here.

Mr. Zuraf: ... by the County.

Mr. Apicella: Right. But presumably if we were to acquire land somewhere else, it would cost us \$1.3 million versus \$450,000.

Mr. Zuraf: That's if the County also had the land. It does not include acquiring land either.

Mr. Apicella: So, as an alternative, has the applicant thought about finding us 3 playing fields somewhere else and giving us those playing fields turnkey?

Mr. Zuraf: That's not something that's being offered, but I don't know if they've thought about that.

Mr. Apicella: Okay, thanks.

Mr. Hirons: Mike, one of the biggest differences in cost, I think, between the County and the applicant is asphalt parking lot. I think we're going to hear from the applicant they have some sort of documentation, letters, that basically say a gravel lot is okay, an asphalt wasn't ever required. I don't mean to say this to necessarily let them off the hook but, if the County said we're okay with a gravel lot, we're okay with a gravel lot. Do you know anything...? Can you expand on that at all?

Mr. Zuraf: I have a memo that I might...

Mr. Hirons: Maybe we'll wait and see what the applicant has?

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Mr. Zuraf: Yes.

Mr. Hirons: And also, did we have any design specifications for the fields?

Mr. Zuraf: There was some, through the applicant talking to Parks and Rec, they did receive and provide some design specifications for those fields.

Mr. Hirons: And both the County's estimate and their design and estimate fit those needs that the Park Director requested?

Mr. Zuraf: I believe so.

Mr. Hirons: Thank you.

Mr. Zuraf: And then also we did provide a summary of the previous changes that occurred to the proffers and back in 2004 there was a proffer amendment. So I provided the summary of what changed back in the 2004 amendment; that was one of the requests. Also, staff did reach out to the libraries, the Central Rappahannock Regional Library, and spoke to the Executive Director, Donna Cote, and she had no opposition to the proposal that's being made to remove the 3-acre future library site. She noted that they have no plans to construct a library in this area of the County. And, as mentioned, you did receive, you should have tonight in front of you, comments from VRE on the follow-up changes. They did note the desire to maintain, as mentioned, a secondary access through to Primmer House Road from the existing parking lot or any expansion of the parking lot that might occur. They mentioned that they appreciate the new proffer to extend the use of the existing gravel temporary parking area and they reiterated a previous comment that they would like a full length fence across the railway right-of-way to prevent people from cutting across the tracks to get to the VRE station. Those are the summary of their comments.

Mr. Gibbons: But the one I had had the platform in it.

Mr. Zuraf: And that too. Yes, the request to...

Mr. Gibbons: That's very important.

Mr. Zuraf: ... expand the platform.

Mr. Gibbons: The problem being, when we expand it, you cannot unload the train in an orderly manner when you get that number of people. So, that's important for them to get that platform.

Mr. Apicella: Mr. Chairman.

Mr. Rhodes: Yes, please.

Mr. Apicella: I'm looking at the first page of our package and I didn't hear, and I apologize if I missed it, the swapping of the library site for a County passive park or expansion of the VRE commuter parking lot. So, is that... would that be an additional 3 acres besides the 3 acres that are being moved?

Mr. Zuraf: No, it's just a swap of the 3-acre site.

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Mr. Rhodes: That was the scribbling from the top to the middle.

Mr. Zuraf: So the library site here that currently is owned by the County goes back to the developer, and this 3-acre site goes to the County.

Mr. Apicella: So they're one and the same. So there wasn't a separate proffer for a 3-acre VRE lot...

Mr. Zuraf: That was the previous proposal would have offered up a 3-acre site up here. And that is going away up here.

Mr. Gibbons: So we lost 3 acres.

Mr. Apicella: Right. And so the current alternative lot... what's the size of that lot? The one that's scabbled at the moment.

Mr. Zuraf: I'm not certain what the size of that is.

Mr. Apicella: I'm just trying to understand. Do we need 3 acres? Do we need 2 acres? My concern is, the specificity that the proffer says, either a County passive park or an expansion of the VRE commuter parking lot... why not provide the County some flexibility to use the 3-acre parcel as it best deems appropriate, including a passive park and/or VRE lot, or any other public purpose the County deems appropriate.

Mr. Zuraf: You may want to put that request to the applicant. They may be okay with adding an and/or in between.

Mr. Apicella: Okay.

Mr. Gibbons: Mr. Chairman, can I follow-up?

Mr. Rhodes: Yes, please Mr. Gibbons.

Mr. Gibbons: I'm confused on numbers here. The way it is now, you've got 3 acres for the library site, correct?

Mr. Zuraf: Yes.

Mr. Gibbons: We've got 3 acres for the library site currently. We've got 3 acres for the VRE parking lot currently. Right? But we end up with only 3 acres for the expansion of the VRE lot.

Mr. Rhodes: In this version, yes.

Mr. Apicella: Yeah. That's what I was trying to get to. So now we lose something and we're not gaining something. Is that kind of what you're saying?

Mr. Rhodes: Yes.

Mr. Gibbons: Well, my math is wrong I guess, but...

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Mr. Rhodes: Well, one is one set of options that would have given the 2 lots, the other one is giving 1. You're exactly right. That is correct on the way it's currently structured. Other questions?

Mr. Zuraf: Any questions?

Mr. Rhodes: Other questions for staff before we have the applicant come forward? Okay, thank you Mike. Applicant please?

Clark Leming: Good evening Mr. Chairman, members of the Planning Commission, I'm Clark Leming. I'm here on behalf of the applicant. Let me answer some of the easy questions first, at least those that I consider to be easy. We're happy to amend the proffer to indicate that there would be access through the commercial portion of the lot of the property to Primmer House for both access for the commercial and commuter parking. There is a proffer that comes fairly close to this. Now, when the commercial site was first developed, it was anticipated there would be no curb cuts on Leeland and that access would be obtained through the commuter rail parking facility to what we called then the Morton Road alignment, which is now Primmer House Road. So, no problem with that. As far as other uses that the County could make of the 3-acre site, I'm not sure that the developer is willing to just say anything the County wants to do. But if there are other specific things that you would like to add to this litany, we don't have any problem with that. I think our concerns is going to be next to what hopefully is going to be viable commercial at some point and also a residential land bay. The purpose of the library swap, and that's the easiest way to conceptualize this... when this was originally rezoned in 1995, there was some real consideration to there being another library site in this part of the County. And so this site was dedicated for the library, where that has not materialized. And the idea with the library is clear from the GDP here with that 3-acre site is to add that to the commercial bay. That's viable commercial property. So, at such time as the commercial develops, our thought was that that best fit with that and the 3-acre site to the rear of that is the swamp that's closer to the commuter parking. What you have right now, the interim parking is on the existing commercial site and comprises of... 180 spaces approximately? About 180 spaces which we estimate to be... it's not the entire commercial site, it's about 2 acres that taking up that. And, of course, we've heard things... we got lots of feedback about the commuter parking. Don't give us any more commuter parking. Give us more commuter parking. We don't want it on the other side of the tracks. So, trying to pull all these things together, we came up with this parcel which is collocated with the existing commuter rail parking, and is viable for commuter. Of course, it would take pretty bad land that could not be used for parking and this is certainly viable for parking, as Mr. Zuraf indicated there are no wetlands or particular impediments here for the parking. I think in terms of the transition, what we have done here since 2006, the landowner, both the present developer and the prior developer, have leased to the County for no cost this approximately 2-acre interim parking location on the present commercial site, the one that is graveled. And that's been done year after year after year after year. And we estimate the value of that, there's no charge to the County, but the value of that is about \$75,000 a year. Now, what the proffer now says is that that interim use would continue. There would not be the need to go through the lease provisions every year again, but would continue in such time that the commercial is ready to go. And specifically, the trigger that we established was 4 months after the date of submission of a final site plan for any portion of the commercial development. So, when the commercial is ready to go, there would be a plan submitted; 4 months after that the interim parking arrangement would be terminated. I think that Mr. Harvey probably had the best idea; that is, with regard to the transition to the new area, simply get the engineering done up front so that when that time comes... and it's a good thing that the commercial eventually comes here... when that time comes the transition doesn't take a significant amount of time. We thought that the 4-month period was a reasonable time (inaudible).

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Mr. Gibbons: Would you be willing to modify that?

Mr. Leming: To what?

Mr. Gibbons: I think 4 months is awful aggressive.

Mr. Leming: What would you suggest?

Mr. Gibbons: Well, I mean, the last ones we built takes 10 or 12 months. If we do the engineering ahead of time then I would say 10 months.

Mr. Leming: How do you feel about that?

David DeMarco: David DeMarco with K. Hovnanian. That's a considerable amount of time, 10 months. I mean, I understand the issue and there may be... maybe the submittal of our plan isn't the right starting trigger. Maybe we could give notice and it could be maybe 8 months from the time we give you notice. All we were trying to say is, when there's a commercial user ready to build here then we're going to submit a plan. And we figured 4 months would be about as long as we could keep them waiting before they wanted to start construction of the building.

Mr. Leming: Now, the advantage of the way it's set up right now is that there's got to be a real plan going forward, so that you actually have something submitted and you know that a commercial user is coming. What David is suggesting is that out in front of that, at some point, we would just say here's your 8 month notice and then that's the end of it.

Mr. Gibbons: Well, what about 8 months? I mean, we've got to come up...

Mr. DeMarco: That's what I'm suggesting.

Mr. Leming: He's happy to give you 8 months but it would not be tied to the submission of a site plan, which is what it is now.

Mr. Gibbons: It would be a notification that you are coming in with a plan, it doesn't mean the date of the plan, but the notice.

Mr. DeMarco: Right.

Mr. Leming: That's right.

Mr. Gibbons: Then I think that in exchange for that, I can only speak for myself, I would say that engineering should be done on that property as soon as we can get VRE to do it... get it ready.

Dr. Schwartz: With this rezoning request, we have the right to build that parking lot well before you start your commercial development on the corner. So, if we kick the can down the road far enough, we'd only have ourselves to blame.

Mr. Leming: So, is your preference for the 8 month notice?

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Mr. Rhodes: Is there a reaction to that? Members of the Planning Commission? To just a general 8 month notice versus 4 months from site plan?

Mr. Hirons: My only concern with that is it could be just that, a general notice and then the plans fall through and we either commit the County and/or the State and VRE to expanding this parking before we're ready. And then we expand... one of the things I want to avoid is expanding that parking lot onto that new space and still having that gravel lot, and then taking that gravel lot away. Because that's going to cause problems, kind of what Mr. Apicella had deluded to earlier is you're going to have 300 people... oh, I'm sorry... 180 people parking and then the next day, those 180 people aren't going to have a place to park. Ideally, and this is rolling dice any way we play this, ideally the new lot will come online pretty much as the commercial is coming off. So, I'm really concerned about that 8 month because it is an 8 month notice of, yeah, I might have someone buying the property and building there, and then 2 months down the road as we ask VRE, hey, start paving this thing and building this parking lot, David comes to us and says, oh, yeah, those plans fell through, you can continue using the lot until my next opportunity comes up.

Mr. DeMarco: Perhaps... because I think that's a valid point... perhaps the solution is just changing the 4 month date to 6 months.

Mr. Leming: With the way it's situated right now, 6 months (inaudible).

Mr. DeMarco: And then at least you know from the time somebody submits plans, which is going to be an indicator.

Mr. English: I think we need to come up with a solution that we don't have an issue at all with that. I mean, because if you do that, like he said, if you come up with an 8 month and something happens or doesn't happen, you get this lot and then if something falls through, I think we need to have something in place right now that the lot's there and that's it and you don't have no 8 month in anything. Try to inconvenience anybody because it looks like this could be a big mess if we look into it like that. I mean, I think we should work it out differently; I don't think it should be any 8 month or 4 month or anything at all with that. I think the lot should be there, and it's there, and the commercial lot's there, when you need to build it's there to build.

Mr. Hirons: If that's the case, we'll terminate the lease and not let VRE riders park in that gravel lot as soon as the hardtop comes online.

Mr. DeMarco: I think what I'm hearing and what I would like to see just as a part of the community here, the parking lot that's being used now is an interim parking lot only. So this solution, if it's going to get solved, has to come sooner rather than later. If the worst thing that happens is you start and you have the interim parking continuing with the completed parking lot, I don't know that that's the end of the world. That's not the worst thing that I think could happen. So, I'm willing to give as much flexibility as possible, but I think we all don't want to restrict this site from developing as a viable commercial center.

Mr. Rhodes: So, for the flexibility, there was the offer there of proffer 16 modifying to 6 months after the date of submission of a site plan?

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Mr. Apicella: Mr. Chairman, before we go there I have a question about the paving of that 3 acre lot. Does VRE have the money to do it? Can they snap they fingers after (inaudible) and start paving? What's the timeframe that it's going to take for VRE to come up with the money and do the job?

Mr. Gibbons: Well, it's a Capital Improvement Program just like we do in Stafford. So, it's going to take like 18 months to 2 years down the road. So, if we can get the engineering done now, you're still going to need 8 to 10 months.

Mr. Apicella: But we still have this problem. With all due respect to the applicant, if you found a commercial tenant, 6 months from now we'd be outside that window and we wouldn't have a lot for the 180 people. Again, I'm not saying you're going to do that but that puts some risk on the County and certainly on the people who are riders who depend on that extra lot... which we appreciate your providing. So, I don't know what the solution is; my concern is funding is always an issue. It may not be VRE's highest priority to pave that lot on the timeframe that we want them to.

Mr. Leming: Based on the demand for the commercial portion of the property to date, that's probably the most unlikely scenario.

Mr. Apicella: I understand.

Mr. Rhodes: And there's a bit of work on this spot; I think it's about a 20 foot slope across there that you've got to fill in and a good bit of stuff needs to be done.

Mr. Hirons: I think it's on the burden of the County to apply pressure and make the request to VRE that this is an issue. I mean, really, it's VRE's lack of vision because to not already be thinking and addressing it because this gravel lot has always been temporary. And, if I'm not mistaken, it was actually the previous developer who came to the County and offered it to the County; the County didn't ask for it up front.

Mr. Leming: Or using it informally anyway.

Mr. Hirons: Yeah, that's going to happen until you put a fence up, which is going to cause a whole other challenge when you get commercial. But we don't need to really go there, that's your problem.

Mr. DeMarco: And Scott, the only other thing I'd like to clear up is this proffer will have to be worded... you'll have to come up with language, because there is a lease. I think the lease goes to December. But what we're saying is the term of the lease will be modified.

Mr. Hirons: Right.

Mr. DeMarco: There's indemnification, there's maintenance, there's other components that I don't know that we can all address in the proffers. But I want to make sure that everybody knows... all those same agreements that are in place in the lease will just continue to roll over.

Mr. Hirons: And the lease is essentially indefinite until 6 months out from, or 6 months after you receive.

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Mr. DeMarco: We'll essentially redo the lease and make the language mirror the proffer. I think that's probably the best way to handle it.

Mr. Hirons: My preference would be the 6 month timeframe.

Mr. Gibbons: From the date of the filing?

Mr. Leming: From the date of the...

Mr. Rhodes: Of the final site plan.

Mr. Leming: ... of the final site plan?

Mr. Gibbons: That's better than 4.

Mr. DeMarco: And we'll certainly keep you guys... we're working with your Economic Development people too. If something's happening, you guys will know sooner rather than later.

Mr. Hirons: And make sure those folks are in contact with VRE as well.

Mr. DeMarco: Okay.

Mr. Hirons: Maybe they can get gears in motion.

Mr. Leming: Okay. Now, with regard to the soccer fields, the letter that Mr. Hirons was referring to is a April 9, 2007 letter from the Director of Parks and Recs following a proffer interpretation that we went through, an exercise we went through with the Zoning Administrator. The original proffer simply said there were going to be 3 1-acre playing fields and the issue became current to County standards and where they were going to be located. So the ruling of the Zoning Administrator was that indeed there would be 3 1-acre fields and it was designated where they would be. And we had offered up a couple of plans for those playing fields, as far as the location of them and the actual size of them and access to them. And the County elected what is referred to in the letter as Option B, Plan B... optional Plan B. And so that is what the design follows and that is what the County is reviewing now. The one that Mike showed you earlier is the actual design of that Option B. From the standpoint of the applicant, it's not our intent to shortchange anyone. But, from the standpoint of the economics of this development, we're not in the position to go out and buy other land and buy playing fields somewhere else. The best option for us is to build the playing fields where they've been designated and where we have the ability to build them and where there's already a budget for them. So, what we have done is to essentially say we've spent about \$50,000 on them so far on the design and engineering. What we've done is to say, this is our budget, this is what it's going to cost to complete these fields as they've been designated by the County, and we're happy for you to have that money and we don't build the fields. So that's what the proffers call for at this point. Now, the difference...

Mr. Apicella: I'm just curious whether, from the County's perspective, at least counsel's perspective, whether the Director of Parks and Rec would make that determination about whether it's a gravel road or a gravel parking lot versus some other standard.

Mr. Leming: He didn't. The Zoning Administrator did.

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Mr. Apicella: I didn't hear that in...

Mr. Leming: This was a proffer determination that was made by the Zoning Administrator. We offered the Zoning Administrator two options; she permitted... this was Rachel Hudson at the time... permitted Parks and Rec to choose which option that they wished to go with. So the letter is the one that elects the option and gives the specifications for the fields which was the delegation of the Zoning Administrator had given to the department.

Mr. Apicella: But where does it say a gravel parking lot?

Mr. Leming: On the letter from the Zoning... or from the Director of Parks and Recs talks about, it is the expectation of the department that the access road and parking lot area feature 6 feet of compacted 21A stone and gravel.

Mr. Apicella: Okay. I didn't hear you say that so I appreciate it.

Mr. Leming: Okay. So, that's the posture that we're in. We have the ability... I think everybody agrees this is not a great place to build them, but we're not in position to incur the additional cost of doing something at another location and make this whole thing work. So, I think that those... now, if you want to know what the other differences are, there are some... it may be worth it, and Mr. Pyle can go through this in detail, but let me start and we'll see how far you're interested in getting into this.

Mr. Gibbons: Could I get in a general question before you get into detail?

Mr. Leming: Sure.

Mr. Gibbons: Okay. The rationale of going from 6 acres to 3 acres... what's the rationale on that?

Mr. Leming: Well, we were okay giving the... there was not much interest in this land on the other side of the tracks for any purpose. You don't want the playing fields there. In previous iterations, this land has been offered up to the County on the side of the tracks for commuter parking, for playing fields, the issue has always been access. So, that's why it has been deleted because there has been no interest in the land that's on the north side of the tracks.

Mr. Rhodes: So, you're giving money instead of the land.

Mr. Leming: Yeah.

Mr. Rhodes: Money to develop instead of the land.

Mr. Leming: That's right. And we would put the soccer fields there but we're giving you the money instead of putting the soccer fields there. So that's the quid pro quo (inaudible).

Mr. Gibbons: And my last question is, before you get into the other detail, what about the request from VRE about the expansion of the loading area?

Mr. Rhodes: Platform.

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Mr. Leming: If the question is are we willing to do this, no. We're not in the position to add to that. We put our best offer on the table.

Mr. Gibbons: But, I mean, you answered it. You're saying no.

Mr. Leming: No. We can't afford that.

Mr. Gibbons: Okay.

Mr. Apicella: I'm sorry; I apologize for my confusion. The proffer package prior to this one in front of us included a VRE lot somewhere?

Mr. Leming: The original proffer...

Mr. Gibbons: It's on the other side of the track.

Mr. Apicella: So, were there two 3-acre parcels and the soccer fields?

Mr. Hiron: No.

Mr. Leming: No.

Mr. Hiron: But also don't get confused between the existing proffer and the proposed proffers from the last one.

Mr. Leming: Right.

Mr. Hiron: The last meeting the proposed proffer had that 3 acres which was the library site over on the north side of the tracks.

Mr. Apicella: Which is becoming a VRE lot.

Mr. Hiron: Right.

Mr. Apicella: Okay.

Mr. Hiron: Or whatever the County wants to use it for.

Mr. Apicella: Gotcha.

Mr. Hiron: And then now, because of the problems of having a parking lot on the opposite side of the tracks, they're bringing it back to, you know, they found 3 acres on the other side.

Mr. Apicella: Got it. Thanks.

Mr. Gibbons: Wait a minute... I want to go back to one more statement. Follow me now. The package has 6 acres to the County.

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Mr. Hirons: The additional 3 acres that you're missing...

Mr. Rhodes: Three acres for the library site.

Mr. Hirons: ... were the soccer fields. There's 3 acres soccer fields, 3 acres library in the existing proffers now.

Mr. Gibbons: Right.

Mr. Hirons: And what they're proposing is the 3 acres of soccer field - cash proffers. Three acres for the library site - the VRE lot.

Mr. Gibbons: Well, if you take 3 acres and you multiply it by the valuation, it doesn't come out even.

Mr. Hirons: Yeah, I mean, that's why they're still in front of us.

Mr. Gibbons: Okay, thank you.

Mr. Hirons: That was kind of the general reason for deferment last time.

Mr. Leming: The difference in the estimates, and I'm going to give you the broad numbers here then depending on how much detail you want to get into, Mr. Pyle can get into more detail. There are two major areas where the differential is account for. And this is for informational purposes only. The point here is that we can build the playing fields for \$450,000. But, to help understand what the difference is, there is the gravel issue - gravel versus asphalt. Irrigation and landscaping is a big part of the County's budget. In fact, the irrigation is probably the most significant thing. The fields that we put in will not be irrigated. The rest of it has to do with... now that alone, just those construction costs, amount to over \$500,000 of the differential. Beyond that, there are significant differences in overhead, management, design. We have our own manager. We have our own contractors. The County has an enormous contingency that is built in that we don't have. Insurance, contractors, bonds, in all of those areas, the County figures exceed ours by about \$340,000. So, those are what accounts for the difference; the \$800 plus differential between these two. The actual construction costs over \$500,000 - that's asphalt, irrigation, landscaping - and then the actual way that the contract is managed and the difference between the way the County would manage something like this, including acquisition of the land, and the way the applicant would actually put these playing fields in. Now, if you want more detail, Mr. Pyle has all of these things broken down line item by line item. So you can see what our budget is and you can see what the County's budget is. That's at your pleasure if you would like to get into that. I think the differences between this and the last time we were here are that we have increased the actual dollars that are coming here. Last time through, if you added up what we thought the playing fields were going to cost plus what we had added to the package, we were at a total of \$500,000 cash, we're now at a total of \$700,000 cash. That's \$400,000 for the playing fields and an additional \$300,000 cash. We've also added the extension of the commuter parking lot. The water main connection is not something that is a regional connection. The cost of that is about \$160,000. So, between all of these things... and, of course, we don't know how long the actual commuter parking lease, the extension, is going to extend to. Based on what has occurred to date, we think the value of that has been about \$600-700,000. It all depends on how far it goes. So, that's where we are in our proffer package. All of those changes have been made. The things that I've heard tonight and the notations that I've made and actually penciled in some changes have to do with the access to Primmer

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House Road from the new 3-acre lot plus the old commuter parking lot, that plus the 6 months rather than the 4 months from the date that a final site plan has been filed to give the County the notice that would constitute the notice for the termination of the interim parking arrangement. (Inaudible.)

Mr. Rhodes: Questions for the applicant? Mr. Apicella?

Mr. Apicella: The other items that VRE asked for, would you be willing to add those as well? I think there was some additional, I wasn't sure if it was an easement or actual property for an extension of the platform?

Mr. Gibbons: He said no.

Mr. Leming: Am I correct? Yeah, we thought we were talking about your extending the platform.

Mr. DeMarco: I'd have to reread the comment, but I thought what they were saying was if you did provide additional parking over what was there today, including the interim parking that is temporary, if you did more parking than that then the platform would need to be expanded. I mean, I may not be remembering it correctly, but I didn't think the platform needed to be expanded today. But we couldn't do that anyhow... that's a very expensive (inaudible).

Mr. Apicella: Were they asking for the applicant to extend the platform or just the property to do it?

Mr. Rhodes: A proffer contribution from the Leeland Station developer as a local match to construct a 400 foot extension of the existing station platform.

Mr. Leming: That's what I (inaudible); we're talking about actual construction.

Mr. Hirons: But to Mr. Apicella's point, who owns the land on either side of the platform? So, CSX? They already...?

Mr. Leming: Yeah, I think they already have the land.

Mr. DeMarco: Maybe I'm reading... the way it reads is it says the current platform is at capacity.

Mr. Hirons: That gets to my point of... I hate to say this, it's not probably publicly favorable... but we don't really want more parking there because of the level of usage and the amount of traffic that it's just going to bring to that area. So, that's kind of how, when I initially read it as well, if you bring more parking, expand this thing. Or don't bring more parking.

Mr. Apicella: Mike, were there any other requests from VRE that had not yet been accommodated?

Mr. Zuraf: There was that one comment about requesting a fence along the right-of-way.

Mr. Apicella: So, would the applicant be willing to provide that?

Mr. DeMarco: I haven't seen that letter. I don't know... I can't imagine how much foot traffic is trying to cross that railroad track. I just don't know what's over there. But we haven't had a chance to review that. I'd have to take it under advisement. I don't know that it's our responsibility if they need

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a fence along the track. I just don't want to set a bad precedent nor do I have an idea what it might cost or the accessibility of it. So, I'm not prepared to answer that.

Mr. Apicella: Okay.

Mr. DeMarco: If we did do it, what we are prepared to do is provide \$300,000 in cash and \$400,000 additional dollars, giving you cash in lieu of building the ball fields. So, whatever comes out of that \$700,000, you know, we're willing to let it be divided up at your leisure.

Mr. Apicella: Well, the VRE is larger than just Stafford County, so whatever impacts there are extends beyond I think our locality. The other issue that I mentioned was the flexibility of the dedication of the library site. What do you define as a County passive park? What is that?

Mr. Leming: Well, I think it doesn't mean playing fields, it means something less active than that. So I think what we're talking about is a meeting area, picnic facilities, walking trails, or passive activity. Now, if there are specific other public uses that you have in mind, we're perfectly willing to consider those. I think that Mr. DeMarco is reluctant to simply open it up and say any public purpose.

Mr. Apicella: Well, does the County have a definition of a passive park so that we're on the same page?

Mr. Harvey: I don't believe we do have a definition of passive park at this point in time. I can verify that in a minute.

Mr. Leming: You would know better than I, Jeff, but I thought you did.

Mr. Apicella: Why not just park, County park, exclusive of playing fields?

Mr. Leming: Yeah. I don't that would be a problem.

Mr. DeMarco: That's fine.

Mr. Rhodes: Okay, thank you.

Mr. Hirons: Mr. Chairman?

Mr. Rhodes: Mr. Apicella... I mean Hirons.

Mr. Hirons: Are there uses that you would want to exclude? A public use. Rather than saying what we can, can you say what we can't.

Mr. Leming: Yeah, we could look at it. That was certainly active playing fields, anything that is lighted. This is going to be next to a residential area. Anything that would tend to create substantial noise. Paintball. I mean, there are some uses out there that probably the County would never consider that we wouldn't want there, that's why we were approaching it from our standpoint?

Mr. Hirons: How about a waste energy facility? Wouldn't that be great.

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Mr. Gibbons: Would the same rules apply to your parcel that you're taking back down by the commercial? Would you buffer from the apartments?

Mr. Leming: Yes, because that's going to be commercial next to residential. Can you address what's kind of going to be expected between the commercial land bay and the residential here?

Mr. DeMarco: I can tell you we would fence those rear yards.

Mr. Gibbons: What's that?

Mr. DeMarco: We would put a fence around the rear yards of those lots that back up to the commercial.

Mr. Gibbons: A little bit more than that. You've got to make sure your light shed and view shed... so you're saying that the parcel, our parcel, you're concerned about lights in the neighborhood but then your parcel... different rules?

Mr. DeMarco: No different rules.

Mr. Gibbons: Okay.

Mr. DeMarco: I mean, we're happy for both. We would have to come back to you with our plans for the commercial and they'd go through your review. And if you wanted to incorporate language, because we're really not trying to restrict... it's just the unknown that I'm trying to protect against. If you want to say, you know... we're open for any reasonable passive use that isn't going to be a disturbance...

Mr. Hirons: Oh, you mean for the parks?

Mr. DeMarco: Yeah. We're open to anything, just subject to our reasonable review and discussion.

Mr. Harvey: Mr. Chairman?

Mr. Rhodes: Yes, please.

Mr. Harvey: The Code does not define passive park, but it does define passive recreation. They are: recreational uses, areas, or activities oriented to non-competitive activities which require no special equipment. Examples of passive recreation uses are natural and/or scenic areas for hiking, sitting, walking, bicycling, equestrian activities, bird watching, and picnics.

Mr. Leming: So how about if we said passive recreation? Would that work?

Mr. Apicella: That works for me.

Mr. Gibbons: Mr. Chairman, can I ask the representative from that area?

Mr. Rhodes: Yes, please.

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Mr. Gibbons: Do you feel that you have like a best you can do right now?

Mr. Hirons: Yeah, and this has gone through... we have held a couple meetings, community meetings, and in general there's general support for the project. Or I should say there's no real outcry of significant opposition. There are certainly some concerns but, in general, I think it's fairly favorable. Most people would prefer to move forward here rather than what the existing proffers say, because it doesn't give anyone really anything. And Clark, the one thing I am going to ask for also is to proffer out a gas station. I believe the proper term is gas station.

Mr. Leming: Okay, sure.

Mr. Hirons: And any of the commercial within the project.

Mr. Leming: Okay. Under the commercial proffer...

Mr. Hirons: That was one thing we heard from the community meetings is they don't... someone brought up, oh, they could put a Wawa there and most people were not too excited about that.

Mr. Leming: So we will proffer out, and I would do this I think in the general section, 9.a., and Mr. Harvey, what I would proffer out would be fuel sales.

Mr. Harvey: Vehicle fuel sales, yes.

Mr. Rhodes: Where would you make the modification on the access to Primmer House Road?

Mr. Leming: I was going to do that, Mr. Rhodes, at 9.e. and what I was proposing to say there, it already says, any proposed pad site shall utilize an internal traffic flow system. There shall be no curb cuts onto Leeland Road, and I went on to say, I struck some of that, and access shall be obtained through the Morton Road alignment to include the commercial lot access. And I'll be more specific than that; I will say, described at Proffer 8 above.

Mr. Rhodes: Okay. Alright. Very good. Any other questions for the applicant or for staff? Mr. Hirons?

Mr. Hirons: No, I don't have any further questions. Mr. Leming, I know you're making some edits so what's the best (inaudible)?

Mr. Rhodes: Well, we would need to have it in writing, the modified language if we were ready to go forward.

Mr. Gibbons: Why don't we defer it and discuss the next item and then come back to it?

Mr. Rhodes: Yep, we can certainly do that.

Mr. Leming: I think the next item is mine too (inaudible).

Mr. Rhodes: Yeah, it is. You're just going to have to write one way or another.

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Mr. Gibbons: I think we can take care of that real quick.

Mr. Leming: I've written some things down. Why don't I let Mr. DeMarco look at these; I'll point them out to him quickly here and then we can go onto the next item or come back to this.

Mr. Gibbons: It's going to be quick on the next item.

Mr. Rhodes: How about we defer this for a moment; set it aside and move onto the next item. Is there a motion to do that? To come back to this and move on to item number 4? Is that acceptable?

Ms. McClendon: That's acceptable; you don't need a motion.

Mr. Rhodes: Motion?

Mr. Hirons: You just said we don't need a motion?

Mr. Rhodes: Oh, okay. Well let's go on. We'll move onto item number 4, Mr. Harvey, and we'll come back and close out 3 a little bit later.

4. COM1200323; Comprehensive Plan Compliance Review, Clift Farm Quarter - A request for review to determine compliance with the Comprehensive Plan, in accordance with Virginia Code, Section 15.2-2232, for the extension of public water and sewer outside of the Urban Services Area, to serve up to 108 lots on Assessor's Parcels 38-123A and 38-124 (portion), located along Eskimo Hill Road, approximately 2,000 feet east of State Shop Road within the Aquia and Falmouth Election Districts. **(Time Limit: October 31, 2013) (History: Deferred on June 26, 2013 to July 10, 2013) (Deferred on July 10, 2013 to August 14, 2013)**

Mr. Gibbons: Mr. Chairman, I've got a legal question, a technical question on this. On this item, my understanding it comes up, there's a court case that's I think in the second week of September on this same issue. And we don't have until October... our dead drop date is in October.

Mr. Rhodes: October 31st, yes.

Mr. Gibbons: Right. And if the court, whatever way the court rules, it could affect this anyways. So I was wondering if we just couldn't delay it until after the court date, the decision.

Mr. English: Are you talking about the Clift Farm?

Mr. Gibbons: Yeah, he's before the court to determine whether he needs this process or not. If the Judge says he doesn't need it, then this is going to make this moot anyways.

Mr. Apicella: I think that's a great idea because I had the same issue when I read back over this package.

Mr. Rhodes: Ms. McClendon, is that your understanding of the... I know we're outside this a little bit.

Ms. McClendon: Mr. Chairman, I'm not currently aware of the court dates. I know there are some things coming up on this but I don't directly handle litigation in my office. So I can confirm those

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with our litigation counsel and get back with the Commission at the next meeting if you would like, or by email prior.

Mr. Gibbons: So the next meeting we could determine that; you'd have everything there, right?

Ms. McClendon: Yes Mr. Gibbons, I can do that.

Mr. Gibbons: Thank you. So Mr. Chairman, I'd like to just defer it until the next meeting and we'll go by what...

Mr. Hirons: When is court?

Mr. Gibbons: I think it's September...

Mr. Leming: Next Thursday, the 22nd.

Mr. Hirons: I'm wondering if we can actually defer into September. I may not be at the meeting on the 28th.

Mr. Rhodes: The 28th is a very full agenda as it is right now. I will just highlight.

Mr. Hirons: Would that be okay? Did you make a motion there? I'll second your motion if you accept September 11th.

Mr. Gibbons: I'll say September 11th.

Mr. Rhodes: Okay, so there's a motion... just to confirm, there's a motion to defer this item to September 11th in part to get additional information of outside actions that may influence the need to address this?

Mr. Gibbons: Yes sir.

Mr. Rhodes: Okay, a motion by Mr. Gibbons; second by Mr. Hirons.

Mr. Hirons: Second.

Mr. Rhodes: Any other further discussion by any other member? No discussion. All those in favor of deferring this to September 11th signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

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Mr. Gibbons: Aye.

Mr. Rhodes: Aye. All those opposed? None? Okay; 7-0. That one's moved. We're back to number 3 please, which is to make sure we have clarified in writing some modifications to the proffers I believe.

3. RC1300138; Reclassification – Leeland Station Proffer Amendment - Continued

Mr. Leming: What I'd like to do Mr. Chairman, if you give us a moment, we'll get the original proffers from Mr. Zuraf here and we'll write these in (inaudible).

Mr. Rhodes: If you can pen and ink them then I will read them out to make sure everybody's heard them the same way and we will confirm that we're all on.

Mr. Leming: In the meantime, I can go ahead and give you my presentation I had prepared for the next item.

Mr. Rhodes: That'd be fine... no. But thank you very much for the offer; you're very kind.

Mr. Leming: Excuse us for just a moment.

Mr. Rhodes: Please. We will stand at rest or something. What's one of those terms Parliamentarian?

Ms. McClendon: If you stand at rest, we will currently stay in session, but if you recess then it will go to recess and then you can reconvene.

Mr. Rhodes: Okay, we will recess for 5 minutes.

Mr. Gibbons: This is our last action tonight, right?

Mr. Rhodes: Yes.

Mr. Gibbons: Except adjournment.

Mr. Rhodes: Well, we have Planning Director's Report, County Attorney's Report - N/A, Committee Reports - N/A, Chairman's Report - N/A, Other Business - N/A, Approval of Minutes - N/A.

Mr. Hirons: Mr. Chairman? Could I ask the Planning Director and counsel, if it's appropriate, would you be able to give us a summary on the action the Board took on that waste to energy and will that end up possibly coming back through as a CUP process we'll have to deal with?

Mr. Rhodes: So we're back out of recess.

Mr. Hirons: Just as a general report or...?

Mr. Rhodes: Can we do that at part of a special meeting?

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Mr. Harvey: Mr. Chairman, Mr. Hiron, yesterday the Board of Supervisors did discuss issues related to a Waste Energy Facility that was proposed at the Regional Landfill. The issue at hand and the discussion was whether to move forward with negotiating a contract previously the Board had authorized that. The Board rescinded its decision to do that, so there will be reconsideration of that proposal and/or other proposals that may provide similar waste energy alternatives. The discussion did not revolve around an ordinance amendment. So, that may require later action by the Board. The Board, when it did adopt the ordinance, said that it would revisit the issue in October. So in October the Board may choose to refer another ordinance back to the Commission dealing with that issue. So right now there's nothing on the plate for the Commission regarding that matter.

Mr. Hiron: Thank you.

Mr. Rhodes: And how full have you made the 28th August agenda? I think the answer is *very*.

Mr. Gibbons: Mr. Chairman, I want to make sure this one is on the 28th now.

Mr. Rhodes: Which one is that?

Mr. Gibbons: The one that got referred so we can set the public hearing.

Mr. Rhodes: Yeah, that is on the 28th, right? The one that got referred?

Mr. Harvey: Yes Mr. Chairman. We'll put that on the agenda. And, as you indicated, there are a number of public hearings we have scheduled for that meeting, to include the cluster amendment with notice to affected owners.

Mr. Rhodes: Very good. It will be a fun time.

3. *RC1300138; Reclassification – Leeland Station Proffer Amendment - Continued*

Mr. Leming: Mr. Zuraf has the changes; they've been initialed by Mr. DeMarco and he can review them with you if you'd like.

Mr. Rhodes: So these would be modifications to, if we vote to accept them, modifications to our attachment 1 starting at, I believe, page 5 of 7.

Ms. McClendon: Mr. Chairman, even though the Planning Commission didn't actually go away, we did recess so you need to bring it back.

Mr. Rhodes: No, I kind of sort of brought us back when you started talking about non-deliberative information on the update.

Ms. McClendon: Okay.

Mr. Rhodes: I unrecused. Is that the technical term? Okay, thank you Ms. McClendon.

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Mr. Zuraf: Okay, their changes to the kind of final which is not showing the strikethrough and underline so I'm just going to have to lead you through by the proffer number. It may not be the same page numbers.

Mr. Rhodes: Okay.

Mr. Zuraf: The very first beginning of the Proffer Statement, third line after 46-93E (3.001 acres)...

Mr. Rhodes: Oh, is this on page 1... I mean on the beginning...?

Mr. Zuraf: This is on page 1 at the very beginning.

Mr. Rhodes: Okay, sorry.

Mr. Zuraf: The third line at the very beginning. After 3.001 acres, they added in a notation in parenthesis "The Property" because that's referred to throughout. Then...

Mr. Rhodes: So just at the end of that first sentence.

Mr. Zuraf: Yes.

Mr. Rhodes: Okay, got it.

Mr. Zuraf: Then going down to proffer 8, it would say, and I'll just read the sentence as it's going to end up after the changes, "Applicant shall dedicate an additional 3.0 acres, more or less, subdivided from a portion of the commercial site to the north of the existing Library site, as shown on the GDP, for use", and delete a., so it's "for use as County passive recreation", delete park. So, "County passive recreation, or potential future expansion of VRE commuter parking lot,".

Mr. Apicella: Again, my point was "and", not "or."

Mr. Zuraf: They're going to add "and" so it's "and/or".

Mr. Apicella: It can be "and-slash-or"?

Mr. Rhodes: Okay, "and-slash-or" I think would be most appropriate.

Mr. Zuraf: Okay. Then, the next change is proffer 9, subset a., General, "Applicant shall construct or cause to be constructed a minimum of 45,000 square feet of commercial space on a minimum of six (6) acres." And then a new sentence added onto the end, "Vehicle fuel sales shall not be permitted on the Property."

Mr. Rhodes: Okay.

Mr. Zuraf: Then the next change would be to proffer 9.e., Site Configuration. So it will say "Any proposed pad site shall utilize an internal traffic flow system. There shall be no curb cuts onto Leeland Road and access shall be obtained through", so you're deleting "provided that" and "can". So it's saying, let me read it again, "There shall be no curb cuts onto Leeland Road and access shall be

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obtained through the Morton Road alignment” so it’s deleting “commuter rail parking facility and”. And then after “Morton Road alignment” comma, and then they’re adding in “to include the commuter lot areas, as described in Proffer 8 above.” So, reading that sentence again, “There shall be no curb cuts onto Leeland Road and access shall be obtained through the Morton Road alignment, to include the commuter lot areas, as described in Proffer 8 above.”

Mr. Hirons: Mike, if I could pause right there, is Morton Road the proper reference point? Or should it read Primmer House Road now?

Mr. Leming: (Inaudible - no microphone.)

Mr. Hirons: Okay, right. I would love for that road to be one name all the way through.

Mr. Zuraf: And then the last change, proffer 16, it would read “The Applicant agrees that the County may continue to utilize the commercial portion of the site for VRE parking” adding in “consistent with the terms of the current lease until six (6) months after the date of the submission of the final site plan for any portion of the commercial area.” Deleting 4 and adding 6 months.

Mr. Rhodes: Alright. Any other comments to the modified proffers? We need to entertain a motion to accept the new information since it’s being presented tonight.

Mr. Hirons: Mr. Chairman, I move to accept the proffers as they were just edited and presented to us.

Mr. Rhodes: Accept the new information that’s just been handed tonight. Is there a second?

Mr. Gibbons: Second.

Mr. Rhodes: Second by Mr. Gibbons. Any further comment Mr. Apicella... I mean Mr. Hirons? I’m going to rename you. Any further comments Mr. Gibbons? Any other member? All those in favor of accepting the new information being presented to night so we can act on it signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None opposed. Okay, now I’ll entertain a motion for the item.

Mr. Hirons: Mr. Chairman, I would move the Planning Commission recommend RC1300138, Reclassification, Leeland Station Proffer Amendment.

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Mr. Rhodes: With the amended proffers as discussed tonight.

Mr. Hirons: Yeah.

Mr. Gibbons: Second.

Mr. Rhodes: Okay, motioned and seconded. Any further comment Mr. Hirons?

Mr. Hirons: The only thing I want to say, I do appreciate the applicant having worked with us throughout this process. I know it's been kind of a long process, both from your standpoint of what you wanted to do with the project and where we are tonight, and working with not only the elected representative from the area, also myself and the community. You guys have really... one thing I will say, you stepped up to the plate and have been good neighbors to the community. So, I think the residents of Leeland Station, and certainly those of us that represent folks there, do appreciate that so thank you. I know the County position and the applicant's position on some of the costs and some of the proffer cash amounts are still an item of some debate. It's something that I think will probably continue to be discussed and negotiated through the Board process. I hope that you'll continue to work with the County and work with staff and the elected officials to make sure everyone gets to the best point possible. I don't recommend this with complete enthusiasm but we do want to get this moving along because, as I told Mr. Gibbons when he asked, this project does have a sense of favorability within the community as opposed to what the current proffers are. So, with the restrictions that are existing in the current proffers, I think it's in the best interest of everyone to keep this process, this application, moving forward. So I look forward to hopefully getting this moving forward and onto the Board and you guys can deal with those folks.

Mr. Rhodes: Any other comment Mr. Gibbons? Any other member? All those in favor of the motion which is to recommend approval of RC1300138, Reclassification, Leeland Station Proffer Amendment, with the modified proffers as were accepted tonight signify by saying aye.

Mr. Apicella: Aye.

Dr. Schwartz: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None opposed. That passes 7-0. Moving forward, good luck, thank you very much. We have N/A on New Business, N/A on Planning Director's Report, N/A on County Attorney's Report, N/A on Committee Report, N/A on Chairman's Report, N/A on Other Business, N/A on Approval of Minutes, and not N/A on Adjournment, so we are adjourned. Thank you all very much.

NEW BUSINESS

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N/A

PLANNING DIRECTOR'S REPORT

N/A

COUNTY ATTORNEY'S REPORT

N/A

COMMITTEE REPORTS

N/A

CHAIRMAN'S REPORT

N/A

OTHER BUSINESS

N/A

APPROVAL OF MINUTES

N/A

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 8:34 p.m.