

STAFFORD COUNTY PLANNING COMMISSION

February 22, 2023

The meeting of the Stafford County Planning Commission of Wednesday, February 22, 2023, was called to order at 6:00 PM by Chairman Kristen Barnes in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

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

MEMBERS ABSENT: None

STAFF PRESENT: Jeff Harvey, Lauren Lucian, Stacie Stinnette, Evelyn Keith, Amy Taylor, Natalie Doolittle, Mike Zuraf

DECLARATIONS OF DISQUALIFICATION

Ms. Barnes: Do we have any declarations of disqualification this evening? Okay, hearing none, are there any changes to the agenda? Okay, hearing none, we'll move on to the Public Presentations portion of the meeting. This is this an opportunity for anyone to speak on any topic or item except items scheduled for public hearing tonight. Items for public hearings will have a separate opportunity for public comment after the staff and the applicant presentations. When you come forward, state your name and address. Once you do so the green light at the podium will come on indicating 3 minutes to speak. The yellow light will come on when 1 minute remains. And the red light will begin blinking when time has expired. And we ask that you work to conclude your comments. If anyone would like to speak before the Commission please come forward. I've ended it too short before so I'm really giving it some time here. Okay, hearing, seeing none, I will go ahead and close the Public Presentations portion of the evening and we will move on to our first item on the agenda, Conditional Use Permit for the Shops at England Run Panda Express. And for this we recognize Ms. Evelyn Keith.

PUBLIC PRESENTATIONS

NONE

PUBLIC HEARINGS

1. CUP22154490; Conditional Use Permit – Shops at England Run Panda Express – A request for a conditional use permit (CUP) to allow a drive-through facility associated with a restaurant use within the B-2, Urban Commercial and HC, Highway Corridor Overlay Zoning Districts on Tax Map Parcel No. 44-120U (Property). The Property consists of approximately 1.006 acres, located on the northeast corner of the intersection of Warrenton Road and Plantation Drive, within the George Washington Election District. **(Time Limit: June 2, 2023)**

Ms. Keith: Good evening, Madam Chair and members of the Commission. I'm Evelyn Keith with the Department of Planning and Zoning. And I will be presenting the Panda Express Conditional Use Permit.

Ms. Barnes: Ms. Keith, can you get more towards the... or take the mask off, either one.

Ms. Keith: I'll get the mask, I'm so accustomed to it.

Ms. Barnes: Thank you.

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Mr. Harvey: Computer please.

Ms. Keith: Okay. Again, I will be presenting the Panda Express Conditional Use Permit this evening. This request is for a restaurant with a drive-through in the B-2, Urban Commercial and Highway Corridor Zoning Districts. The Tax Map Number is 44-120U. It's located within the George Washington Election District. The applicant is Panda Express Group Inc. Owner is CFT NV Developments, LLC. Jessica Pfeiffer is the agent for the application and will be representing the applicant this evening. The property is outlined in blue on the zoning map and it is zoned B-2, Urban Commercial and within the Highway Corridor Overlay District. The site is located on the northeast corner of the intersection of Warrenton Road and Plantation Drive. The surrounding zoning districts are B-2 on all sides with some M-1 and M-2 within the vicinity. The property consists of 1.00 acres. The site was rezoned from R-2 to B-2 on April 5, 1988, with no proffers. These are the existing conditions. The property access is provided via the existing entrance on Warrenton Road and an inter-parcel connection with adjacent property to the north. The site has an existing paved parking area and an existing vacant structure, which is the location of a former PNC Bank. Sidewalk was previously constructed along Warrenton Road within the public right-of-way. A restaurant with drive-through is located to the east and a bank to the west. There are no environmental sensitive features or resources present at the site. This is a street view from Warrenton Road. This GDP depicts the proposed layout of the Panda Express restaurant, with a single drive-through lane with two ordering points and a bypass lane. The existing vacant commercial building will be demolished for the construction of the new 2,600 square foot restaurant. Vehicles will enter the drive-through on the north side of the building, which counterclockwise around the north and west sides of the building, as shown in blue. The drive aisles and parking are located to the east of the building. Access to the site will be provided via the existing entrance on Warrenton Road and the inter-parcel connection with the adjacent property to the north. A sidewalk connection from the restaurant to the existing sidewalk along Warrenton Road will be provided as required by HCOD development standards, and a sidewalk connection to the new sidewalk along Plantation Drive will be provided. The loading space and dumpster enclosure are proposed near the rear of the building, both of which will be screened from view of Warrenton Road as required by HCOD development standards. Also, as required by the Zoning Ordinance, a landscape street buffer is proposed along Plantation Drive and Warrenton Road, and a parking lot permanent landscaping along the eastern portion of the site. Since the location of the required planting areas are encumbered with utility easements which will impact the applicant's ability to provide the required buffer width, an alternative compliance will be required. The applicant has indicated that they will pursue this at site plan submission.

Ms. Barnes: Go ahead.

Ms. Sellers: On this picture here, it shows this cut-through that goes right into I believe it's Pancho Villa back there. Where does the current building set on this property? Is it currently designed like this?

Ms. Keith: It is not. The... let me go back to the street view. This is where it's located on the site currently. So it's facing, the façade is facing Warrenton Road.

Ms. Sellers: Okay, and that cut-through, how it just goes straight back through into this parking lot, has that been... do we have any comments on that?

Ms. Keith: No, it's existing. It's an existing inter-parcel connection with the Shops that England Run.

Ms. Sellers: But currently there's a building. It's not just a straight shot through.

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Ms. Keith: Well, this is a redesign of the site. So the building, this is going to be reconfigured, the site. Based on the GDP, let me go back to the GDP, it will be a straight shot. They actually shift this entrance over more toward the east. It was more toward the west going into that inter-parcel connection.

Mr. Harvey: Ms. Keith, would you please put up the aerial view of the property? That may help answer some of the questions.

Ms. Keith: Here it is right here.

Ms. Sellers: Yeah, so see, right now there's a building in there. So you can't just like cut through.

Ms. Keith: Correct.

Ms. Sellers: It's not as easy of a cut-through. And I'm just, just putting it out there that have we put thought to the fact that this is a stoplight up here and people are going to use this as a cut-through? I mean, I was a teenager in Stafford County, and we would have cut through that parking lot. So I just want to put that out there.

Ms. Keith: Those are the chances. I mean, you just don't know. But the way the site is designed, it does have access to that inter-parcel connection. But you never know.

Mr. Bain: But isn't the main driveway to the shopping center just on the other side of that adjoining property? So if anybody's going to cut through, they'll cut through there if traffic is backed up at the light.

Ms. Keith: That's correct.

Ms. Sellers: I think there's a stop sign over here by Taco Bell. I'm sad to say that we eat there quite a bit after gymnasts. And I think there's a stop sign here. They're not going to go there. They're gonna go right through this parking lot and cut through that way.

Mr. Apicella: Are you talking about where the Burger King is?

Ms. Keith: I mean, potentially...

Ms. Sellers: So there's the Burger King next to it. And the one across that, this drive here is a Taco Bell.

Mr. Apicella: That's not a stoplight there.

Ms. Sellers: Are you sure?

Ms. Keith: No.

Mr. Apicella: Yeah. I live over there.

Ms. Sellers: A stop sign?

Mr. Apicella: I've lived there... well, of course, there's a stop sign. But there's no stoplight.

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Ms. Sellers: There's not, yeah, that's what... I'm just afraid this is going to become a cut-through to avoid this light. And we might want to think about that.

Ms. Keith: Okay.

Mr. Bain: I'm not sure where you're saying a stop sign is an I know...

Ms. Sellers: It's not on this property. It's by the Taco Bell, which is where the main entrance is.

Mr. Apicella: It's between the Taco Bell and the Burger King. So if you went out of the Taco Bell, or you went out of the Burger King, you'd come out and you go onto Route 17.

Mr. Bain: Do you understand where they're talking, Evelyn?

Ms. Keith: I believe they're talking... the stop sign you said? Here, like if... they're gonna come out through here.

Ms. Sellers: Yep. So if you go east...

Ms. Keith: And go... go east?

Ms. Sellers: Go east to Burger King. So Burger King's the white roof.

Ms. Keith: Yep.

Ms. Sellers: Then there's this driveway. That's the entrance. That's the main entrance coming into the shopping center. This is Taco Bell to the east. I believe there's a stop sign right there. So my concern is, people are going to try to bypass this light because it does sometimes get backed up and cut through this parking lot. And try and come out over here by Pancho Villa. Just something to think about. I mean, I don't know if it matters, but.

Ms. Keith: Understood. I just don't know how we can prevent that. Because people cut through the courthouse here. They're not supposed to, but they do.

Mr. Bain: I'm more concerned, and I've raised the issue with the applicant about traffic coming out of the drive-through lane and then trying to turn right onto Warrenton Road. During the rush hour it's going to be backed up so much that they're going to end up with stacking in their drive-through lane. And people are going to get frustrated that they can't get out after they've gotten their food. They're going to... because with rush hour traffic, you're only going to get maybe one car is allowed out and then traffic moves. And then the stoplight stops them and then another car goes out.

Ms. Barnes: They'll have to circle around and cut through.

Mr. Bain: Well, that's, that was...

Ms. Barnes: Yeah.

Mr. Bain: That was... yeah.

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

Mr. Bain: That was, that was actually going to be my suggestion was to make that an entrance only. And then force all the traffic to come up and come out onto Plantation Road. The applicant has indicated they wouldn't be willing to do that. And I don't think we can force that as a condition because that's a VDOT issue. Is that right, Mr. Harvey?

Mr. Harvey: Madam Chairman and Commissioner Bain, this is a conditional use permit. So the Board of Supervisors can impose conditions with regard to access. But ultimately, as you stated Commissioner Bain, access is a function of VDOT's purview. So it'd be... if we put a condition that VDOT would not accept, then we would have to revisit the conditional use permit again.

Mr. Bain: I suspect they wouldn't accept it so I'm not gonna push the issue. But, but it is a concern, and they're gonna have to live with it if their customers get unhappy, because they can't get out. Okay, I'm sorry, Evelyn.

Ms. Keith: No, that's okay. I believe I've covered all the remarks on the GDP. Now we're moving on to the delivery and truck access exhibit. What it does is indicate how the truck will maneuver throughout the site. And it demonstrates the truck will enter here through Warrenton Road, and will back into the parking... I'm sorry, to the loading space at the north end of the building. And exit through the northern inter-parcel connection. So here, they're going to, as indicated. And then when it gets to the loading space, which is here, they're going to pull up and back into the space. And due to the site, the width and the design of the site entrance and travelways, delivery trucks will likely encroach into the egress lane at the Warrenton Road entrance and the opposing travel lanes within the parking lot. The applicant has indicated the delivery hours would be 9pm to 8am. So overnight, outside of business hours, and this would limit conflicts with customers vehicles.

Mr. Bain: What are the business hours for the restaurant?

Ms. Keith: It is 10am to 9pm.

Mr. Bain: Okay.

Ms. Keith: Seven days a week.

Mr. Bain: I think that that's a really good point to make that we don't want those delivery trucks there during the business hours because it'll just foul up everything. And I think that's something that we should make a condition, add a condition that the trucks have to, are restricted to that time span 10pm to 8 or 9am.

Ms. Keith: There actually was a condition. I think we're just somewhat streamlining some of our conditions, because of that condition. Someone's staff would have to be out there. It's not as easy enforceable because of the time of evening.

Mr. Bain: I understand, but we can make it a condition that if it becomes a problem, we have the authority to enforce it. So I still would want to add that, would recommend adding that as a condition.

Mr. Harvey: Madam Chairman and Commissioner Bain, as Ms. Keith was saying, through the enforcement process, if there were complaints, we would have to have a staff person there to witness the

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violation. And also, too, if the staff person came back at a later date to see if they remedied the violation and there was no violation, then they would be able to proceed forward. So we end up in a kind of a to do loop constantly with these types of conditions. And they're very difficult to prove and move forward with, in verifying that there's actual violations.

Mr. Apicella: I'm with you, Mr. Bain. If it becomes a recurring issue, then they jeopardize their conditional use permit. I hear what you're saying, Mr. Harvey, but in the absence of a condition, we're just taking the applicant at their word that they're going to enforce it. As Mr. Bain said, this is, this is going to create a problem if it happens during business hours, so.

Ms. Barnes: Well, I would think that if it happened during business hours, and they were blocking traffic, they're blocking customers and the business isn't gonna like it very much anyway. And they're probably going to put an end to it pretty quick. I would imagine. I see shaking heads back there. So that might be some, some level of, you know, relief on that point.

Mr. Apicella: Yeah, but it doesn't hurt... it doesn't help the person who gets stuck there, right, who's trying to get out at that point in time, so.

Mr. Bain: And I would volunteer Mr. Apicella and Mr. Shelton to monitor the situation since they, since they live out. Alright. *[Laughter]*

Mr. Shelton: I respectfully decline. *[Laughter]*

Mr. Bain: Let's, well, let's just let it go right now; we'll talk to the applicant about it because I have a related question for them, so.

Ms. Keith: Okay.

Mr. Bain: We'll come back to it.

Ms. Keith: Okay. Moving on, these are the architectural renderings for the Panda Express building. Due to the property location within the Highway Corridor Overlay District, the building must conform to the architectural standards in the Neighborhood Design Standards Plan. This review occurs prior to building permit approval. Staff notes that the proposed building design conforms with several of the architectural guidelines in the design standards. This is the Future Land Use map. The Comprehensive Plan identifies the property as being in the Berea Targeted Development Area. The more detailed... oops... the more detailed concept for the Berea Targeted Development Area designates this property for a highway commercial. Infill development and reuse of undeveloped existing commercial sites is encouraging in these areas. And site design criteria for commercial development along major roadways include the use of shared entrances, inter-parcel access connections, sidewalks, and street buffers. Staff notes that the proposed drive-through use is consistent with the Comp Plan recommendations. These are a few conditions that, which will offset any potential negative impact. One, development of the site shall occur generally as shown on the GDP. A sidewalk shall be constructed along Plantation Drive, and a sidewalk connection shall be provided between the proposed building and the existing sidewalk along Warrenton Road. A row of large evergreen shrubs adequate to screen headlight glare from the drive-through shall be provided along Warrenton Road and Plantation Drive. And the building shall be constructed in general conformance with the styles depicted on the architectural renderings, and the building façade materials shall comply with the Neighborhood Design Standards. These are some positive features or aspects of this application are that the proposed use is generally consistent with land

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use recommendations in the Comp Plan; consistent with established highway commercial-oriented development pattern along Warrenton Road; the proposed building design incorporates recommendations from the Neighborhood Design Standards Plan; and the proposed use is appropriately sited to minimize impacts to Warrenton Road, which is the corridor highway. And staff identifies a negative impact with the truck delivery to the property which will likely encroach into the egress lane at Warrenton Road entrance. Staff is supportive of this application and recommends approval of the application 22154490, with conditions, pursuant to Resolution R23-46. That concludes my presentation. Any questions?

Ms. Barnes: Questions for staff? Go ahead, Ms. Sellers.

Ms. Sellers: Just for clarification. So there's a bank there now with a drive-through, and it does not have a conditional use permit. Is there a reason why?

Ms. Keith: Yes, that bank was there prior to that requirement. So it predates the ordinance.

Mr. Shelton: Madam Chair?

Ms. Barnes: Go ahead.

Mr. Shelton: You mentioned the delivery trucks. Any idea of the size of these delivery trucks? Are they tractor and trailers or are they box trucks?

Ms. Keith: I was informed that is the WB50. So I guess that's like a long... I can defer more specific to the applicant. But it's a WB50. So that's the length of the...

Mr. Bain: That's a tractor-trailer.

Ms. Keith: ... the tractor trailer truck.

Ms. Barnes: Okay, any further questions for staff? Okay, thank you very much.

Ms. Keith: Thank you.

Ms. Barnes: Would the applicant like to come forward?

Ms. Pfeiffer: Good evening, my name is Jessica Pfeiffer. I'm a land planner with Walsh, Colucci, Lubeley and Walsh here on behalf of the applicant. Here with me tonight is Jonelle Cameron, an attorney with Walsh Colucci, as well as Madison Rickey, a Project Manager with Foresight Group that's the civil engineering firm; Andrea Bader, a Project Manager with NORR Architects, the architect for the project. We are all here on behalf of CFT NV Developments, LLC, an entity owned by Panda Express who is the owner of the property and the applicant of this conditional use permit. This is a conditional use permit that will replace an existing vacant drive-through bank with a drive-through restaurant. So this is where the property is located. It is on the north side of Warrenton Road near the intersection with Plantation Drive and Warrenton Road. There's an existing traffic signal at Warrenton Road and Plantation Drive. And just to orient you, I know many are very familiar with the shopping center, Big Lots is the anchor in the rear, Burger King is adjacent to us, and Taco Bell is on the other side of the entrance. I did want to point out one thing while we're on this slide, and I'm not quite so good at circling but we'll see if it works for me this time. There is a stop sign here. There is also a stop sign here or

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going to be a stop sign there. So you will still have to stop at this location before you can make that turn. So you could come in the main entrance which is wider and easier to get through and you don't have to deal with the parking spaces and customers coming in and out. Or you could, you could come to the shopping center entrance or ours. The one thing we wanted to do is if you see this, the drive-through lanes kind of come out the entrance, which is right here. So if this were to backup the way it's designed right now, it would backup into Warrenton Road. The way our site is designed, our drive-through is on this side. And it is entirely internal to the site as opposed to the way the PNC Bank was designed. Again, there's currently a vacant PNC Bank on the property. This is in the George Washington Election District. And this is not a new pad site on the corridor. It's just the redevelopment of an existing pad site. This is the zoning; Evelyn covered this really well, so I'm just going to skip right along. These are the existing conditions. As you can see here, there's very minimal landscaping on the site today. You also do not see any sidewalk on Plantation Drive. This is the contextual plan... sorry... this is our contextual plan which shows the proposal within the overall corridor and how it will fit into the corridor. To zoom in just a little bit on our proposal, the building is approximately 2,600 square feet and this is a really good one to show you how our drive-through is internal, so all of our stacking is done totally outside of this, this lane right here, this this ingress/egress. This plan shows an existing sidewalk along Warrenton Road, but it also shows a new sidewalk and pedestrian connectivity from the building to both Warrenton Road – thank you, that was too good to be true. So this is connectivity here to the building. And then we show connectivity here to the building, and then we're showing this new sidewalk on Plantation Drive and the existing sidewalk on Warrenton Road. Again, a drive-through that's more internal to the property than the existing condition. We do have a full bypass lane. The previous PNC Bank I don't believe had a full bypass lane. Our parking, we are fully parked on site. We're required to have 29 spaces; we have 35. And then in terms of landscaping, we are really upgrading the landscaping. Just to go back one, you pretty much see no landscaping along Plantation or Warrenton Road. We are going to be providing a 15-foot street buffer on Plantation Drive and Warrenton Road. And we're also going to be providing a 5-foot perimeter parking lot landscaping adjacent to Burger King. There are two ordering points. There's an ordering point here and an ordering point here, and your pickup window is located right there. And then you can see the full bypass lane with this car in it that comes around here. Since this is a redevelopment, the trip generation did not exceed the threshold. And a traffic impact analysis was not required as determined by County staff. We did submit a determination form and memo. The proposal only generates 352 new, net new daily trips. And let me explain that because that counts inbound trips and outbound trips. So inbound is one, outbound is one. So that's 176 inbound and 176 outbound, for a total of 352. VDOT did review the proposal and responded that the plan was adequate as shown. And I know there's been a little discussion about this access right here. One thing to note which I know many of you know, there is a median right here, so absolutely no lefts could be made here. This is an existing access point. The Burger King does not have an access point. So this is an existing condition as shown. We did not receive any other comments related to transportation or the intersection of Plantation Drive and Warrenton Road. So in terms of loading, Evelyn did a great job explaining. But one more thing I wanted to mention is our tractor-trailers, as shown, they enter off of Warrenton Road, they come up here through the shopping center, and they come out Plantation. They do not exit back out Warrenton Road. So we don't have tractor-trailers making that turn. We use a variety of trucks for delivery. So, Mr. Shelton, as you said, we could use WB50s and that's what we showed on this as kind of a worst-case scenario, but they're absolutely our box trucks, vans, WB35s. Panda Express did not feel comfortable limiting which trucks could and could not come on site. We are hearing more and more from users that if a delivery is coming, we absolutely don't want to turn them away. So we just looked at the worst case scenario and made sure that it worked on the site from a loading aspect. We were okay with the condition that limited deliveries from 9pm to 8am. We would like that to be a condition if staff's okay with that. We are absolutely okay with adding that and suggested it from the beginning.

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Mr. Bain: Let me, let the interrupt if I could.

Ms. Pfeiffer: Sure.

Mr. Bain: And just ask because I can envision a scenario, trucks coming from Ohio with your tacos in it or something... not tacos. *[Laughter]* Sorry, your rice. Yeah. Sorry. Yeah. It gets tied up in traffic around DC and supposed to get there at 6am, shows up at 10am. What are you going to do?

Ms. Pfeiffer: Well, so usually in these situations, there is going to be a manager on staff. The manager is aware of the conditions. I would suggest as their representative that they turn that truck away and say we have a condition that prohibits deliveries between the hours of... we're only allowed deliveries between the hours of 9pm and 8am. That's not to say it's, it's never going to happen. But if it does happen, one thing, I know you don't obviously don't want a staff person to be standing out there. That's not efficient. But, but take a picture. I also wanted to note, we were taking a look at this. I do not believe that the Burger King or the Taco Bell has any loading spaces. So I think what they do is that they use and there must be a better... because you can see it in some of these pictures... I believe they use the parking, the excess parking spaces in the shopping center for their loading, or they just block off customers. But we will absolutely have these conditions, we'll make sure the manager of the restaurant has the conditions. And it is the intent of Panda Express to abide by the conditions.

Mr. Bain: Okay, good.

Mr. Shelton: Madam Chair, probably about 65% of that parking lot there is vacant all the time.

Ms. Pfeiffer: We noticed, I think it was Google Earth that you can see a lot of tractor-trailers parked there. So we were wondering if maybe people were using it as loading. So we not only did a loading exhibit to show how the loading would work. We also did an auto turn analysis just to show if the truck wanted to pull up into the loading space. So this is the biggest truck possible. I don't fit in the loading space. I back up, I unload, I come out here. But also, if you go back to this one, it doesn't really matter if I don't fit in the space because the store is closed. I unload and then I go. But we did look at both options to make sure staff was comfortable. This is the architecture. We did do some upgrades on this from working with staff in order to meet Stafford County's Neighborhood Development Standards. The primary building materials are brick, stone, and wood panels as you see here. Those were upgrades. And this is the front that will face Warrenton Road. This is the rear of the building. And also you can see here the pickup window associated with the drive-through. This proposal will make use of a vacant pad site. It will increase pedestrian connectivity and overall landscaping while only minorly increasing the amount of traffic from the drive-through bank scenario. With that, staff is recommending approval and we seek your favorable action this evening. And I'm available for questions.

Ms. Barnes: Questions for the applicant?

Mr. Shelton: I have one question.

Ms. Barnes: Okay. Go ahead, Mr. Shelton.

Mr. Shelton: You're going to do drive-through, you're going to do on-site. Are you doing delivery also?

Ms. Pfeiffer: That is a really good question. I know Panda offers a curbside pickup. I would think... I would think that they probably have a scenario where like maybe Uber Eats or Grub Hub could, someone

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could come pick it up and then bring it to the person through a delivery service like that, but I can confirm that.

Mr. Shelton: Thank you.

Ms. Pfeiffer: They don't deliver.

Ms. Barnes: Okay, any last questions for the applicant? Okay, thank you very much. Alright, we will move on to opening the public hearing on this matter. This is an opportunity for the public to comment on this agenda item. Before starting your comments, please state your name and address. The clock starts when the green light appears. Yellow means there's 1 minute left. And red means that your time is up. If anyone care to come speak on this agenda item, please come forward. Okay, seeing none, I will close the public hearing and bring this back to the Commission. Mr. Bain, this is in your district, what would you like to do?

Mr. Bain: I think first I would like to make a motion to add a condition to limit delivery trucks to the time that the applicant has indicated, 10pm to 8am. If anybody would like to second that motion.

Ms. Sellers/Mr. Shelton: I'll second it.

Mr. Apicella: I think they were looking for 9pm.

Mr. Bain: Or 9pm... I'm sorry, excuse me. Yep, you're right. I amend my motion 9pm to 8am.

Ms. Barnes: Okay, and I heard a second down here.

Mr. Shelton: A double second.

Ms. Barnes: Double second. I think I'll hit with... I'll go with Laura on that one. So we have a motion by Mr. Bain and a second by Ms. Sellers to add that condition. Any discussion on that?

Mr. Apicella: I could be wrong. I don't think we need to take a separate motion. I think if you just include it in your overall motion to...

Mr. Bain: Oh, okay, I'm sorry.

Mr. Apicella: ... add that condition with...

Mr. Bain: Well, then...

Ms. Barnes: You can make a motion with the, with the condition added that we already discussed. If you want to withdraw that motion real quick.

Mr. Bain: I withdraw my motion.

Ms. Barnes: Okay.

Mr. Bain: Sorry about the mix-up on protocol.

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Ms. Barnes: Okay. Let's try again.

Mr. Bain: Then I would like to make a motion to approve CUP22154490, the conditional use permit for Panda Express Restaurant, with the added condition that delivery vehicles be limited – let me get the time again – to 9pm to 8am.

Mr. Shelton: Second.

Ms. Barnes: Okay, so we have a motion by Mr. Bain and a second by Mr. Shelton for CUP for Panda Express with the aforementioned condition. Any further discussion? Go ahead.

Ms. Sellers: They don't have Uber Eats or Grub Hub either.

Mr. Bain: Okay.

Mr. Shelton: Are you in management? *[Laughter]*

Ms. Sellers: I know food well. *[Laughter] Inaudible, microphone not on.*

Ms. Barnes: Okay, any other further comments?

Mr. Bain: I would just comment that I appreciate what Mr. Harvey had mentioned about the difficulty in enforcing it. But I just think, and I would do this for any restaurant that's going to come to us, I think it's a good idea to have that option for enforcement if it becomes an issue. And that's why I'm still recommending that condition be added. The Supervisors can overrule me if they want. Thank you.

Ms. Barnes: Okay, any other comments? Alright.

Mr. Cummings: I'm going to make a comment.

Ms. Barnes: Okay, Dexter, go ahead.

Mr. Cummings: Only because of the technology is here and counsel or advisor, the applicant made a great comment taking pictures are great. We have cameras everywhere or are about. And so we have to figure it out. So the preponderance of the evidence is not really a high standard. And so testimony and/or the like, including images, should be enough at trial to be able to get the verdict. So.

Ms. Sellers: *Inaudible...* but I would definitely disagree.

Ms. Barnes: Okay, that may be a discussion for later, but hearing no further comments... and thank you, Mr. Cummings for that... please go ahead and cast your vote. Okay, that passes unanimously, 7 to 0. And thank you very much. Congratulations and best of luck moving forward. Okay, we'll move on to item number 2, Reclassification for RA-Amit, LLC. And for that we will recognize Ms. Amy Taylor. Are we going to do 2 and 3 together?

2. RC22154436; Reclassification – RA-Amit, LLC – A proposed zoning reclassification, with proffers, from the B-3, Office Zoning District to the B-2, Urban Commercial Zoning District on Tax Map Parcel No. 38-20, consisting of 4.98 acres (Property). The Property is located along the east side of Richmond Highway approximately 3,700 feet north of Centreport Parkway,

within the Falmouth Election District. **(Time Limit: June 2, 2023)**

3. CUP22154646; Conditional Use Permit – RA-Amit, LLC – A request for a conditional use permit (CUP) to allow a hotel/motel within the B-2, Urban Commercial and HC, Highway Corridor Overlay Zoning Districts on Tax Map Parcel No. 38-20 (Property). The Property consists of 4.98 acres, located along the east side of Richmond Highway approximately 3,700 feet north of Centreport Parkway, within the Falmouth Election District. The Property is subject to a concurrent request for a zoning reclassification to the B-2, Urban Commercial Zoning District. **(Time Limit: June 2, 2023)**

Ms. Taylor: Yes, 2 and 3 are going together.

Ms. Barnes: Okay. So, this is both the reclassification and the CUP.

Ms. Taylor: Yes.

Ms. Barnes: Thank you.

Ms. Taylor: Good evening, Madam Chair, members of the Commission. I'm Amy Taylor, and I am presenting items 2 and 3 this evening, which is a reclassification appli... excuse me, zoning reclassification and a conditional use permit for RA-Amit, LLC. The request again is for a rezoning of a 4.98-acre parcel from the current B-3 zoning district to the B-2, Urban Commercial zoning district, as well as a conditional use permit to allow a hotel or motel within the B-2, Urban Commercial zoning district and the Highway Corridor Overlay District. The property is located at Tax Map Parcel 38-20 within the Falmouth Election District. And the applicant and owner is Raj Gupta with RA-Amit, LLC, and he is actually here this evening and will be representing himself at tonight's hearing. This site is located along the east side of Richmond Highway, approximately 3,700 feet north of Centreport Parkway and the effected parcel is shown here as outlined in blue. The property is currently zoned B-3, which is the Office zoning district and is located entirely within the Highway Corridor Overlay District. And surrounding zoning districts are B-1 to the north, A-1 to the east and south, and M-1 to the west. For some background regarding prior use and zoning for this site, prior to 1986, the property was the location of the former Town and Country Motel. The property was then rezoned in 1986 from B-1, Convenience Commercial to the current B-3, Office zoning district with no associated proffers. There was also a special use permit approved in 1986 for use as a rest home, which was in turn the Potomac Point Nursing Home at that location. That special use permit was amended in 1990 to expand the number of beds permitted, and ultimately nursing home operations ceased in 2006. And ultimately, that property has remained vacant since that time. In addition, staff would also like to note that the primary purpose of the reclassification request is to allow the applicant greater flexibility regarding the types of commercial development permitted on the property and in addition to the proposed hotel or motel use.

Mr. Bain: Can you expand on that, please? What types of commercial use would be allowed then in a, in a building like this? I mean, these are going to be small units if they're motel rooms. Would this allow him to totally reconstruct the site and have a, the equivalent of a Wawa or Sheetz type facility without gas distribution, gas sales?

Ms. Taylor: Commissioner Bain, currently the applicant's intent is solely for the hotel/motel use. But he has in... he has expressed interest in pursuing all permitted by-right uses within the B-2 zoning district in the event that he chooses not to retain the property, or in the event that he does not pursue the hotel/motel, which would allow him greater flexibility for any permitted use within the B-2 zoning

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district. However, there are proposed... he is proffering a condition... excuse me, proffering... yes, a condition, which would limit his maximum trip generation to 1,000. So we will get into that a little bit later in the presentation.

Mr. Bain: Alright, thank you.

Ms. Taylor: Resuming where I was, in accordance with Section 28-223 of the Zoning Ordinance, the applicant has requested a waiver of the generalized development plan, since his intent is to simply refurbish the existing building for use as a hotel or motel. And he does anticipate that less than 2,500 square feet of land disturbances is expected. But he has provided a boundary survey which depicts the layout of the site, as well as the location of the existing building and all existing site features. And as previously noted, the building is currently vacant, but it does consist of a single-story structure, approximately 21,815 square feet in size, with a classic horseshoe design. Access to the site includes two existing entrances along Richmond Highway, which are located here and here, which is a full access entrance and then the smaller gravel entrance located south of that building. The existing parking area is located in the center of the building's horseshoe configuration, although additional parking may be required as determined at the time of site plan review. The building was constructed prior to the establishment of various development standards so the site does lack sidewalk and adequate screening along the frontage on Richmond Highway. However, since the parcel is being redeveloped, it will be general... it will be required to comply with all current development standards, including those for the Highway Corridor Overlay District and for landscaping and buffering. Compliance with the applicable development standards would typically occur at the time of site plan review. But staff does want to note that due to potential conflicts with existing easements along Richmond Highway, and the building's proximity to the eastern property line, a departure from design standards may be required where planting requirements cannot be met. The property does have frontage along Richmond Highway and is currently developed with an existing paved parking area and a vacant commercial structure. The site is largely open with several small wooded areas throughout the northern and central portions of the property, and a larger vegetated area along the southern property line does exist as well. Site topography is predominantly level, which generally slopes to the east and to the south. And the existing uses abutting the site include commercial retail to the north, undeveloped agriculturally zoned properties to the east and south, and a planned industrial park to the west on the opposite side of Richmond Highway. This is a street view of the property from Richmond Highway. And this is a map which depicts the existing RPA impacts to the site and, as shown, a resource protection area is located in the southern half of the property and impacts nearly 1/3 of the existing structure. This is a FEMA flood map, which depicts the existing flood zone impacts to the site and, as shown here, nearly the entire site is located within the 100-year floodplain which is shown here in blue. And a portion of the existing building is also within a regulatory floodway. And that is actually the striped or hatched area that you see.

Ms. Sellers: What is a regulatory floodway?

Ms. Taylor: It is... I would not be able to give a full explanation, but based on the mapping provided by our Environmental Division, the Federal Emergency Management Agency basically lays out the limits of what the actual floodway for that stream area is as opposed to just to the floodplain itself.

Mr. Harvey: Madam Chairman and Commissioner Sellers, for your general information, a rule of thumb for the description is a floodway is an area where during a flood event, you may have rapidly moving water, whereas the flood fringe area is area where you're gonna have a backwater flooding. And backwater flooding may create water damage, whereas in the floodway, you may actually have materials break loose.

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Ms. Sellers: And so in order to change too much of this property, would they need a permit from the Army Corps of Engineers?

Mr. Harvey: Commissioner Sellers, no, but they would need permits from the County and our development regulations are very strict in the floodway zone. The flood fringe zone, there is some possibility for redevelopment, but any structures would have to be elevated three feet above the flood elevation.

Ms. Sellers: And so is that why in the staff report, it says you have to, you may be getting into this where they have to protect up to three feet or something?

Mr. Harvey: Yes. Ms. Taylor will be...

Ms. Sellers: Because I've never, I've never seen that before.

Ms. Taylor: Yes.

Ms. Sellers: Okay. Thank you.

Ms. Taylor: Commissioner Sellers, yeah, that was the next point in my presentation. I was getting ready to note that due to the structure's location within that 100-year floodplain, they are subject to the Flood Hazard Overlay District and it will ultimately require the building to be elevated or flood-proofed to a height of three feet or more above the base flood elevation.

Mr. Apicella: So I have a question on those lines. I'm trying to understand. So the staff report says that the intent is to renovate the building. But since it's in a floodplain, and a third of the property is in in RPA, how would that actually work in practice, elevating an entire motel?

Ms. Taylor: Commissioner Apicella, the Environmental Division actually did have discussions with the applicant regarding seeking a flood zone certificate or an elevation certificate, excuse me, to document what the recorded elevation is of the structure itself to determine whether the building was going to be subject to the Flood Impact Zone requirements, and whether or not the building would have to be elevated or flood-proofed in accordance with the standards. The applicant did receive a certify... excuse me, a elevation certificate and confirm that a portion of the building is. And in staff's discussion with the Environmental Division, they did indicate that the portion of the building within the flood zone would need to be again elevated or flood-proofed. And based on the information on the elevation certificate, it does appear to be primarily the crawlspace area under the primary area that the lodging rooms would be located.

Mr. Apicella: So you think it is feasible they can renovate the building and meet the requirements?

Ms. Taylor: It may be possible. I would ultimately have to defer to the Environmental Division. I know that there are going to be cost implications associated with having to make the improvements in accordance with code.

Mr. Apicella: Yeah, I'm just trying to wrap my head around whether it's more likely that they tear the whole thing down and build another hotel or do something else with the property based on the set of circumstances that exist.

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Ms. Taylor: It would be feasible, but it would be up to the applicant's discretion as to whether or not he chose to pursue that, or some other avenue or potentially even another developer coming in at a later date and modifying the site in some way to elevate the site outside of the flood zone.

Mr. Apicella: Okay, thank you.

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

Ms. Barnes: Go ahead.

Mr. Shelton: The work that VDOT did on the bridge and the all, would that have changed that regulatory floodway? Because there was extensive work done over the last three or four years.

Ms. Taylor: Commissioner Shelton, staff would not be able to answer that question. I would have to defer to VDOT for that information.

Mr. Shelton: Thank you.

Ms. Taylor: Moving on, the application did include architect... did not include, excuse me, architectural renderings of the proposed design of the building, since it is the applicant's intent to simply refurbish the existing structure for use as a hotel or a motel. But this is a current photo of the north end of the existing building. And at this time, the applicant has not proffered the building design nor has staff proposed a condition related to the building design or specific building materials. However, since the site is located within the Central Stafford Targeted Development Area and the Highway Corridor Overlay District, any future expansion or reconstruction of the building will be required to conform with the architectural design criteria in the Neighborhood Design Standard Plan. And compliance with all associated development standards will occur at the time of site plan review. And this is an additional photo of the south end of the existing building. The Comprehensive Plan does identify the property as being within the Central Stafford Targeted Development Area or TDA Number 2. And the more detailed land concept plan designates the property as Business and Industry. And specifically, within the Central Stafford TDA, areas designated as Business and Industry are intended to serve as one of the employment centers within the County since the location could accommodate a wide range of commercial activities, which would serve small businesses or larger corporations. And recommended uses include research and technology, warehousing and manufacturing, general office use, hotels and conference space, and complimentary retail uses. Staff does believe that the proposed use as a hotel or motel, or other commercial use, is consistent with the Comp Plan recommendations and is an appropriate use within the Business and Industry area. The use is also consistent with other industrial and commercial uses adjacent to the site. And staff believes that the location is both appropriate for this type of development, and that the proposed proffers and conditions would limit any potential negative impacts. The following are proposed proffers which will help offset any potential negative impacts and would ultimately limit maximum trip generation on the site to no more than 1,000 average vehicle trips per day. And that would be based on all combined uses. It would also limit the site to no more than the two entrances along Richmond Highway. It would limit the use of the southern entrance to utility access and deliveries only. And would also require dedication of additional right-of-way along Richmond Highway to the maximum extent practical.

Mr. Bain: Can we be more specific with that maximum extent practical? I mean, that leaves a lot for interpretation.

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Ms. Taylor: Commissioner Bain, the full language in the proposed, the proffered item indicates that the applicant is willing to dedicate right-of-way along Richmond Highway to the maximum extent practicable, specifically to the point where it would allow them to not create a nonconformity or exacerbate any existing nonconformity on the site. Because it is an existing structure and an existing site, there may be issues for them to dedicate the full 80 feet of right-of-way from centerline as suggested or recommended by the Comprehensive Plan. But they are willing to dedicate as much as they absolutely can, without creating a nonconformity. And that would be a conformity like for setbacks...

Mr. Bain: *Inaudible*... you still don't have a specific number. Can we say 80 feet from centerline?

Ms. Taylor: The language says to achieve as much... the equivalent. The language there says to achieve right-of-way equivalent to 80 feet from centerline to the maximum extent practical. Without a final engineered plan and the location of the centerline of Richmond Highway, staff would not be able to determine exactly how much right-of-way we would be able to receive at this point.

Mr. Bain: Okay. Your bullet in our packet wasn't quite that explicit. But if staff's satisfied with that, you'll be able to get what's needed if they want to make Richmond Highway a six lane road instead of a four lane road that they'll be able to just say we're taking that now.

Ms. Taylor: Commissioner Bain, again, that would typically be reviewed at site plan. When site plan comes in for redevelopment of the site, staff would be reviewing how much right-of-way could be achieved while maintaining their required setbacks for the building. And we would ensure that we are getting the maximum amount at that point. We cannot guarantee that we will get the full 80. That is again recommended by the Comprehensive Plan but staff would ensure that we are getting the maximum amount that we would be able to.

Mr. Bain: Okay. Thank you.

Ms. Taylor: These are proposed conditions. And again some of the, some of these proposed conditions will help offset some of the potential negative impacts and would ultimately allow for development of one hotel, including a hospitality conference room; development of site generally in accordance with the boundary survey; it would limit overnight lodging to a maximum of 35 rooms; it would also prohibit long term room rentals exceeding 30 days. It would also continue to limit access to the two entrances along Richmond Highway, in those general locations shown on the boundary survey; including limit use of the entrance to the south of the building for again utility access and deliveries only. It would also require loading spaces to be located behind the primary building so as not to be visible from Richmond Highway. And it would also require a fence to be installed along the eastern property line so as to screen the rear building façade for the property to the east. Staff finds that positive features or aspects of this application are that the proposed use for a hotel or motel or other permitted commercial uses is generally consistent with the Comprehensive Plan. The proposed use is consistent with the established development pattern along Richmond Highway. Proffers would limit trip generation to no more than 1,000 vehicles per day. And proposed conditions would help ensure any potential negative impacts are mitigated. And negative features are that a, obviously a significant portion of the property is impacted by that 100-year floodplain which may ultimately limit future development or expansion of that site. Staff is supportive of the project and recommends approval of both the reclassification and conditional use permit applications. And that concludes my presentation. And I'd be happy to answer any questions that the Commission may have.

Ms. Barnes: Okay, questions for staff?

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Mr. Bain: Can we go back to the floodplain map you showed? Okay, my, my interpretation of that map says that the majority of the site that includes the structures is not in the 100-year floodplain, because it's not blue. And that's intentional in that area because that area is higher than any portion of the property to the north or south. So for the majority of the property, there would not be any requirement to do flood-proofing or anything. But I'm concerned, you mentioned crawlspace. If the crawlspace access to the crawlspace, that elevation is below the 100-year floodplain elevation, then the understory portion of the structure could be flooded should a flood occur. That concerns me and I'm, I'm just wondering, is there something we can impose that would in some way prevent that from happening should 100-year flood occur? Could we add a condition that a flood wall or something be constructed just along the perimeter where those access points are to keep water from backing up under the structure, because of the potential damage that could cause with mold and actually structural failure if they're on pilings or something? Am I out of line there?

Ms. Taylor: No, Commissioner Bain, actually the Environmental Division did provide comments early in the evaluation process suggesting or recommending that the applicant consider installing a flood wall. But ultimately, development within the 100-year floodplain would be dictated by our Flood Hazard Overlay District, again, which would require them to either elevate or flood-proof that building. I would not be able to explain the specifics regarding that. But again, in discussions with our Environmental Division, even with refurbishing this existing building, the portion of the building that is within three feet of that base flood elevation would be required again to be either elevated or flood-proofed. Clearly the expectation I believe at this point is that the applicant would flood-proof that crawlspace area so that... and obviously nothing will ever be completely flood-proof so that no water permeates the building at all. But that would be ultimately reviewed by our building division for code compliance with building code and the flood requirements that come along with that.

Mr. Bain: Okay, alright. That's good. Thank you, that really worried me.

Ms. Barnes: Billy? Mr. Shelton? Go ahead.

Mr. Shelton: I'm assuming that with the renovation, that would bring it up to the current code requirements for building, plumbing, electrical, fire, etcetera?

Ms. Taylor: Commissioner Shelton, yes, that is an absolute requirement. And in discussions over the many months that this project was under review, the Building Division and the Environmental Division have indicated that all aspects of that building must be brought into current compliance with building codes.

Mr. Shelton: Thank you very much.

Ms. Taylor: Mm-hmm.

Ms. Barnes: Go ahead, Mr. Apicella.

Mr. Apicella: Madam Chairman, a few questions. How many vehicles per day if the property is developed as a 35-unit motel?

Ms. Taylor: At 35 units, traffic generation was estimated to be I believe 280 vehicles.

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Mr. Apicella: Okay. As you indicated in the staff report and in your presentation, the facility has been in disuse since 2006, about 17 years. How has it been taxed?

Ms. Taylor: Commissioner Apicella, I would not be able to answer that question. I would have to defer to the Commissioner of the Revenue regarding any taxing information.

Mr. Apicella: Okay. Yeah, I saw the, I think the tax levy was about 3,000, but I don't know what it was charged at, what commercial use or inactive commercial use or not. There isn't much near the property. But even so there are a lot of B-1 and B-2 uses that are available to the applicant. Are there any that you looked at that might be incompatible or inappropriate for that specific area?

Ms. Taylor: Commissioner Apicella, staff did not fully evaluate all uses. We simply considered the application for all permitted by-right uses within the B-2 zoning district. But in early discussions with the applicant, initially he was willing to consider proffering out a number of uses. And those uses were primarily uses that would generate almost absolutely generate more than 1,000 vehicles a day. Ultimately, as we moved on through the process, he decided that he didn't really want to proffer out those uses in the event that he wanted to pursue or another developer in the future wanted to pursue those uses. And we felt comfortable with that simply because the maximum trip generation cap remained in place. So regardless of what by-right use is permitted or built on that property, they will be limited to 1,000 vehicles a day, which will ultimately limit the type of use or the size or the intensity of that use on the property.

Mr. Apicella: Right. So, so my last question is, trying to understand how the two pieces fit together, the rezoning and the CUP. So the CUP pretends that they're going to redevelop the property as a 35-unit motel, which is currently what's there. But how does that work in concert with the rezoning which also allows for motels and hotels? Could they build something in excess of a 35-unit hotel based on the rezoning piece?

Ms. Taylor: Commissioner Apicella, could you repeat the question one more time for me so I can wrap my head around it.

Mr. Apicella: Okay. Sorry if I didn't do a good job explaining. I'm trying to understand which really takes precedence here, the CUP or the rezoning. Because the, the CUP leads us to believe that they're probably going to... they may redevelop the property as a 35-unit motel.

Ms. Taylor: I think I've got it if you'd like me to answer.

Mr. Apicella: Yeah.

Ms. Taylor: Currently, the current zoning district for the property is B-3. Under the existing B-3 zoning district, a hotel or motel use is only permitted with a conditional use permit. In addition to that, because the site is completely in the Highway Corridor Overlay District, the Highway Corridor Overlay District also dictates that a hotel or motel requires a conditional use permit. The applicant has indicated his interest in rezoning the property to B-2, which will allow him greater flexibility for other types of uses in the event that he chooses not to pursue the hotel or motel and pursue some other business use or sells the property to someone else who wants to pursue some other sort of a commercial use. In the event that the reclassification was not approved, the CUP will allow him to move forward with the hotel/motel use in his existing B-3 zoning district.

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Mr. Apicella: Okay, so...

Ms. Taylor: Maybe I missed it, I'm sorry.

Mr. Apicella: I'm still trying to determine whether they can build a hotel or motel in excess of the 35-units that would be available to them under the CUP, if they build a hotel that's going to provide up to 1,000 vehicles per day.

Ms. Taylor: No, because the conditional use permit limits him to one hotel with a maximum of 35 rooms. The conditions of the conditional use permit...

Mr. Apicella: So the CUP, even though it's related to the B-3 rezoning or current zoning, the fact that it's in the Highway Corridor Overlay District...? Again, I'm still trying to see how the two pieces fit together. I'm trying, I'm having a hard time wrapping my head around it.

Ms. Taylor: A... okay. A hotel/motel use requires, is permitted by-right within the B-3 zoning district. However, the Highway Corridor Overlay District trumps that and requires them to seek a conditional use permit.

Mr. Apicella: Even though it's going to be potentially rezoned to B-2, same set of circumstances?

Ms. Taylor: Correct. So regardless of whether we rezone to B-2 or he retains his existing B-3 zoning district, he must receive a conditional use permit in order to move forward with any hotel or motel use.

Mr. Apicella: Got it, thank you.

Ms. Taylor: You're welcome.

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

Mr. Bain: Just one thought...

Ms. Barnes: Mr. Bain?

Mr. Bain: ... on the, on the right-of-way issue. Would it be advantageous to add a condition that says that they cannot construct any structures closer to Richmond Highway than the current structure limits? In other words, they can't add another wing that would move closer to Richmond Highway if they wanted to.

Ms. Taylor: Commissioner Bain, I believe that would, that would be an adequate condition to consider. And I don't believe that the applicant would be opposed to that, since he has expressed his desire to simply renovate the existing structure.

Mr. Bain: It's not my district, so I would defer to...

Mr. Apicella: I didn't catch what you are recommending, I apologize.

Mr. Bain: Oh. Would you listen? *[Laughter]* I said, could we add a condition that would prevent them from adding any structures, any building structures closer to Richmond Highway than the limits of the

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existing buildings, that those two wings that come out towards Richmond Highway make that the limit of any new structures so that it preserves that right-of-way for the future widening the Route 1.

Mr. Apicella: But that's a condition associated with the hotel. So if they do something else...

Mr. Bain: It doesn't have to be a hotel. It's just a structure, any structure. They could, they could say, oh, I want to make this a...

Mr. Apicella: But the condition has to be associated with the use.

Ms. Barnes: A dog kennel.

Mr. Bain: A dog kennel.

Mr. Apicella: So I think it's, I think that's a stretch. I hear what you're saying, and I agree if in theory, but I think there's a problem.

Ms. Sellers: You could ask for an easement, then to proffer an easement up to that where it currently exists. Although that's going to create a nonconformity, which was the original concern, right?

Mr. Bain: I think Mr. Harvey's ready to clarify my...

Mr. Harvey: Madam Chairman and Commissioner Apicella and Commissioner Sellers, as the discussion has been going on, we have two things. We've got a rezoning and we have a conditional use permit. So, the discussion about future buildings beyond a motel or hotel getting closer to Route 1 is something that the Commission could ask the applicant if they'd be willing to proffer. So that would be a potential proffer for the rezoning application, rather than the conditional use permit. Because that would apply to all buildings, whether it's the existing or some other building feature.

Ms. Sellers: I have a point of clarification.

Ms. Barnes: Go ahead.

Ms. Sellers: Out of curiosity, I pulled up the zoning ordinance, and it says by-right they can have a hotel or motel in a B-2, Urban Commercial.

Mr. Bain: In B-2 but not in the Highway Corridor.

Ms. Barnes: Yeah, the overlay. It's the overlay.

Ms. Sellers: Ohhhh.

Ms. Barnes: Yeah.

Ms. Sellers: Okay. That's what I was confused about.

Ms. Taylor: That's correct, Commissioner Sellers, the Highway Corridor.

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Ms. Sellers: And then... Okay, because of the Highway Corridor. And then that second entrance in, is that a full... like, has VDOT given them the access there? I'm assuming because it's on there.

Ms. Taylor: Commissioner Sellers, that is an existing entrance. And when you look at the location... the GDP or the boundary survey, it is a narrow gravel driveway. It's about nine feet wide, which is..

Ms. Sellers: Today it is.

Ms. Taylor: Correct. Correct. But we did include the condition to limit use of that existing entrance to deliveries and utility access only.

Mr. Apicella: But back to – I'm sorry, did you get what you're hoping for there in terms of an answer?

Ms. Sellers: No, I still have a lot of questions, but...

Mr. Apicella: So, kind of back to Mr. Bain's concern, and I guess I can echo that concern, because we know there's probably going to be some future widening of Route 1 at some point. I think that's where he's going to.

Mr. Bain: Right.

Mr. Apicella: Do we know what the plans are? Is there anything in the, in the... I forget what it's called... the CIP that speaks to it? Or do we have a sense of the long-term plan for the widening of Route 1?

Mr. Harvey: Madam Chairman and Commissioner Apicella, the Comprehensive Plan, as Ms. Taylor indicated, envisions that Route 1 will be a six-lane divided facility in, sometime in the future. Currently, there's no funding in our County CIP for widening of Route 1, specifically in this location. I will note however, and some of you may be familiar with this. In the last few years VDOT has rebuilt the bridge over Potomac Creek, and ended up acquiring a portion of the applicant's property for the widening of the lanes and relocation of the bridge in this area. So that's part of the reason why the draft proffer is written the way it is because the centerline of the road has shifted. And it may be that the 80 feet requires more or less land from him than when we, before that improvement was made.

Ms. Barnes: I see a lot of really puzzled looks up and down the dais. Is there, are there any more questions for staff? Or do you want to hold on to those until we get to the applicant? Okay, I think we're gonna hold on until the staff... be ready, it sounds like you might have some more. Would the applicant like to come forward?

Mr. Gupta: Good evening, Madam Chair. Good evening everybody. I'm Raj Gupta, the owner of RA-Amit, LLC. And at Richmond Highway. I'm very clear with the County that I want to renovate the existing structure, the 35-rooms hotel, because I have a hotel experience, I cannot do anything else. And I assure the County, as well as the board members, that there will be no nuisance on the property. Thirty-five rooms. People will come stay and go. I can assure you that's the best I can say. Regarding the flood zone, there is a 3-foot retainer wall on the back side of the property. There is a 5-foot retainer wall where Mr. Saunders is saying that is in the flood zone, there is a 5-foot tall wall on the southern side and 3 feet retainer wall in the back of the building. Number two, there is nothing in the crawlspace. It's just a walk or pipelines, the sewage lines, electric wire, that's it, nothing. And I think there are two wells. Because I've been the owner of that property for the last 13 years. I spent almost half a million dollars

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on that property when I bought it to fix as a nursing home, assisted living. I got all the permits, everything was done except sprinkler system pressure field. And I bought another hotel, I abandoned this project. That was my mistake. And I lost everything. Because there is nobody around in that area. The stragglers, people, rubbish, they will come steal wires, copper wire, and everything has been stolen from that property. I started fixing this property this summer. I changed the roof. I got the permits to get windows, doors, everything changed. So that property gives a good look. I was taught, the work was taught by the County, reason best known to them. There is no flood, I have not seen even a one six inch of water on the entire property during rainy season. Forget about this summer, or winter, or anywhere. Not even six inches of water I've ever seen on that property. So, I don't know what this flood zone means. Why I've been stopped not to do the renovation. I'm not asking to do a big hotel. I don't have funds to make 60 rooms, 80 rooms, four floors, I don't know. I'm just trying to use that property as my retirement so that I can make some living from there. So, my request is permission may be granted to fix that existing structure. And I promise there won't be any nuisance on the property. The day you see a nuisance, put a log, let the County come, and stop the business. And so that what I can request.

Ms. Barnes: Okay.

Mr. Gupta: Any question, I'm ready to give the answer.

Ms. Barnes: Okay, questions for the applicant.

Mr. Apicella: I guess my question would be, and you probably know this already, and staff can back me up if I'm wrong. So once the property gets rezoned to B-2, that runs with the property, so 50 years from now, if your family sells the property to somebody else, they can tear down the motel and put something else on it.

Mr. Gupta: Agree.

Mr. Apicella: So, so I guess my question to you... am I wrong about that? So, my question is why 1,000 vehicles? Why not 1,500 vehicles or why not 500 vehicles? How did you set on the on the thousand vehicles per day?

Mr. Gupta: I don't know, sir. It was set of numbers of vehicles. If you do this business, so many vehicles they anticipate will come. If you do a business, 20 vehicles will come. If you do hotel business, 200-something vehicles will come during the whole day and night, 24 hours. That is the anticipation given by the VDOT, not by me, not by Ms. Taylor. She has a formula where she picks the numbers of cars, vehicles coming into that business.

Ms. Sellers: I think along that line, would that... that's a condition or is that a proffer? Is that a stupid question?

Mr. Apicella: It's a proffer, the 1,000 vehicles per day cap is a proffer.

Ms. Sellers: So I think what he's saying, I can understand it for the conditional use permit capping it and saying if this is a motel we'll cap it at this. But if you're asking for a reclassification to a B-3, you're limiting yourself and the potential use of that property by that proffer alone, I think is what he's trying to point out.

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Mr. Apicella: In the absence of a GDP, and not knowing what's going there, I would prefer a proffer that caps the number of vehicles per day. But my... so I know about that. I mean, I understand the construct. I was just wondering why the 1,000 vehicles per day was picked, not something higher, or something lower. And again, it's based on, you know, what potential uses might, might work for you and what the County thinks might be appropriate for the area.

Mr. Harvey: Madam Chairman and Commissioner Apicella, if I may?

Ms. Barnes: Go ahead.

Mr. Harvey: The county code requires that any rezoning to generates, or conditional use permit that generates more than 1,000 vehicle trips per day must provide a traffic study. And that will be based on the maximum trips for that specific zoning category. There is an exception to the traffic study if someone proffers a limitation on the number of vehicle trips at or below that 1,000 vehicle trips per day threshold. So that's how we got to that 1,000 vehicle trips per day number.

Ms. Barnes: Do we have any more questions or comments? Ms. Sellers?

Ms. Sellers: I do. That second, that utility entrance to that road, again, if we're looking at a reclassification, and in a few years, somebody comes in and buys that property and wants to put a shopping center there, you kind of limited them and they're going to bring this back. Maybe not you, but they're gonna bring it back and say, hey, we need this removed. So, I'm just trying to... I understand why you're doing it. I'm just I'm trying to understand if you realize, you know, the long term.

Mr. Gupta: I agree with you ma'am. Even in the present B-3, a commercial retail center can be there. But I never thought of it. And I don't want to do it. I have no knowledge, no experience on that. Only knowledge experience I have of a hotel/motel, I can give you the name of the towns, you can inquire from them what kind of business I did there. If they say oh, Mr. Gupta had a bad business over there, don't give me the permission. That what I can say. I had a hotel, a Quality Inn, in South Boston. You can call this out, it's in Virginia, close to Danville, call the chief. They will tell you about me what kind of business I did. I did a hotel/motel business in West Virginia, in Boones County. You can call them and ask them about my business, my work habit, and my behavior with the people, customer, and the town. On this property is there was a question about the taxes. This property taxes are paid to date. I don't owe, I don't believe in owing anything.

Mr. Apicella: That wasn't really my... my question is what was it taxed at? So was it taxed as a motel, was it taxed as something else? And it's probably not really pertinent but I was just curious.

Mr. Gupta: No, no, I can answer that question sir. When I bought this property, the taxes were \$25,000 per year. I paid up to three years. Then I requested the county, there is no income on this property. Why I should we charge that much money? So, the Assessor went there, he lowered the value. I never requested him, I just asked him why I'm paying \$25,000 when there is no income...

Mr. Apicella: Can you get me in touch with that Assessor? No, I'm just kidding. *[Laughter]*

Mr. Gupta: So, County is the one who is assessing the value, and I'm paying the taxes up to date. I get the bill, send the check. I get the bill, send the check twice a year. Yes, the property is sitting there because I'm not getting permissions to get it fix. I got four permits, and look at the County record; it's on stop. Reason best known to them. I spent almost \$60,000 putting a new roof on that because property

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to me gives a bad look. What about the people who drive around. I wanted to give a good look to the property. But I've been stopped. Property's well maintained every year, I spent \$1,000 per two weeks for doing the grass work, maintaining the building, maintaining the yard. It's a 5-acre yard. it's not easy to lawn mow by myself. I have to rent somebody, hire somebody or do the work. And I'm negotiating for this year with the guy who did last year. I'm not sitting on the property. I'm not sleeping on the property. I'm trying to fix it. My good amount of money is in that property.

Ms. Barnes: Okay, thank you very much for all that information. I understand, it sounds like you've worked very hard on that. Do we have any further questions for the applicant? Okay, thank you very much, Mr. Gupta. Okay.

Mr. Apicella: I do have a question for staff.

Ms. Barnes: Okay, staff – I told you Amy, stick around. Thank you.

Mr. Apicella: So, so just for some perspective, so we visually can picture what could go on the property if it's not developed as a motel, can you give us some uses that would fall under that 1,000 vehicles per day? I mean, a 7-Eleven; how many vehicles per day would that generate?

Ms. Taylor: I think more than 1,000.

Mr. Apicella: Okay. Just any that you can think of just so we have some vantage point?

Mr. Bain: I think Kristen suggested a dog kennel. *[Laughter]*

Ms. Taylor: Commissioner Apicella, a number of the uses that are permitted in the B-1, and again everything that's permitted in B-1 is also permitted in B-2. So a number of uses that would be permitted in the B-2 zoning district, if approved, would be things like a barber shop; a beauty shop; a medical or dental office; they could have a club, a lodge, or fraternal organization; a dry cleaner; a dance studio; again, general office uses; they could have a gift or an antique shop; an indoor flea market; they could have a school; a plant or a tree nursery; an adult daycare center; a bank; childcare centers; data and computer service centers. It's a pretty long list of items that could be permitted.

Mr. Apicella: And they could have a combination of those, too, right, that add up to up to 1,000 vehicles per day.

Ms. Taylor: Correct, as long as they didn't exceed 1,000 trips.

Mr. Apicella: Okay, got it. I'm just trying so we all can understand what, what's possible in that area. Alright, thank you.

Ms. Taylor: You're welcome. Commissioner Sellers, would you like me to go back and answer your question about that entrance? The existing 9-foot driveway that's there ultimately, obviously the applicant is not proposing to do anything with that based on conversations with him. However, if he chose not to retain the property and sell it and some other developer came in with a different type of commercial use in the future, that plan would be reviewed at site plan and ultimately VDOT would require that entrance if modified to provide full access like a 24- or 30-foot wide entrance. They would have to meet all design standards in accordance with VDOT design requirements. They would have to meet spacing standards between the two entrance points, they would have to meet corner clearance from

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the closest intersection, all of that. So while it's not addressed on the boundary survey or GDP, it would be addressed at site plan. And VDOT has the ability to impose those requirements at that time. Including potentially closing that entrance if they, if they felt that a second entrance at that location was not appropriate.

Ms. Barnes: Okay, any other questions for staff while we still have her up here? Okay, seeing none, thank you very much. Appreciate it although it was complicated. And I will go ahead and open the public hearing on this agenda item. Now is the time for the public to comment on this agenda item. Before starting your comments, please state your name and address. The clock starts when the green light appears. Yellow means there's 1 minute left. And red means your time is up. If anyone would like to speak to the Commission on this agenda item, please come forward.

Ms. Callander: Good evening, I'm Alane Callander. I'd like to support the applicant on this project. I visited this nursing home many years ago. And as stated, since 2006 there's been nothing going on there. And I think we would all appreciate having an active business there. And it sounds like this gentleman has really worked hard to keep the property up. And he would like to make it a viable business. So, I think, I think that's great. And I think he should be supported. Thank you.

Ms. Barnes: Thank you, Ms. Callander. Do we have anyone else that would like to come up and address the Commission? Okay, hearing none, I will bring it back... or I will close the public hearing, unless you want to leave it open? Nope. We'll close the public hearing and bring it back to the Commission. Mr. Apicella, this is in your district. How would you like to proceed?

Mr. Apicella: Madam Chairman, I'd like to make a motion to recommend approval of RC22154436, RA-Amit, LLC.

Mr. Bain: Second.

Ms. Barnes: I think I heard Al first on that one. So that's a motion by Mr. Apicella and a second by Mr. Bain for RC22154436. Any further comments or discussion?

Mr. Apicella: Madam Chairman, this is going to apply both to the rezoning and the CUP. Given that this facility's been idle for 17 years, which is a very long time, I don't see a downside to the redevelopment of this site as a small hotel, or other allowable B-1/B-2 uses with the 1,000 vehicle per day cap. In fact, I appreciate the applicant taking a risk here and moving forward with an active use. Hopefully this will spur additional development in the, in the area and the corridor. And I wish him the best of luck and much success, which I think will benefit the County as well.

Ms. Sellers: I have a comment.

Ms. Lucian: Commissioner Apicella, just to clarify, is this motion on both the reclassification and the CUP combined?

Mr. Apicella: Well, we have to do them separately, right?

Ms. Lucian: I recommend that. That's why I was asking.

Mr. Apicella: I was just saying my comments.

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Ms. Lucian: Ok, thank you.

Ms. Barnes: Ms. Sellers.

Ms. Sellers: So, I will not be supporting the reclassification of this property. And it has less to do with the current property and more to do with the potential future uses. There are about 100 acres right there, that you open up two entrances to and without more information. And I understand we're capping the vehicles, but you can come in for a proffer amendment pretty easily. And so just looking at that property with those 100 acres surrounding it, it opens it up to a lot more use there. So, I would feel more comfortable if we had more information if we had some time and actually looked at this proffer statement and gave it you know, treated it less with emotion and more with some practicality, but that's not what's being asked. So, I will be voting no.

Mr. Bain: Point of clarification, is the site 100 acres?

Ms. Barnes: She's talking about the one behind it, to the East.

Mr. Bain: Oh yeah. Okay. Yeah, I see. Thank you.

Ms. Barnes: Okay. Any other discussion? Okay, seeing none, please cast your vote. Okay, that passes six to one. And we will move on then to the next one, which is the conditional use permit. Mr. Apicella, once again, this is in your district. How would you like to proceed?

Mr. Apicella: Madam Chairman, I'd like to recommend, I'd like to make a motion recommending approval of CUP22154646, RA-Amit, LLC.

Mr. Martinez: Second

Ms. Barnes: Okay, we've got, I got a motion by Mr. Apicella and a second by Mr. Martinez. Any further discussion on the CUP? Ms. Sellers, I thought you might.

Ms. Sellers: I will be supporting this CUP. I think this wouldn't be a good place for a hotel. I don't mind the CUP on this one and now that I understand it's because it's in a highway corridor overlay district, that it makes more sense to me.

Ms. Barnes: 1:30:11

Ok, thank you Ms. Sellers. Any other comments? Just ditto on your previous comment Mr. Apicella, correct?

Mr. Apicella: Ditto Madam Chair.

Ms. Barnes: Okay, thank you. Okay and hearing no more discussion then please go ahead and cast your votes. And that passes unanimously seven to zero and with that, congratulations and best of luck moving forward to the Board of Supervisors. You're welcome. Okay, we'll move on to the next item on the agenda number four unfinished business. And it looks like we are going to revisit the preliminary subdivision plan at Centerport Parkway and for that we will recognize Ms. Natalie Doolittle.

UNFINISHED BUSINESS

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4. SUB22154082; Preliminary Subdivision Plan – Centreport Village – A Preliminary Subdivision Plan to create 494 townhouse lots on Tax Map Parcel No. 37-30A (portion), zoned R-2, Urban Residential—Medium Density with proffers, on 95.50 acres, located on both sides of Centreport Parkway, approximately 1,116 feet south of the intersection of Centreport Parkway and Mountain View Road, within the Hartwood Election District. **(Time Limit: March 26, 2023) (History: Deferred from January 25, 2023 to February 22, 2023)**

Ms. Doolittle: Good evening, Madam Chair and members of the Planning Commission. Item number four is a request for approval of a preliminary subdivision plan for Centreport Village, SUB21154082, which was deferred from the January 25 meeting. The proposed subdivision is located on a portion of assessor's parcel 37-30A on both sides of Centreport Parkway, south of the intersection with Mountain View Road, and the total acreage for the site is 95.5 acres, zoned R-2, urban residential, medium density. The plan proposes 494 Single Family attached townhouse lots served by public water and sewer. Here's a map showing the location of the proposed subdivision shown with hatching. It's located along the limited access frontage of Centreport Parkway on both sides of the road south of the intersection with Mountain View Road. The site is adjacent to A-1 zoned properties to the west, R-2 and B-2 to the south, M-1 to the east, and B-2, R-2 and M-1 to the north. The proffers for the parcel were amended in February 1992 to allow a maximum number of residential dwelling units not exceeding 600 with at least 100 units, but not more than 200, being multifamily units. 494 townhouse units are proposed within six sections. The remaining 106 of the 600 proffered units not shown on this plan are proposed to be multifamily and future section seven to the south. Their proposed subdivision is located along the limited access frontage of Centreport Parkway. The main entrances into the east and west side of the development are just past the end of the VDOT limited access break. On the east side of Centreport Parkway Cardinal Flower Drive will extend from Centreport Parkway to Mountain View Road through sections one and two. And to the west of Centreport Parkway Virginia Willow Drive will provide access to sections five and six and will also provide access to future commercial development at the north end of the site, which is zone B-2. Two access connections are proposed to the northern future commercial section and south to future section seven multifamily. The majority of the streets will be state maintained. The remaining streets will be ingress/egress easements and privately maintained per Section 22-177. All new roads will include curbs, gutter and sidewalks along both sides. The site contains floodplain and CRP areas to be located with an open space and remain undisturbed. There are also wetlands areas which will remain largely undisturbed. The proposed subdivision places 332 new residential lots in the Potomac Creek Dam number one Able Lake Reservoir Dam break inundation zone. These new residences will need to be accounted for in the county's emergency action plan. The project area is within the airport impact overlay district as well as within the H1 and H2 land use compatibility zones and overflight traffic pattern for large aircraft as established by the Comprehensive Plan. This item was discussed at the January 25th Planning Commission meeting and the Commission deferred the application to this meeting to have the applicant address concerns raised during the meeting regarding amenities. The applicant has since modified the preliminary plan to add additional amenities. Here's the revised plan showing the portion of the subdivision to the west of Centreport Parkway. The tot lot previously proposed is shown bubbled in green, and the revisions are shown bubbled in red. On the west side of Centreport Parkway, two pocket parks with benches and additional landscaping and one linear park to include open play areas, benches and additional landscaping have been added.

Ms. Barnes: Ms. Doolittle, can I ask a quick question about those? Could you go to that last one, the last screen? So those two little pocket parks, those are where, are those tucked up? Where's Centreport Park? Okay, now as I see it. Centreport Parkway is at the bottom of that correct?

Ms. Doolittle: Yes.

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Ms. Barnes: Okay. Is there any kind of, when you put those parks in, is there any kind of fencing or any kind of barrier at all to the property behind it so little kids can't go running into the woods?

Ms. Doolittle: I'd have to defer that to the applicant.

Ms. Barnes: Okay. Great. Thank you.

Ms. Doolittle: And here's the revised plan for the east side of Centreport Parkway. Shown bubbled in green and previously proposed is a tot lot and a clubhouse and pool. Added and shown bubbled in red are three linear parks to include open play areas, benches, and additional landscaping, a dog park and a playground adjacent to the clubhouse and pool to include swings, a slide and a climbing apparatus. Staff recommends approval of this preliminary subdivision plan and believes it complies with all applicable ordinance requirements. And that concludes my presentation.

Ms. Barnes: Alright. Thank you. Questions for staff? We talked this one out pretty good. The last meeting. Okay. Thank you very much. Would the applicant like to come forward?

Mr. Bain: Just to comment.

Ms. Barnes: Okay, Mr. Bain. Go ahead.

Mr. Bain: As we said at the last meeting, this is the result of really decisions that were made long ago, back in the 90s where our supervisors were much more supportive of massive development and wanted to see the county grow and now we're paying for that in all the traffic problems and other things we're having. In this particular site it bothers me, because it's a high density, residential development in the middle of, to me an industrial area with multiple, massive warehouses that are generating tremendous amounts of truck traffic, large and small, day and night and this just really, really bothers me, I think it's going to be a problem in the future. The applicants doing it basically by-right, and there's nothing we can really do to prevent it. I do applaud their efforts to add additional play areas. I think that's really good and I appreciate what they've done. I just think the whole thing is going to be a problem in the future. Thank you.

Ms. Barnes: Okay, that's not necessarily a question, but a comment. Any other questions or comments? Alright, thank you, Ms. Doolittle. Would the applicant now like to come forward?

Mr. Lanham: Nice to see you again. I'm Rick Lanham within NVR. You know, we appreciate you moving this forward but in the last month, we really did listen to your comments, and took it very, very serious. We had about, you know, three to four park areas on the last plan and I wasn't really out to overwhelm you or over impress you or anything like that but we really wanted to look hard and make this a better community. So, we came up with about eight other park areas. With reference to the pocket parks, pocket parks aren't areas where kids are going to run around, I guess they could run around, but we'd look to areas where we could create, like a, like a place or hanging out area. Not really, you know, I guess we can put a grill there or something with park benches, but we figured people, you know, they'll be doing that out on their own deck or whatever, but it was really just a place. It was an area that was, that was shaped where, you know, it could be like a little, you know, small gathering place where maybe people were there walking through the community that could stop and you know hang out, but just do something where we could, you know, can enhance that area. But, anyhow, appreciate that.

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

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Mr. Apicella: Go ahead, Mr. Shelton.

Mr. Shelton: I'd like to commend Mr. Lanham and staff for the work that they've done on improving the amenities. I know that we probably taxed you a little but I think it's an improvement. I know that there's a lot of townhouses and all like that on some roads that are not large but I think, as Mr. Bain said, this ordinance came about in 1992 so it's not a whole lot we can do about it. But I do commend Ms. Doolittle and Mr. Lanham for the effort they put into it. Thank you.

Ms. Barnes: Thank you. Mr. Apicella.

Mr. Apicella: Madam Chairman, I echo Mr. Shelton's comments and also the concerns raised by Mr. Bain but we are where we are. I just wanted to ask you to recommit to what you said at the last meeting that you would provide notice to the future homeowners of the proximity to the airport, is that still the case?

Mr. Lanham: That's something we normally do anyhow, like in Loudoun County next to Dulles Airport. We'll make those sort of notices. Didn't want to include it in the marketing material, but we're happy to do that, as part of, you know, as part of like notices when, you know, disclosure notices when people are closing on the property. Okay, but not the marketing material.

Ms. Barnes: Don't go anywhere, I have a real quick question for you. The new playground that you added next to the clubhouse, I noticed in the staff report, it said with a slide and with some swings, what's the age appropriate group for that playground, because the other ones are tot lots? What's the targeted demographic for that particular...

Mr. Lanham: I looked at it from the same age as a tot lot to an older group, which is kind of like what we call a playground. It's a little bit bigger.

Ms. Barnes: Because playground and tot lot to me are two different things.

Mr. Lanham: we could do more, more stuff, in there. It wouldn't be like twice as many swings and twice as many slides because I don't think 10 to 12-year olds like to go into slides. More stuff to climb on. But it's a bigger area than the tot lot. So that's why we tried to make it, you know, a larger area and I knew that was important to you since we had the last meeting.

Ms. Barnes: And I also want to thank you for anytime you put more green space in there, the better. It just, even if it's just a small little postage stamp, it's green space for families out there that adds to the quality of life and I think that that's really important. So, thank you very much for doing that. Okay, any other comments or questions? Mr. Martinez.

Mr. Martinez: Well, this is probably one of the frustrating votes that I'm going to be taking this evening, particularly because of how Commissioner Bain describe the history of what is going on and where we are today. I think from a policy perspective, the development that we have with this density of houses 400, almost 500 townhouses. I think, you know, I wish we didn't have that many townhouses, and this, in that particular area. I drove from work yesterday through Fairfax County and I was thinking to myself, man, I'm so glad I live in Stafford County, because I love the ability to come home to some open space and be able to breathe and I just think when you have 500 townhouses, and this isn't going to be the end of it, and you increase more development, there's gonna be less space to breathe. So, I think there needs

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to be something done. I don't know exactly what that is. But the way we are going, I'm not a fan of it. So, that's all I'll say. Thank you.

Ms. Barnes: Okay. Mr. Shelton, this is in your district. What would you like to do?

Mr. Shelton: I'd like to make motion that that we approved Centreport Village Townhouses, 494 townhouses, subdivision 22154082.

Ms. Sellers: Second

Ms. Barnes: Okay, I have a motion by Mr. Shelton and a second by Ms. Sellers and I will open it up now for comments. Ms. Sellers, you mentioned it first. Go ahead.

Ms. Sellers: I do, I do have a comment on this one. So, I actually think this is, it's interesting. I think it's hard for us to swallow because it's different than what we have here in Stafford County. But if you look that area, you have distribution centers, folks need places to live. I think townhomes actually give a really nice, this isn't a unique place, right setting for it to go. I could even see apartments going here. But I think it does bring the comment that around it it's all B-2 and we have a high density residential. And you have to think about that. Right? So, every one of us sitting here take votes on things and we have to think about the long-term ramifications of those votes. And so, I'm pretty sure, I don't know, I haven't asked any of them, I don't even know how many of those supervisors are still living but I would say if you asked them and they went back to that time, they can remember taking this vote and they can remember why they did it and what the what the thought was and I know when we talk about Embrey Mill, and we talk about Colonial Forge, even Augustine, those supervisors will say they couldn't imagine what it would become and that they feel it's better than what they imagined. And so, I think this is a good project. It's an interesting project, first of its kind here in Stafford. So good luck, guys, because they're not going to be happy when they see those townhomes go up. But I think it's interesting.

Ms. Barnes: We're gonna name it the Laura Sellers, dog park too.

Ms. Sellers: Hey, you know, I've been, you know, there's many people who said, I took lots of votes on lots of residential units. You know, I haven't been shy about, and I'm still not shy about taking tough votes so, but and speaking out and saying, again, I do think this is an interesting thing, I think it's first of its kind and good luck.

Ms. Barnes: Okay, any other comments? I see Mr. Cummings, go ahead.

Mr. Cummings: I want to thank NVR for coming back and making the adjustments. I think it's not easy developing in this environment, and trying to make it work economically, as well as putting together good projects. I am going to challenge NVR, in any development that comes to Stafford to try and look at trying to leverage the best and highest technology that's available and techniques to look at ways to make it the conditions and the impacts of the less by using technology and understanding what they're building, the impacts of what they're building. And I think that there's value to be had in that, value not just for the community and the residents because that is going to be a high impact area, as noted by Commissioner Martinez and there are ways to lessen the impacts, I believe, but it's going to take some doing and it may take a little less profit. But I think in the end for the developer, it's going to pay in dividends. I know it's going to pay for the residence. And I think that there are things that we can leverage, infrastructure wise, and monies that can be leveraged in partnership with the county that I would love to start to see developers coming and knocking on our doors, because they have the resources

to be able to go access that money in partnership with us. And so, I think we need to be a little bit more creative. And we have to start using that word sustainability and really digging in to see what it means because I think it really does, that's where the value is nowadays. The value is not just building and going to build, the value is in putting something that's sustainable for the community, and then also sustainable for the builders as well. And the economics drive it. And so, I'll just leave it there.

Ms. Barnes: Okay, unusually short for Mr. Cummings so thank you. Okay, any other comments or questions? Okay, I do have a comment. Once again, I do want to thank you, because I know that you didn't really have to do these things that we asked and it did make it a better project. When listening to Mr. Martinez, I'm you know, I'm agreeing with everything, it's like when, when you're on 95, and you hit that Marine Corps Museum, you probably feel your blood pressure go down 20 points, because you're getting out. And it's, you know, you're getting out of Northern Virginia and I feel the same way. But we do want to make it clear that this was what was this 1988, 1989 I don't remember the exact date somewhere in there, that this was done. And hindsight is 20/20. So, you know, if this were in front of us today, we'd probably do something different. Maybe Ms. Sellers wouldn't, but maybe the rest of us would but I do have one enormous trepidation about this. I did drive it to. Like Mr. Martinez, I went out there. That is a very fast road. I don't see it getting any slower. There's some very, very big vehicles on there. And I see some crosswalks there that some little kids and some strollers are gonna go across. I don't know what we can do about that. I don't know. You know, that's a VDOT problem. But I have enormous trepidation about those crosswalks there and those trucks and the pool being on one side because there are going to be people, families, young children that are going to cross that. And I don't want to read about a disaster someplace in the future. So, I don't know what VDOT can do. I don't know what you can do. But I think that's a problem. And I think we all have some trepidation about that. So that's my comment. And with no other comments, can we please cast our votes then. Okay and that passes unanimously, 7 to 0. And again, a big thank you for all the extra work you did on it. We really appreciate that. Okay, moving on to the next agenda item number 5, Solar Facilities and Energy Solar Facilities Amendment to the Comprehensive Plan. Are we going to do 5 and 6 together? So we'll do 5 and 6 together. Number 6, Amendment to the Zoning Ordinance regarding solar Facilities.

5. Amendment to the Comprehensive Plan – Solar Facilities and Energy Storage Facilities – Authorize a public hearing to amend the “Stafford County, Virginia, Comprehensive Plan 2016-2036,” as last revised on November 16, 2021, pursuant to proposed Resolution R23-10. The amendment would revise Chapter 2, “The Foundation for the Future” and Chapter 3.6, “Future Land Use Recommendations,” in accordance with Virginia Code §15.2-2229. The amendment would adopt new Land Use policies and guidelines for solar facilities and energy storage facilities. **(Time Limit: March 26, 2023) (History: Deferred from February 8, 2023 to February 22, 2023)**
6. Amendment to the Zoning Ordinance – Authorize a public hearing for proposed Ordinance O23-01, which would amend the Zoning Ordinance, Stafford County Code Sec. 28-25, “Definitions of specific terms,” Sec. 28-35, Table 3.1, “Table of uses and standards,” and Sec. 28-39, “Special Regulations.” The proposed Ordinance would modify permitted districts and establish definitions and special regulations regarding solar facilities and energy storage facilities. **(Time Limit: May 5, 2023) (History: Deferred from February 8, 2023 to February 22, 2023)**

Mr. Zuraf: Good evening, Madam Chair, members of the Commission. Mike Zuraf, of the Planning and Zoning Department here to talk to you about the continued item of solar and the proposed solar comprehensive plan guidelines and proposed solar ordinance. At the last meeting, went through kind of the history of how all of this came about and we started back in the Fall and produce this, these two

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products, which provide new guidelines for solar development in the county and ordinance regulations for the same. And at the meeting, the Commission requested staff worked through a few adjustments and look through and identify potentially some additional changes or any changes that might be appropriate. We consulted with Prince William County and Culpeper and as I mentioned at the last meeting, Culpeper, the night before, had adopted new comp plan policies and an ordinance for solar and so we did look at that, and sent our product to them. They liked what we had, they felt it was really streamlined and straightforward and didn't have any additional comments. Prince William County just talked to a planner there who's working on a on a large solar project. Apparently, they don't have detailed regulations there. It's also it's similar to what we have now where solar facilities are permitted by a special use permit. They're similar to conditional use permits. So anyway, we have our proposed documents and what we did provide to was the comp plan amendments with a few changes, and those are highlighted in yellow and identified as Exhibit A in the first item. And just quickly summarizing those in the changes, we propose deleting proposed policy, 5.5.8 That was actually a duplication, it was supposed to be a separate policy, but that ended up being combined. It was the issues of solar energy, solar facilities and energy storage. All was combined into policy, 5.5.7, which really is just a reference to the recommendations in chapter three. So, there was no need for policy, 5.5.8. Then on page three, there was the issue and the question about reconsidering the maximum size of project area and because what we had proposed initially was a maximum project area of 1000 acres for any solar project. And that was just kind of a number that was brought about. It was there wasn't necessarily any kind of strict, solid kind of basis for that and when we looked at the Culpeper product and their changes, they actually did set a requirement that their solar projects do not exceed 300 acres, no one project exceeds 300 acres, so well below our proposed number of 1000. And, knowing how Culpeper is compared to Stafford, Culpeper has much larger land, larger parcel sizes, and if they have a 300-acre size cap, then we probably don't need any more. I did a quick assessment on GIS to see okay, how many, how many properties do we even have that are over 300 acres and that number was 23. And that, that was a quick look. And it included properties that couldn't even be developed as solar like land along the Rappahannock River or certain right of way. So, there's actually many fewer properties that would even fit that 300-acre requirement. People could consolidate other large property, several large properties and maybe get to that but even getting that 300 acre point, to that 300-acre point would be probably difficult here. You're not going to see many projects that large, if at all. So, the next change is on page five, there was also a suggestion of considering adding some height requirements and ground clearance requirements. And what we proposed was a cap or a maximum height of 15 feet from the finish ground elevation, at maximum tilt to the solar panel, and with it including some exceptions that may allow for some adjustments to that max height. Say if there's some undulations or changes in the in the topography, it may be more appropriate for, it'd be appropriate to keep the solar panels at a consistent height to ensure maximum, I guess, energy production. Because if you're required, if the panels are dipping down and ended up being shaded by other panels then they're not effective, so we recommend 15 feet and that is consistent with one of the proposals we have before us, they have a 15-foot maximum height proposed on that project. And we did receive a comment that suggested we write in an exception that would not include any connecting electric distribution facilities. So, they're generating this power, they're gonna have to connect to the local distribution lines, and you'll need maybe some taller transmission lines and power poles and so, they suggest adding into that would not include those other required that other required infrastructure that may have to be taller than 15 feet.

Mr. Apicella: Mike, before you move on, is that already incorporated in the proposal in front of us?

Mr. Zuraf: No, I'm suggesting that be added in.

Mr. Apicella: Where would that go?

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Mr. Zuraf: So, it would be at the end of that policy that talks about the, 50-foot height, I've suggested an additional condition that would say "This recommended height limit does not apply to connecting electric distribution facilities". That'd be my suggestion to add in.

Mr. Apicella: Okay, so this, I'm looking at attachment two, page five of seven, this highlighted area after the word arrays, is that where are you talking about? What's the additional?

Mr. Zuraf: Yes, it would say "This recommended height limit does not apply to connecting electric distribution facilities."

Mr. Apicella: I got the "apply to".

Mr. Zuraf: "to connecting electric distribution facilities."

Mr. Apicella: So okay, given that, I appreciate the recommended change, is there still no height limit? I mean, what are we talking about? 50ft?

Mr. Zuraf: 15

Mr. Apicella: I know, 15 is the what's proposed in the comp plan amendment. But for that additional language, is there no maximum?

Mr. Zuraf: Well, no, because I think it's just going to be whatever the typical power lines requirements are. And that may...

Mr. Apicella: I don't even see the connection, because we're talking about solar panels. So how does that apply to connections to electric distribution facilities? What's the...this is a completely different...

Mr. Zuraf: Yeah, that was a suggestion that was provided and I guess it may not be necessary, if it's it is also still in the guidelines.

Mr. Bain: I think, it's if you have solar farm, the lines that they're going to connect to or not right there, so they need some power poles to run the line over to Dominion's.

Mr. Apicella: I get that but the whole...

Mr. Bain: But those power poles, you don't want them 15 feet high so they can go higher, but they wouldn't go 200 feet, it would only be what's necessary to connect to the grid.

Mr. Apicella: The two sentences have nothing to do with the lines that speak to solar panel heights. So, I'm just trying to understand, I appreciate what they're saying. I just don't understand the necessity, because we're talking about the maximum height of solar panels, not anything that's connected to the solar panel.

Mr. Zuraf: Yeah, and this is just a suggestion that was made so, you know, we don't necessarily have to have it. I see where you're coming from too where this is specific to solar panels.

Mr. Bain: This could just be an additional condition, additional bullet, that that says...

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Mr. Apicella: I'm not even sure it's necessary.

Mr. Bain: I probably don't think it's necessary at all.

Mr. Apicella: Well, we haven't spoken to the maximum height of connections to anywhere so I just, it seems to be more than necessary. Again, I appreciate what they're saying but...

Ms. Barnes: Is it was something that we were trying to avoid specifically?

Mr. Apicella: We were just trying to avoid 10,000 solar panels that were 20 feet high, or 25. I don't even know that they have that technology anymore, but that's kind of where we're going to with this.

Mr. Zuraf: Yeah, no need to include it if it's not necessary. And the last change there was also about the ground clearance and the that includes a recommendation of ground clearance over 12 inches or one foot from ground floor elevation at maximum tilt. That was a suggestion from one of the applicants of the cases that we have before us. I did, I tried some looking for anything that had any regulations about having a maximum clearance. And I was really struggling to find any ordinance that had any kind of ground clearance requirements.

Mr. Apicella: You may not find anything, but it was recommended in one of the documents that we were provided during the subcommittee meetings.

Mr. Zuraf: So, 12 inches is what suggested and what they can work with for purposes of any maintenance that they need. And those were the extent of the changes that were suggested since the last meeting. We did not provide any new changes to the proposed ordinance.

Ms. Barnes: Okay, discussion. Anything you want to add?

Mr. Apicella: No, just for the sake of asking. Again, I appreciate your socializing the proposed changes to Prince William and Culpeper Counties. And we got some additional information from at least Culpeper some guidelines or policy that they have. I just want to ask, making a scope of it, did you find anything that we missed that we might want to reconsider?

Mr. Zuraf: No, I did not. They do their ordinances a little more extensive. But they get into a lot more details that we already have in other parts of our Zoning Ordinance dealing with site plan requirements and other environmental inventory requirements that we're already going to be requiring.

Ms. Sellers: Clarification. Back to the one where you're saying the maximum height and it looks like the exceptions to limitations are where the screening is in place. So, if we include that in the public hearing, could we remove that at public hearing if we don't see a need for it? And then if we don't include it in the public hearing, can we add it if we decide or would that require a different action?

Mr. Zuraf: Yeah, this is all suggested Comp Plan guidelines. So, it's not a wouldn't be a requirement at all. It's all a suggestion so if a project comes in, and they're fully screen, and there's fully grown trees, and you know, you're not going to see the project from any adjacent property at all, then the height is really shouldn't be an issue, because and it could be taller. It's all a guideline. But if it's all in an open area, then then it would be maybe more of a suggestion that we ensure maybe through the conditional use permit, we have a condition that the height be no more than 15 feet.

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Ms. Sellers: No, I was thinking more, wasn't there an additional one where you said except for something?

Mr. Zuraf: for the distribution facility, the poles?

Ms. Sellers: So, if we don't include that, so it's more of a procedural question. Let's say we get to public hearing. If we include it, can we remove it at public hearing and say, No, this isn't necessary? And then I would ask the reverse question. If we don't include it to go to public hearing, can you add it in at public hearing?

Ms. Lucian: Commissioner Sellers, in this case, I would say if you include the exception now and then you take it away, you would be becoming more restrictive so I would not recommend doing that. It's better to leave it out. Because including it makes it more expansive and more permissive. If that makes sense.

Ms. Sellers: It does.

Ms. Lucian: So, leaving it without is better if you want more flexibility with being able to add it later. Because it's an exception that gives more permissibility. It doesn't make the language more restrictive.

Ms. Sellers: Oh, I see. Okay. Okay. That was my question.

Mr. Zuraf: And just as a reminder for the Comprehensive Plan Amendment, the Planning Commission has a time limit where you would need to initiate the public hearing at tonight's meeting. For the ordinance, there is additional time, but I know we typically like to have the two items run concurrently.

Ms. Barnes: So, for that time limit is it for March 8th or March 22nd that would be recommended then?

Mr. Apicella: It would have to be March 22nd.

Mr. Zuraf: That would be the public hearing date, March 22nd.

Ms. Barnes: Alright. Any further discussions?

Mr. Apicella: Madam Chair, unless Mr. Shelton wants to take the lead on this, I'd like to make a motion to put the proposed Comp Plan Amendments regarding solar facilities and energy storage facilities to a public hearing at the March 22nd, 2023 meeting based on the document that's in front of us today,

Mr. Shelton: and I will second that.

Ms. Barnes: We have a motion by Mr. Apicella and a second by Mr. Shelton to schedule a public hearing for solar facilities for the amendments of the comprehensive plan on March 22. Any further discussion? Okay, hearing none, please cast your vote. That passes unanimously seven to zero. And do we have a motion on setting it a public hearing for the amendment to the zoning ordinance.

Mr. Apicella: Madam Chairman, I'd like to make a motion to put to the March 22, 2023 meeting to schedule a public hearing for the proposed zoning ordinance amendments regarding solar facilities and energy storage facilities.

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Mr. Shelton: And I'll second that also.

Ms. Barnes: Okay, can we have a motion by Mr. Apicella and a second by Mr. Shelton, to schedule a public hearing on March 22, for amendments to the zoning ordinance. Any further discussion? Hearing none, please cast your vote. And again, that passes seven to zero. Thank you very much to staff for working on all of this. And we'll move on to the next portion of the agenda, which is new business, which we have none. And that leaves us to the planning directors report. Mr. Harvey.

NEW BUSINESS

NONE

PLANNING DIRECTOR'S REPORT

7. Project Pipeline Report (For Information Only)

Mr. Harvey: Thank you, Madam Chairman. As I mentioned at our last meeting, the Board of Supervisors showed an interest in having a joint work session with the Planning Commission on data centers. Today I was posed with a proposed date and I need to poll the Commission to see if we can attain a quorum for that date. It's proposed for March 29. So, I'd asked if the Commissioners can look at your calendars and please let me know if we can get a quorum for that evening.

Ms. Barnes: I'm pulling up my old-fashioned calendar here. Does anybody else have any conflicts?

Mr. Apicella: And that's at 7pm Mr. Harvey?

Mr. Harvey: Commissioner Apicella, I don't know the start time yet. I just know the date.

Ms. Barnes: And do we know where it's going to be? Are we gonna crowd in here or are we going to do it like we did last time?

Mr. Harvey: Madam Chairman, I don't know the details, just the date. So, if we determine a quorum, and we're a go, then I'm sure the County Administrator's office will let me know the details that I can pass on to you all.

Ms. Barnes: Okay, so is everybody... anybody have any conflicts? Looks like everybody is okay with that.

Mr. Cummings: A couple of items from the council. I mean, preliminary discussions with some folks around the property...

Ms. Barnes: The solar projects? Is that what you are talking about? I mean, for the, I'm sorry, for the data center? I'm sorry. I'm getting data center and solar mixed up here.

Mr. Cummings: Correct. Okay. Okay. So, I'm available and what we can talk about that offline.

Mr. Apicella: Madam Chairman, if it's before four o'clock, I can't make it.

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Ms. Sellers: After seven o'clock, I'll be returning from Richmond that day. So, seven o'clock would be a good start time. Six o'clock is going to push it.

Ms. Barnes: You can always do by phone like you did last time. Yeah, that was not fun.

Ms. Sellers: I would prefer not to after a two-day CTB meeting, you guys would probably prefer me not to.

Ms. Barnes: Okay, it seems like that we're, you know, barring any very early or late start times, that we're okay with that.

Mr. Shelton: I have a question for staff. Are you going to look at plagiarizing someone else's stuff?

Mr. Harvey: Yes. Madam Chairman, Commissioner Shelton. Staff right now is looking at this as an opportunity to provide education for both the Planning Commission and Board. There are requirements and regulations in our zoning ordinance. Currently, the Comprehensive Plan has some guidance, and we'll go through that the meeting. Some of it will also be just trying to explain what a data center is and, kind of, the features that we see for those types of facilities. Madam Chairman, that concludes my report.

Ms. Barnes: Okay. County attorney's report.

COUNTY ATTORNEY'S REPORT

Ms. Lucian: Good evening Planning Commission. It's few and far between but I do have a report tonight.

Ms. Barnes: What? Wait, everybody got their phone? Sorry. Go ahead.

Ms. Lucian: If you are betting on it tonight you won the lottery. I just wanted to let the Commission know that I am planning on doing a closed session with a Commission at the next meeting regarding conditional use permits. Its timely that there was a lot of discussion about that today from the members, the Board was also briefed on this during their retreat. And so, we felt that it was pertinent to also do the same thing with the Planning Commission. So that'll be at the next meeting. There will be a closed session briefing with the Commission on conditional use permits.

Ms. Sellers: Madam Chair, can we just look at the March 22 meeting? It's getting pretty big with these public hearings. I don't know, I know you guys are gonna talk about it. But I'm looking at this. And it could be a long meeting with a meeting the following week. So, we might want to look at the 22nd. And figure out what can be moved. Just a suggestion.

Ms. Barnes: Alright. Anything else? Any that's it for the county attorney's report?

Ms. Lucian: Yes, that concludes my report.

COMMITTEE REPORTS

CHAIRMAN'S REPORT

Ms. Barnes: Alright. Committee reports. The committee we have right now is a solar committee and I think we've pretty much covered that so I don't think we have anything else for that this evening.

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Chairman's Report - I have nothing this evening. Other Business - we have new TRC submissions and it looks like Main Line is coming back around for George Washington Election District.

OTHER BUSINESS

8. New TRC Submissions
 - o 23154908; Mainline – George Washington Election District

Mr. Cummings: I have a matter for other business. I've been asked to, I've been invited as a candidate for the Jimmy Carter Conflict Resolution course somewhere at George Mason University and I was advised to see there's a fee associated with it. Conflict resolution for political discourse and collaboration is what it's focused on. So, I was asking, I can read specifically what it is but so, I thought that it would be good if the county could use that for the continuing education.

Ms. Barnes: I think I got one of those invitations as well. I'm not sure if everybody did. And so you're asking specifically, which I remember, what, it was a \$2,500 fee? Is that what it was? How exactly do we handle this? I've not seen this come up before.

Mr. Harvey: Madam Chairman, the Planning Commission does have a budget line item for training. It's \$3,000 per year. We to date, we've used \$122. I can dive in details on that in a later date. But right now, we have \$2,088... \$2,888 in the account, sorry.

Mr. Cummings: That's the whole account?

Mr. Harvey: Yes.

Mr. Bain: And its not per person?

Ms. Barnes: That's what I was gonna say. Per person or is it for the entire...

Mr. Harvey: For its entirety. Normally, it's used when we have new Commissioners, and they, the county code requires new Commissioners to be certified and that pays for the certification class. But this year, we're fortunate that we don't have a new Commissioners and everybody's gotten certified. So those funds are available. So, if it's the consensus of the Commission, that can be used for other training purposes.

Mr. Cummings: It's okay.

Ms. Barnes: I was just gonna say, if you use that that'll wipe us out pretty much and if everybody wants to take it, okay. Okay, so we'll, we'll discuss that further as needed for something else if that's okay with you.

Mr. Cummings: Yeah, no, okay.

APPROVAL OF MINUTES

9. February 8, 2023

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Ms. Barnes: Okay. Alright. Okay, approval of minutes. We'll move on to that. Item number 10. Can I have a motion?

Mr. Shelton: Motion to approve

Mr. Bain: Second

Ms. Barnes: well, I don't know who did... motion to approve by Mr. Shelton and seconded by everyone. Okay, I will pick somebody. All in favor, please say aye.

All Commissioners: Aye.

Ms. Barnes: Any opposed? Any abstentions? Alright, that motion passes unanimously, 7 to 0. And with no more business before the Commission can I have a motion for adjournment.

ADJOURNMENT

Mr. Apicella: Motion

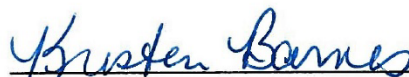
Mr. Shelton: Second.

Ms. Barnes: Alright, motion by Mr. Apicella, a second by Mr. Shelton. All in favor?

All Commissioners: Aye.

Ms. Barnes: Any opposed? Alright. With that we are adjourned. Thank you, very much and good night.

At 8:14 PM, Chairman Barnes adjourned the February 22, 2023, Stafford County Planning Commission meeting.



Kristen Barnes, Chairman
Planning Commission