

**POOLESVILLE PLANNING COMMISSION  
MEETING OF JANUARY 13, 2010**

**PRESENT:** CAL SNEED, CHUCK STUMP, BOB BACHMAN, LINK HOEWING AND GEORGE COAKLEY. ALSO PRESENT WAS TOWN MANAGER, WADE YOST, TOWN ATTORNEY, ALAN WRIGHT, AND TOWN ENGINEER, JOHN STRONG.

**Call To Order**

Mr. Coakley: Ok the Poolesville Planning Commission Meeting of January 13, 2010 is called to order. Present are the Commission Members with the exception of Link Hoewing, the Town Manager, Town Attorney, and Town Engineer.

**Announcements**

Mr. Coakley: Are there any announcements? Ok no announcements.

**Citizen's Comments on Agenda Items**

Mr. Coakley: Ok this evening on the agenda we have minutes of December 16, 2009, we have allocation waiver request do we have any comments prior to getting started. Bob did you want to say anything before we get started.

Mr. Pierce: No but I would like to reserve the right to maybe after.

Mr. Coakley: Ok and then we are going to do the bandshell and Skatepark review, the plans for that and then go over the State of the Town address that we will be doing next Tuesday evening along with the annual report that we have to send to the Town Commissioners and then it goes to the State also. And review the solar guidelines. Ok with that does anyone have any comments on any of the other agenda items?

**Approval of Minutes**

Mr. Coakley: Ok hearing none then we will go to the minutes of December 16, 2009.

Mr. Sneed: I motion to approve the minutes of December 16, 2009.

Mr. Coakley: Do I hear a second?

Mr. Stump: Second.

Mr. Coakley: All in favor?

All: Aye.

Mr. Coakley: Ok minutes are approved.

**New Business**

Mr. Coakley: Ok next is the Allocation Waiver Request and I think you received in your envelopes a letter from the Pierces. And let me give a little background except for Link I don't believe the rest of you were around when they were doing the allocation, water sewer allocation and under Time Limitations for Actions it says the recipient of an allocation must accomplish one of the following actions within a specified time period depending upon the type of development proposed after being notified that an allocation has been offered. And for a commercial development or development of more than 1 lot submit a preliminary site plan for Planning Commission review within 24 months of the date of notification of the allocation. And for a single unit residential project there is a 12 month period. The Planning Commission may extend or waiver the foregoing time

constraints for good cause shown. Person's receiving an allocation with insufficient time remaining in the life of this plan to accomplish the action set forth above shall have the appropriate 24 or 12 month time period after receiving the allocation to accomplish their respective actions. Any proposer not using an allocation within the timeframe set forth herein shall lose such allocation. And what the Pierces are saying is they would like a waiver to extend that 24 month period.

Mr. Yost: George should I give an update as far as the infrastructure that we are talking about need to be in place.

Mr. Coakley: Yes.

Mr. Yost: As you recall Stoney Springs this property of Mr. Pierces is located near the corner of Willard and Westerly Road and that is the portion of Stoney Springs which is Phase 2. As part of our Public Improvement Agreement they have to run a sewer line down Westerly Avenue, which ties into the sewer lines that they will be placing within their subdivision and it would be tied in. So it is going to be awhile before that piece of infrastructure is actually in place and the market dictates obviously they are on Phase 1 now so it is definitely going to be a few years plus down the road. There are going to be a couple other folks that are going to tie into that also, the Brooks they have not put anything in writing yet but again they are going to have the same issue.

Mr. Sneed: Extensions and waivers are they given with a time period attached like extend for another year or extend indefinitely or how...

Mr. Coakley: We generally put a time period on it. Now do you like have this on a spreadsheet or something for...

Mr. Yost: Well I will I haven't yet. I mean this is the first request that has come in so far, we just sent letters out because the 2 wells that we are waiting for to come online Stoney Springs and Brightwell Crossing wells they completed a 60 day test about 2 or 3 weeks ago so I sent the letter out saying ok the clock has started now, so now we are going to start getting some folks coming in, so this won't be the first one or the last one. But yeah whatever we do, in this particular case we know infrastructure has to be placed in by the developer, it is already lined up to be done but obviously the clock shouldn't start until that gets done and we will have Alan draft some language to help us with that or make a motion or however you want to do it.

Mr. Wright: It could be triggered by the availability of the similar --- and however much time you want to extend it from there on. What is it for this particular lot is it 12 months or...

Mr. Coakley: It would be 24 right you have...

Mr. Sneed: 24 separate owners?

Mr. Coakley: 24 months as the timeframe.

Mr. Sneed: Oh how many properties are impacted?

Mr. Yost: On this one particular line there is 2 properties, Brooks have 2 taps and Mr. Pierce has 4 taps I believe. One for the existing house and 3 other lots.

Mr. Sneed: And you said that this is just the beginning so...

Mr. Yost: The other one Cattail and Jamison out on Cattail Road, we don't have any plans yet as far as bringing a waterline out there, there is a well out there that has been donated for the Town to bring online but it is well over a million dollars to run this waterline because we would have to go underneath the creek where the bridge is by

Cattail and tie into the existing infrastructure so not so easy to get that infrastructure in place also. There is a couple more out there that have similar circumstances.

Mr. Coakley: I think for recordkeeping purposes it would be easier just to give a timeframe instead of making it predicated on another event, because that way you are going to have when we get additional requests in and stuff you are going to have ok this event is going to trigger these 2 people, this event is going to trigger these 3 people or something, I think it would be easier just to set a timeframe and then let the applicant come back in and ask for another waiver.

Mr. Stump: So just on a case-by-case basis.

Mr. Coakley: Yeah.

Mr. Stump: The thought of extending the, granting a waiver doesn't seem like an issue to me because they can't do anything until the infrastructure is there it is just the logistics of how we do it in my mind.

Mr. Bachman: I am just wondering if Mr. Pierce has brought up an important concern, should we bring it to the attention of the Brooks who have received the same 2 taps.

Mr. Yost: We have been talking to them about it.

Mr. Coakley: Well letters did go out we've got copies.

Mr. Bachman: Did you give them instructions on what do to about if they want to request a waiver, did we provide that information.

Mr. Yost: No.

Mr. Bachman: So it is only Mr. Pierce taking his own initiative to request a waiver to explore what he needed to do that brought him to tonight's meeting, prepare the letter for tonight's meeting.

Mr. Yost: That is correct.

Mr. Bachman: The other people that received the notification don't have the benefit of Mr. Pierce's initiative and the knowledge he gained to ask for a waiver, should we make them aware of that.

Mr. Yost: Not so true because they could actually come up with the funds and be able to tie the system in, Mr. Pierce is a little bit more difficult but some of the other ones the developers actually could find a way to tie into the system and make it work with their own funds and not have to wait for the infrastructure to be in place that somebody else is going to put in place for them.

Mr. Coakley: And it is not like they are totally in the dark because what I just read was supplied to everyone during the allocation process all be it forever ago. And some people it may not affect at all if they are...

Mr. Yost: The majority it won't.

Mr. Coakley: Yeah if they border on existing infrastructure.

Mr. Sneed: You are just saying the Town has given everybody the reading of their rights, a full reading of their rights is what your point is essentially.

Mr. Bachman: It is just sort of a full disclosure we alerted them that they, we told them they had the taps...

Mr. Yost: They can use it or lose it.

Mr. Bachman: And we started the clock and it seems to me if you do that that it might be incumbent on us to make it clear like they do with other product notices they tell you if you want to make an appeal they tell you what the appeal process is, it doesn't sound like

we put that in our announcement, even as minimally as we might want to put it in there, it is not in there, that is my only point.

Mr. Coakley: Was that a standard letter you sent out?

Mr. Yost: Yes it was.

Mr. Coakley: We can look at it and decide if we sent others or something to...

Mr. Yost: Basically just follows the letter of what the allocation was in the plan. In the plan it says that there is a waiver ability so I just referenced you know as the allocation plan states and I stated the clause that says you use it or lose it so I talk about the allocation plan and I believe Bobbie was going to include a copy of the allocation plan in the letter to everybody that it went out to.

Mr. Bachman: My comments will stop at this point if Alan doesn't think there is a problem with someone coming back in 22 ½ months from now and say listen you didn't tell me about the appeals thing, I want to appeal, or 25 months later and they make it a big deal than I am not worried about it.

Mr. Wright: Legally I don't think it is a problem, you may want to just give a little extra information there is nothing compelling you to do that. Has all the availability of water and sewer been granted out so there is nothing at the moment that is available, somebody wasn't on the list came in and applied there wouldn't be anything to give them?

Mr. Yost: Correct.

Mr. Stump: There is not even a process for applying.

Mr. Yost: That is exactly the issue.

Mr. Wright: Has anyone requested that has not been able to so if something reverted back and it was lost than somebody would be waiting to use it.

Mr. Yost: Well that is the whole purpose of the --- clause in the allocation plan that if someone doesn't use it than they lose it and the process will start over again. So someone doesn't hold onto it in perpetuity.

Mr. Wright: I just wondered if there was a demand or if we had enough...

Mr. Yost: It is starting to be but we just had a letter go out to an individual who requested it and we let them know that we are kind of waiting to see the impact of these 400 homes that we granted the allocation to but construction really hasn't begun yet and until we, you know it could be 5 years down the road possibly before we even realize the impacts.

Mr. Coakley: So the way it would probably work would be any allocations that aren't used would be available and once the allocations that had been approved and used if it still shows that there is availability and that we didn't over exceed or whatever with the capacity and particularly the sewer treatment plant is than we would probably reopen the allocation process again and go through what we did last time and then reallocate it.

Mr. Wright: But we don't have any policy such as we put in place before at the moment so I would suggest...

Mr. Coakley: Policy for what?

Mr. Wright: Well for allocating water and sewer, I mean if somebody comes in and there is none available right now I would suggest you tell them take a number.

Mr. Coakley: No the Planning Commission recommended to the Commissioners and the Commissioners agreed, I don't know if I have a date on this or not, that no new allocation would be started until it was decided that the existing list was all used up.

Mr. Wright: Right.

Mr. Coakley: So it is not like we are going to add one here add another one here, it is going to be reopening the entire process at a later time.

Mr. Yost: Which is almost like a bidding process, basically just provide me somebody that may warrant allocation more than someone else because of the whatever good it is going to do for the community starting from the center going out using that concept. I mean there is a bunch of different ways we waited and how people ranked on that list, and I think the same process would happen again.

Mr. Stump: And that process may change depending on what happened.

Mr. Yost: Sure and what the Master Plan says.

Mr. Wright: But in fact there has been no decision made as to what process would be put in place for future water and sewer.

Mr. Yost: If there is future water.

Mr. Wright: Right but that is why I was asking the question, if there were at this point a few available taps for water and sewer that were extra, had not been allocated, and hadn't been requested at the moment, then if somebody came in I wouldn't see any reason to deny them a tap.

Mr. Stump: Why? We may not allocate those taps, those taps were allocated based on the process at that time, a process no longer exists so the point of it is those taps aren't available for anybody anymore.

Mr. Coakley: Well the Town Commissioners would have to change their minds because they have already voted on and agreed to keeping the existing process but not re-instituting it until such time as the existing list has been taken care of.

Mr. Wright: And the existing list has been taken care of isn't it.

Mr. Yost: Well it has been allocated but it is not online. All this list goes off of and the whole capacity management plan we created go off of the flows of the wastewater plant and we have Westerly Subdivision which we will be doing an I&I study on and lets just say 10 or 15 of these people don't use their taps and they fall back in to the pot lets say and that takes 5 or 6 years to happen over that 5 or 6 years the deterioration of the Westerly sewer gets worse and we have more I&I in the system, we don't have the capacity at the plant in that 5 years, that is actually a real possibility.

Mr. Wright: But our thinking has revolved around this allocation process and the allocation process is now complete, it has been complete for a while it has just been a matter of allocating the actually distributing the allocation. If somebody now comes in and says I want a building permit than it is not a matter of saying wait a minute do we have A, B, C, allocations the whole process is set up in terms of determining whether or not there are adequate public facilities that is the term and if we determine that there are adequate public facilities available for a building permit than there is no basis to deny that building permit.

Mr. Stump: But if they are requesting water and they weren't on the list than by definition there are not adequate public facilities.

Mr. Wright: No.

Mr. Stump: Why not?

Mr. Wright: It has to be determined whether there are adequate public facilities or not that is why I was asking if a lot of these people said suddenly didn't use the water and sewer that they had been promised and it reverted that would be not uncommitted resource, that could be available for someone else.

Mr. Yost: Well the lady who just asked for 40 taps, we have 83,000 gallons of capacity to calculate in all the homes that have been allocated and what the capacity of the plant is right now over beyond, so that means we can't turn her down.

Mr. Wright: Well I think we have to make an analysis of whether or not adequate public facilities are available to serve...

Mr. Coakley: And we won't have all the data to do a complete analysis until the majority of the build out is completed.

Mr. Stump: Which could be several years.

Mr. Wright: Well you know that may be a reason why we couldn't do it immediately if we don't have adequate information but I don't think we can just say wait a minute all of those taps that we allocated have been used up and if they come back in if they are not used they are forfeited in effect you can't just say we are not going to give them out now. You are not thinking in terms of we have a finite number of taps or water allocation is not the way the law is written that is a process that we superimposed on the law when there was an extreme shortage of water and sewer.

Mr. Hoewing: As far as I know Alan there are almost no other towns have this kind of a water allocation system, I know we may be the only one in the state that does. But I am not sure I agree that you have to wait though until you see the build out I mean you know what the development plans are and how many gallons per day each house will take you can get some estimate of how much...

Mr. Yost: By January 31<sup>st</sup> of each year I produce the annual report yes.

Mr. Hoewing: You could do that.

Mr. Bachman: But it strikes me with Alan's comment that only those taps that might be returned to the Town would be available to be reallocated, so the person who asked for 40 taps would be, that wouldn't be something you would take seriously in the near term if there never were 40 taps available in terms of these analysis we just put out right?

Mr. Yost: In terms of that no but in terms of adequate facilities based on my annual report there would be.

Mr. Bachman: Because you have a surplus.

Mr. Hoewing: Yeah.

Mr. Yost: Correct.

Mr. Bachman: But I thought the surplus was considered to be that we currently have even if these all these taps are used, that the surplus is essentially a fail safe...

Mr. Yost: I like to think so in operations of it absolutely.

Mr. Bachman: I mean I had thought that the idea was that you build in a extra capacity a super a reserve capacity and you don't allocate that out to other taps because you are working on the worst case scenario like building a bridge over a flood plain you try to build it to the worst documented flood or potential flood the same with your water you don't use your taps based on being prepared for the worst possible draw down on your water supply.

Mr. Wright: That calculation was already cranked in to the allocation process.

Mr. Hoewing: Right we actually use 600 gallons per day and we use a lot more than most towns do.

Mr. Coakley: Well that would be for water that wasn't for the sewer.

Mr. Yost: Right and use 325...

Mr. Hoewing: Sewer is a lot less you use far less capacity than you do water.

Mr. Coakley: However we sort of got off on a tangent here so my question would be what would be an equitable timeframe like 2 years, 3 years...

Mr. Sneed: Well can I first get, what would a waiver constitute from your comments I would think Staff recommends not granting a waiver to that provision.

Mr. Yost: Well no there would be an extension to it or...

Mr. Sneed: Are you suggesting for a waiver, waive the time constraints.

Mr. Yost: Yeah I wouldn't think you could waive them just forever I think George is right you have some kind of end in some sort in sight.

Mr. Sneed: Ok so we are talking about an extension.

Mr. Yost: So how?

Mr. Coakley: Well the question to me would be what is equitable 2 years, 3 years.

Mr. Yost: It is anybody's guess at this point. I mean where the trigger mechanism is when the infrastructure is in place for this particular property.

Mr. Sneed: And as you said there may be others, if someone comes in at the end of 2 years what does the picture look like so it should be equitable for anyone else who comes in.

Mr. Strong: Let me throw something out here Stoney Springs is planning to complete Phase 1 this year. I assume they are going to do another 2 phases, this is an assumption here and that would put it another 2 years after the completion this year so that would be 2013 and they should have that...

Mr. Yost: They are that optimistic about the market huh?

Mr. Coakley: Hey you can only go up.

Mr. Strong: If you are in this business you have to be.

Mr. Sneed: Well is one year too short?

Mr. Coakley: Oh I think so yes.

Mr. Sneed: Is two years too short?

Mr. Coakley: As John said probably yes.

Mr. Wright: I would just remind you that it is not an absolute termination, it is not that you are limited to one extension, I think you might want to not grant it too long because you are not sure what the circumstances are going to be and if you the possibility of coming in for a further extension, this just puts it on the property owner to come back and extend it again if in fact there is no infrastructure available.

Mr. Sneed: I would be good with two years, which is what we are giving this time right.

Mr. Yost: Right.

Mr. Sneed: Extend it another 2 years does that seem fair?

Mr. Stump: Well the clock is 12 the clock for a single residence is 12 months...

Mr. Yost: He has 4 taps though.

Mr. Stump: So that is the 24 that puts him in the multi-family so 24 months ok.

Mr. Yost: So the clock will start 2 years from whatever this date I guess?

Mr. Coakley: Well when does the initial 2 years end?

Mr. Stump: Great question.

Mr. Yost: 2 years out I sent the letter.

Mr. Sneed: December 8, 2011.

Mr. Coakley: Ok Mr. Pierce would you like to add anything?

Mr. Pierce: I appreciate this opportunity. Well the real issue you are talking timeframe is if somebody walked in with a plan today and was ready to submit it to you to develop

their property or lots could you tell me that I could go through the normal process and at that point start building, you can't because there is not even a right-of-way for a sewer line to get to my property and I don't have the authority to speak for Lewis Brooks but he is in the exact same situation as I am. So if you are looking at timeframes the real thing is not when you guys say water is available or sewer is available it is when water or sewer actually is available. So what Mr. Wright said about starting it when it is actually available is the correct thing. Now other people might come in that have water actually available that they could hook up that were on the list the allocation wonderful I am not talking about the big 40 lots and that stuff I am talking about us little folk ok that have infill lots, there if somebody sought a waiver then you could look at a timeframe based on their circumstances but for any of us where there is no water or sewer available your telling us it is available doesn't make it so and so we heard probably 3 years to get in an optimistic market to build out for Winchester, we are not going to have a sewer line anywhere near our place or Mr. Brooks property until that is built out ok. So just saying that the water and sewer allocation is available its available, its not available and so your timeframe ought to start from when it is physically available, when you could actually use it that is my first suggestion on that.

Mr. Coakley: Well let me just address that real quickly and I think we touched on that earlier and we are not disagreeing with you at all, we are just trying to say what is easier for the Staff here and everything to keep track of.

Mr. Pierce: Well there is not many of us.

Mr. Yost: I think there is only 3 properties.

Mr. Pierce: Yeah Wade will know when there is a physical availability, it is not like there is thousands of us sitting here in town waiting for this, it is very small, and so the equitable thing is not to put a timeframe so I got to come back in 2 years and say there is no water or sewer line near me I can't hook up give me another waiver.

Mr. Sneed: So what was the trigger?

Mr. Yost: The trigger is when we do a final inspection and we accept the sewer line and that is easy for me to do because that is a whole process we are going through. The 3 properties that have this issue that is the easiest way for me to do it.

Mr. Sneed: I meant the trigger for this mailing is that what you are addressing, what was the trigger for this mailing that he is here for.

Mr. Yost: Oh the capacity of the water system was fulfilled with the 60 day test of the 2 new wells coming online, that is what triggered it right there. So those wells were full operational we have full capacity now for the build out and that is basically it.

Mr. Sneed: So is it worth considering Mr. Pierce's point waiting till we redefine the trigger and than withdraw these letters?

Mr. Yost: No we define the particular properties that are going to be impacted which will be Cattail, Jamison, Mr. Pierces and Mr. Brooks that is what it is. And the Brooks and Pierce obviously the infrastructure will be in place the exact same time, so only have really 2 things to think about that is going to be in the file for Staff to worry about Cattail Jamison that is going to be a long way out, that is a whole other issue.

Mr. Coakley: And then if 1/2 or 3/4 of the other letters that we sent out come back in asking for an extension or waiver based on hardship or some other reason, how big a list are you going to have to keep track of.

Mr. Yost: It is just a handful like a couple other ones in the commercial area and I don't think they should be granted for the reasons that they want to be granted. And we will talk about those when they pop up, if they pop up.

Mr. Coakley: Well if you have no trouble plugging into your spreadsheet a triggering mechanism and then when to start the ball rolling again I have no problem with it then.

Mr. Yost: That is easy, it is easy for me that way yes.

Mr. Pierce: I would ask I don't speak for Mr. Brooks but he and I have talked about this you know he has had a lot of physical problems as well as --- problems, I would ask that a letter be sent to him too not requiring him to come in and seek an extension I think this is just to me pro forma that it should be sent out to the I guess the 3<sup>rd</sup> property is the Jamison property but that it is not available so we can't start a clock. So that deals with the direct thing, I would like to on some of the discussion that has gone around here you did a little brief history, I think I don't know these other 3 gentlemen really, I don't know when they came to Town but I was on the Planning Commission when we first did the allocation way back when and there were only 6 wells at the time and virtually no sewer capacity and everybody wanted water and sewer so we set up this allocation system and as you talk about probably no other town but we thought it was the fair way everybody seemed to live with it and we set up 2 categories, 1 for the little infill 1 to 4 lots and then for the bigger developments like I am hearing 40 I don't know where that is but certainly a lot bigger. Has all the water gone to the 1 to 4 have all of them been offered.

Mr. Yost: Yeah.

Mr. Pierce: My position that I really think you ought to consider is that for the 1 to 4 we have been paying property tax on residential zoned land, all the other land that is being developed has been paying based on a farming assessment now I just got a new assessment and I didn't recalculate this but when the impact fee issue was coming up I went and looked at it, the average farm assessment in this part of the County is \$275.00 per acre, my assessment just for the land no improvement is \$87,000.00 an acre and I am assuming Mr. Brooks is similar and the other people on this list. We have been paying taxes and I have no water, no sewer never have and my taxes have been used all this time I think it is time and equitable that the people that have been paying residential taxes the whole list that have been allocated water you just do away with that clock, we should have the right to access water and sewer at any time, I have no intention of developing my property at this point in time. I don't know that I ever will maybe when I die somebody will but I should have the right to have the water and sewer because I have been paying the taxes all these years at an assessed value or as a magnitude greater than the developers that are developing farmland, so I would like you to take that into consideration that for the 1 to 4 lots and this document that you are working from is just advisory it is not an Ordinance, it can be modified, it is just guidance to work by, so you all I think have the capacity to go in and just say for those people no more timeframe, you have been allocated the water and sewer we are going to give it to you, we will hold it there and you deserve it because you have been paying the taxes on your land as a residential property. One thing that I don't think is in the current allocation is what happens if somebody comes in and says I can't build in the 2 years, they don't have an excuse it is there they can't build and you take the water away from them, water and sewer, where do they go, does that mean they never can get water and sewer, I don't think it is addressed in the allocation what happens if you miss your spot on the list.

Mr. Coakley: They would have to reapply at the next allocation process.

Mr. Pierce: But it doesn't say that on the list either.

Mr. Yost: There may not be another one, so use it or lose it basically is what it says.

Mr. Pierce: And like I said we are at 16 wells now I think right or 15?

Mr. Yost: Well we will be at the end of the day but we are at 13 right now.

Mr. Pierce: 13 right now and we have got sewer capacity far greater than we did when we were at 6 wells and we started this whole process. So I really think those people all of us me included deserve to have that with our property because it certainly affects the market value of our land, there is no doubt about it and we have been paying taxes at a much higher rate all these years. So I will offer that as some points for you all to consider in all of this.

Mr. Coakley: Thank you.

Mr. Pierce: Any questions on our situation or anything as far as there being no sewer line to tie into.

Mr. Coakley: Ok do I hear a motion then?

Mr. Sneed: Well I have a question sorry. So the request for a waiver or extension now immediately following the receipt of the Town's letter, he has a 2 year window, anybody who comes has a 2 year window, so does it make sense to wait until you are near the end of that timeframe before we grant the extension, at which time we would have a better sense of the development that is going on there, other words within 90 days of the expiration or something.

Mr. Yost: I guess that depends if you set a trigger or you set a timeframe. If you set a trigger it really doesn't matter, the trigger will be when the infrastructure is in place, so the timeframe maybe would make more sense, so however you want to approach it.

Mr. Wright: I think if Wade can keep track of that...

Mr. Coakley: If Wade has no trouble...

Mr. Wright: And have no problem with the concept of extending the period, the two year period to commence when the water or sewer is available because my understanding was the 2 year period is the period for making your plans and getting your project ready to apply, not to wait and see whether water and sewer is available.

Mr. Yost: And the problem is water and sewer does not have to go to the property for development purposes, it has to be in the vicinity and right now it is not even close.

Mr. Bachman: Well there may be a better way to look at this, one trigger to --- better if we now have the capacity to support the taps, seems to me there might have been a secondary trigger and that was is the infrastructure available to the property owner to allow them to gain the, receive the water to use the tap, if the answer is no don't send the letter, don't start the clock.

Mr. Yost: Well let's take the Anna Vinci property...

Mr. Bachman: Who?

Mr. Yost: Anna Vinci property, which is located on Hughes Road.

Mr. Bachman: Ok.

Mr. Yost: There is a sewer line running down Hughes Road, there is a water line close, they have to bring infrastructure and do extra work to get it there, same thing with the piece of property on Westerly Avenue they will have to extend the sewer line actually up and down and that is 6 houses so they are providing for their own infrastructure somewhat too if it is in the close vicinity, so it is really only these 3 properties are the

ones that fall into the guidelines what you are talking about that it is not really feasibly acceptable or makes sense for them to do it.

Mr. Bachman: Who is responsible for creating the capacity to reach the water the property owner or the Town? I mean Mr. Pierce is saying there is no sewer line.

Mr. Yost: Ultimately if they want to develop it, it is there, if they want to develop it it is on them to find out how to get the water and sewer to them. Budd Road there was some properties developed there, they had to run pressure sewers all the way down Budd Road to tie into Spates Hill, the Town didn't pay for any of it. There is several cases like that, it is the developers, the developers have to get into the property. In this case we are making a large developer put it in place because there is no infrastructure even close by so this is very unique actually.

Mr. Bachman: So it sounds like we are on a case-by-case situation.

Mr. Yost: For these 3 properties.

Mr. Bachman: Ok and we are going to have to deal with it in some kind of process of granting a waiver until they are ready, I understand ok.

Mr. Coakley: So do I hear a motion that on the 3 properties in question or do you just want to keep it on the one we have an application for?

Mr. Yost: I think we should probably do it definitely for Pierce and Brooks. Mr. Jamison is trying to find some alternative ways to get those houses and he may pay for the water line and be reimbursed through impact fees, there are some things we are tossing around so again it is very possible he only has 4 out there.

Mr. Bachman: Well in that case if 1 out of the 3 you wait and see whether they take the initiative to create their own opportunity in the case of Mr. Jamison right and another out of the 3 has come to us and asked for a waiver a time waiver, than I wouldn't make a special effort to reach out to Mr. Brooks until they come to us as well. Just take it on a case by case basis then, we sent you the letter, the clock is running if you don't want the clock to run come make an appeal. I think that may be the cleanest way out of this.

Mr. Stump: Conceptually I agree but in the case of Mr. Brooks and not Jamison I am sorry, your property, they are identical I mean it is the same trigger they are basically side by side close enough so.

Mr. Bachman: Ok I don't care either way.

Mr. Stump: If they were spread all over Town I would agree with you completely but this feels a little different.

Mr. Coakley: From a humanitarian standpoint and everything he has had health issues and his wife died this past year and stuff.

Mr. Bachman: Oh I take it all back then.

Mr. Coakley: So do I hear a motion then that on the 2 properties Pierce and Brooks that we don't start the allocation process until availability.

Mr. Stump: Of the infrastructure?

Mr. Coakley: Yes.

Mr. Stump: Can I go with a so moved.

Mr. Coakley: No.

Mr. Stump: Afraid you wouldn't let me.

Mr. Sneed: I will make a motion to extend the allocation request for the Pierce property and the Brooks property until such time as the infrastructure for water and sewer is available.

Mr. Stump: Second.

Mr. Coakley: All in favor?

All: Aye.

Mr. Coakley: I think you raised a good point also with possibly I think the --- you have an additional allocation process or decide what we are going to do that we do consider whether we want to maintain the timeframes on the property or not. And those are guidelines but I think there is also something in the Subdivision Regulations that have timeframes also so it would require a legislative proposal. Ok you ready John?

Mr. Strong: Sure.

Mr. Coakley: Band shell and Skatepark.

Mr. Yost: Before he gets into this guys I would like to say these projects have been in the (inaudible) actually for a couple years in the planning phases and stuff. The Skatepark itself was 2 ½ years with the Parks Board then went to the Commissioners and a special committee was appointed from the Commissioners to come up with the details of where it would be and the land was purchased and with the band shell that was about a 4 month process with the Parks Board, went to the Commissioners, went back to the Parks Board because the Commissioners didn't like what they had come up with for a design so we finally got that worked out. Typically what we do with structures we have in Town here, well houses, pole barns things like that, if we don't do a subdivision like we did on this building here we have been bypassing the Planning Commission. George brought it up to me so we had Alan do an opinion which is in front of you guys, and you guys do have the authority to review every municipal structure that goes in the Town so this is why this is before you this evening and you know that its already been, the contractor hasn't started working on the Skatepark itself or the band shell, but the Skatepark we didn't have to get a building permit because it is not really a structure but we said lets just throw it in here and do that tonight anyway so from here on out anything that is built in Town we'll make sure it gets before this Board and that is all I can say about it.

Mr. Coakley: The Skatepark isn't a structure?

Mr. Yost: No the County said it is not a structure.

Mr. Strong: It is a defined space that only has one way out. Skateparks will have multiple ways out. All right this is the Skatepark and if you go out toward the bank property or the shopping center you will notice there is no arbor. The existing former existing gazebo is located right here on the plan. The gazebo I am sorry the band shell will start approximately 35 feet from the --- and the parking area, the bank is right in this area, the transformer that sits out by the bank is right here. The nearest fire hydrant is 150 feet away it is in compliance with fire and safety code. The floor plan has stayed the same for the stage since the initial design. We are not disturbing more than 5000 square feet of area, the approximate size of the stage area is 1200 square feet. It will have a men's and woman's restroom available and a small electric room for circuit breaker panel and the items needed. Structure is very similar to this building, the roof and tile will be the same as what is on this building, the brick color will be the same as what is on this building, the capstone will be the same color as the watermark stone that runs around the building. It will mimic what is here, there is a it is open on 3 sides, there is a small ramp that will facilitate movement of equipment and also a handicap person to the structure and they call it the welcoming curves, which are just walls right here so you don't see people walking easily from behind the stage. The restrooms are supposed to stay open

when the facility is not being used during the day on weekends for bicyclists and people coming in that way. Plumbing very simple it is stainless steel plumbing fixtures so they can't be damaged easily by vandals, and it is just one --- in both cases. The equipment room would be locked except for events. The lighting is just stage lighting across here, there will be day lights or bright lights for illuminating the structure so that people can't just get up on the stage and carry on, those are poster lights they will be on the post here and also in the back. Electrical fixtures are right here there will be additional electrical fixtures that are available for running the sound system in the back room, there is also going to be a conduit that runs approximately 40 feet out from the front for a mixing station for the bands that will be playing.

Mr. Yost: Can you go back to the elevations for a second I want to touch base on how we kind of got to this point here? The initial budget 2 years ago we placed in there we were going to build the same base structure with the concrete steps going up and we were going to place a prefab building on top of it that had some acoustic qualities and then try to come up with some way to build bathrooms on the back of it. We received a \$100,000.00 grant from Historic Montgomery and Maryland State Heritage Program and tourism was part of it so that is why we had to have the bathrooms as part of it. So that is what the Commissioners shot down the first time, they didn't like the way it looked, we also met with all the neighbors along here and had a couple public meetings with the Parks Board and all the people that came out that were back here said well don't put it where the gazebo is now because we definitely don't want a brick wall or something in our front yard that we can't look out and see anything. Does everybody know the gazebo collapsed with the snow during the big snowstorm so that was kind of good timing there.

Mr. Coakley: There was no outside help on that?

Mr. Yost: So what came out of all the meetings and stuff we had was they wanted something that architecturally matched this building here and have the brick and kind of match like the guidelines of the Master Plan have and be able to see through the structure as much as possible. And so we had 3 or 4 different variations, worked with an architect, went back and forth and finally came up with this here and small as it can be for the County requirements of electrical rooms and bathrooms which is the rear portion of the structure and then just the stage itself we made it as open as possible so that you will be able to see right through the park and it wouldn't look like a big structure out in the middle of nowhere, and we moved it up and located it up by the arbor like John said it is across from the bank for the main reason to get away from the folks back here so it wasn't impeding their view and build a big structure in front of their house basically.

Mr. Bachman: Close to what bank?

Mr. Yost: BB&T. In the park but across up toward the front of the park kind of.

Mr. Stump: Directly across the street from McDonalds in the park.

Mr. Bachman: So it is up in the front of the park.

Mr. Yost: Sort of. There is an arbor midway it is right up above the arbor.

Mr. Strong: The arbor sits right here.

Mr. Bachman: Has this been approved by the Commissioners?

Mr. Yost: Yes.

Mr. Bachman: They have.

Mr. Strong: And this is the parking lot here it runs here, the bank is right over in here.

Mr. Bachman: And you moved it again why from the old location, because a couple people complained.

Mr. Yost: Well when the park was initially built we tried to get feedback from the folks right here that live and face Fisher Avenue and the thing they said was as long as you don't build something in front of us that is going to block us so we can't see out of the park, please don't build a structure right in front of my home, which if you know the homes are like a 10 foot setback.

Mr. Bachman: You had already done that with the first gazebo.

Mr. Yost: They were happy with the gazebo you could see through it they were ok with it.

Mr. Hoewing: You could see right through it, you can't through this.

Mr. Yost: And so we invited them back again and had a public meeting with them again to get their input and the sound really when we first built the gazebo we had a couple bands playing every weekend during the summer it is booming out here, and there is movies playing until 10:00 or 11:00 at night and it is very loud and it is kind of a happening place out here during the summer.

Mr. Bachman: Do the (inaudible).

Mr. Hoewing: Yeah.

Mr. Coakley: If the wind is blowing right I can hear the bands at my house.

Mr. Sneed: That is why I don't come I can hear too. What material is used for the floor concrete, and so passerby can still go up and hang out in it right.

Mr. Strong: Well sure they could.

Mr. Sneed: The doors to the storage area and the bathrooms, which will be closed at certain times, what is our security on those doors.

Mr. Yost: Same with all the parks we lock them.

Mr. Sneed: Does it have a plate, a pry plate?

Mr. Strong: You mean a jimmy it will.

Mr. Sneed: Ok that is good.

Mr. Yost: It is a regular park kind of restroom.

Mr. Bachman: And again what was the reason there wasn't a site plan submitted to the Planning Commission?

Mr. Yost: My fault. Basically we were of the premise that local governments are exempt from their own laws and so we just didn't largely every time we do a project we do it that way. Because the Parks Board dictates what happens in the parks if everybody wanted their say in it and I didn't make it so it was my oversight.

Mr. Bachman: So what are we doing, I don't understand the process tonight. Are we just being informed about a plan that has been approved?

Mr. Hoewing: Yeah.

Mr. Bachman: Lets get down to this are we being informed about a plan that has been approved?

Mr. Yost: Yes.

Mr. Hoewing: Yes absolutely.

Mr. Stump: Thank you John.

Mr. Hoewing: Trying to rectify a mistake.

Mr. Wright: The Planning Commission is supposed to review it for compatibility with the consistency with the Master Plan.

Mr. Hoewing: It is not the same as a site plan review I don't believe, I think it is actually different so it would be the same as a development.

Mr. Wright: I have to take a little responsibility for this too because I probably should have noticed this, the County Montgomery County and Prince George's County are part of the regional district and the regional district has what is called Mandatory Referral and basically this is the exact same thing, in 66B for municipalities and so...

Mr. Bachman: We took \$100,000.00 from who Montgomery County?

Mr. Yost: State of Maryland.

Mr. Hoewing: State of Maryland.

Mr. Bachman: State of Maryland. I mean it is right there you know that your frame of reference is the rules of the State of Maryland.

Mr. Hoewing: Well this applies whether it is the State of Maryland or not. It is a State Law that guides local planning is what it is.

Mr. Bachman: On the schematic you show of the building this page lower left hand corner is that what the front of it looks like?

Mr. Yost: That is correct.

Mr. Bachman: I mean could it be any less attractive, it is so plain.

Mr. Yost: Well what would you recommend for that? It has not got instructions, we don't have a start date yet.

Mr. Bachman: Well if it was coming to through a process where there could be recommendations I would recommend that you try to make the front of it have some relationship to the architectural character of the Town Hall or the historic structures in Poolesville. I mean the back of it, this is the back up in the upper left hand corner, that is nice for the people in the parking lot right that is a nice piece of design, but there is not much design in the front of this that I can see.

Mr. Hoewing: It is brick pillars for one thing which does look like these.

Mr. Yost: It does have brick pillars, it is white façade that goes across, the roof comes down...

Mr. Hoewing: It is a sloped roof. I think it looks like this building.

Mr. Yost: My fault you guys missed out on the process so understanding how we got to this point, creating a band shell and a stage this is attractive to consider the options with smallest roofline visibility which was a huge issue, when it was tilted the other way making a gable to the front it just didn't work.

Mr. Sneed: So you would also be limited for acoustic reasons I would think right.

Mr. Hoewing: Yeah.

Mr. Yost: Yes exactly.

Mr. Strong: Correct. This sloped area here, this portion in the back of the building this is the front of the building the sloped area reflects the sound back out into the audience.

Mr. Bachman: (Inaudible).

Mr. Strong: This portion here?

Mr. Bachman: That sharp edge rectangular design on the top of the building.

Mr. Hoewing: With the slope it goes like that, you are looking at it from the front, it is looking like this like it is a roof, that is looking from the side it slopes in.

Mr. Bachman: But still it is a building of unadorned...

Mr. Hoewing: Well basically it is just a cover it is not really a building that is why, you could put something like a weathervane type of thing on top to make it look old fashioned that is possible I guess to make it look like an old building or fit in with the Town.

Mr. Bachman: That is a great idea.

Mr. Coakley: I think it will be somewhat reflective of the Town Hall here though.

Mr. Wright: Are you going to be able to make a decision tonight or put it off?

Mr. Coakley: Well that is a good question did we make a decision on the band shell.

Mr. Hoewing: You should punish Wade and wait for a month.

Mr. Sneed: I thought the understanding was there was no decision by us.

Mr. Yost: There is a decision by you and the opinion what the State Law reads is that if you don't act on it within 60 days it is automatically approved and if you do act on it and deny it, 2/3 majority of the Commission vote can overturn you.

Mr. Hoewing: Look the truth is the Commission there is a mistake, the Commission did decide something but legally you could still say we don't like this design you can still say that.

Mr. Yost: Oh absolutely.

Mr. Sneed: So you are saying we need a motion to pass to approve it.

Mr. Hoewing: Or and you want to make some changes you can do it I mean now they still might say we already voted on it we are going to go forward that is up to them.

Mr. Stump: Or it could be silent and after 60 days it automatically.

Mr. Hoewing: Yeah that is right either way.

Mr. Yost: And for sure you won't happen it but it will help the situation that is all I can say at this point.

Mr. Coakley: Now is there a Site Plan to be signed?

Mr. Yost: No that is the problem we didn't pull our own building permit, we didn't pull our own Site Plan.

Mr. Sneed: So what do we refer to this as drawings, site drawings?

Mr. Bachman: So do 2 wrongs make a right is that what we are saying, that is what I am trying to get at here, 2 wrongs make a right.

Mr. Hoewing: What is the other wrong?

Mr. Bachman: The first wrong is it wasn't presented to the Planning Commission as required by the State of Maryland; the second wrong is we are being asked to go along with this, it is not being presented to us for review, the first wrong it wasn't presented to us for review and the second wrong it is still not being presented to us for review.

Mr. Wright: That is what this is tonight.

Mr. Bachman: No it is not. It is not a review.

Mr. Hoewing: Well it is too late for that Bob but lets put it this way if you guys want to recommend something you can and you may have an idea the Commissioners haven't thought of so don't look at it as a closed case. Like I said I think the Cupola idea is actually an interesting idea I hadn't thought about that, maybe you are right it is too unadorned, recommend something. You might get their attention, they made a mistake, not compound it by being mad about it, it is too late.

Mr. Bachman: Well no the way to rectify a mistake, which didn't allow a process to occur, is to allow the process to occur.

Mr. Hoewing: Yeah the other thing about this is they did do a very thorough assessment of the different kinds of designs and all that so it is not like they didn't pay attention to it and I am not saying you guys shouldn't do something I am just saying...

Mr. Bachman: Who is they?

Mr. Hoewing: The Commissioners.

Mr. Stump: And the Parks Board.

Mr. Hoewing: And the Parks Board they also looked at it.

Mr. Wright: I am not clear what assessment would you expect other than what has been presented.

Mr. Yost: Just because you know it is approved but if you didn't know...

Mr. Bachman: Well what is the normal process?

Mr. Wright: Normal process this is as I read the statute it is a recognition of the fact that normally local governments are not bound by their own laws and so we put in place instead of assuming that the Planning Commission had jurisdiction over a development like these as it would if it was being done by a private individual we say no it doesn't. The Planning Commission doesn't have jurisdiction under the normal statute but in place of that we are going to say any project that the government does has to be reviewed, mandatory referral has to be referred to them and get their approval and if they don't approve it then their disapproval goes to the Commissioners and the Commissioners either make some changes or overrule them by a 2/3 vote. And that is what now is being done belatedly but it is not a situation where the review is not being done, I mean certainly it should have been done in advance rather than after the fact but the procedure is still in place, if you disapprove than the Commissioners have to overrule you by a 2/3 vote. And that is provided for in the statute.

Mr. Coakley: So with that being said what comments, recommendations do you have?

Mr. Bachman: Well I'm not I'll be honest with you, are you saying this is a Site Plan review?

Mr. Wright: No this is not a Site Plan review, Mandatory Referral is not a Site Plan review.

Mr. Bachman: Then what is it, what is Mandatory Referral?

Mr. Stump: It's a referral.

Mr. Coakley: Its similar to a Site Plan review but...

Mr. Wright: It doesn't require a Site Plan.

Mr. Hoewing: So I suspect that this is not, other than the fact that we caught it late, this is no different than what we normally would have done, the Commissioners would because it is a public building they would have, because it doesn't require a Site Plan they would have probably said here is our design we are going to send it to the Planning Commission see what they think and if they disagree and they say here is a recommendation instead than they have --- to vote you down if they disagree with you. So it is not the same because these are public buildings that is just they way the law is. So you got 60 days if you want to take another month and study it and come back and say as you just did Bob this is not, we don't think this fits, here is a design of a roof we like better, and you are within your rights to do that. And you might get Commissioners to say we hadn't thought about that, that is what the process is about.

Mr. Bachman: I have no idea what other designs were submitted, I have no idea what the color representation is, is this the best representation you have seen of the band shell that you showed us tonight?

Mr. Yost: That is correct.

Mr. Bachman: You don't have anything from...

Mr. Yost: It was \$4,000.00 to \$6000.00 more to get a color rendering.

Mr. Hoewing: What color are they thinking?

Mr. Bachman: It was 4 to \$6,000.00...

Mr. Strong: For a color rendition by the Architect.

Mr. Hoewing: But the colors try to match this building.

Mr. Bachman: I find that unbelievable.

Mr. Yost: That is what I thought. We paid how much money almost \$35,000.00 to get this Architect who designed the building (inaudible) back and forth between the 2 Boards as it was.

Mr. Hoewing: 10 to 20% of the cost is usually this stuff.

Mr. Yost: Just going back and forth and everybody wanted a piece of it and they had their own design in itself was a nightmare but that is no excuse.

Mr. Coakley: Well lets talk about the positives and that is I think in looking at the design and everything that it does mimic the Town Hall so I think it would be a good reflection for that side of the Whalen Commons. In talking to the Koesser's and the Davis's that I guess are the 2 that are closest to where the band shell was that they are in favor of it and they've seen the sketches because they came to a couple of the meetings or something and they like the idea that it is moved up away from their immediate line of sight because it is not a humongous structure but I don't think you would want that where the gazebo was if you are sitting on your front porch or something so I think visually it is going to look better up where the Parks Board suggested putting it and stuff. The roofline I don't know I mean I think from when you look at it from the front its going to be rather airy because all you are going to see primarily are the 2 columns that match the brick in this building here. So other than possibly doing maybe a couple --- or something on the roofline in the front but you are talking about a relatively short roof with less elevation than the rear so I am not sure what you could put up there.

Mr. Hoewing: Well one thing you could do George if it is not a Cupola you could also have a bumpout...

Mr. Yost: Like a gable or something.

Mr. Hoewing: Like a gable coming out that matches the front of this building, which has the same kind of thing, you could do that to make it look more old fashioned.

Mr. Bachman: In the front?

Mr. Hoewing: Yeah coming out of the front that way, so you have got what do you call those, dormers a dormer.

Mr. Bachman: I don't know how you would do that.

Mr. Hoewing: You could easily, you could do that, there could be a dormer coming out sure.

Mr. Strong: This distance here if this helps any is approximately 8 feet from stage level to the break in the ceiling line and then this distance is 15 feet.

Mr. Hoewing: Yeah so a dormer would fit there.

Mr. Yost: I think it is a little bit less than that remember we shortened it up.

Mr. Strong: Shortened it up more.

Mr. Hoewing: Yeah ¼ inch for each foot yeah.

Mr. Coakley: Yeah but the other thing is if you add dormers or eyebrow windows or something like that then you are talking about additional maintenance problems in the future.

Mr. Bachman: You know I don't know how to start on this because it doesn't it is sort of --- authority, it's a done deal we get to comment on it, it strikes me that...

Mr. Coakley: Well forget that part we are redoing...

Mr. Bachman: It wasn't addressed then on the design features of the part of the building the structure that faces the parking lot and the businesses, the bank, the library all that right. But the other side the side that faces the audience it doesn't seem to be anything done other than try to achieve the band --- objective and I think it looks nice from the back end...

Mr. Yost: We have looked at options, if you go up, actually John and I went up and took pictures where was it John...

Mr. Strong: Frederick.

Mr. Yost: They have some paving on the stuff and that is what they were looking at but funds are going to be short for this but to your comment of they have already gone through the Architect and put the money into designing it, every building that the Commissioners or Parks Board do will go through this process and will be here before it gets to you guys I can tell you that right now, they will design it, there will be a design plan already in place of what the wishes of the Commissioners are, just like if they are a private person doing it.

Mr. Bachman: So the Planning Commission has no authority over the decision of the Commission they only have it about the decisions of private citizens or companies wanting to do business with the Town.

Mr. Yost: Well it is kind of like the tail wagging the dog if you authority over the Commissioners wouldn't it.

Mr. Bachman: No I mean the standard review process.

Mr. Yost: Well sure people put their money into everything they are going to do before they bring it in and show it to you.

Mr. Hoewing: And you really don't on houses either if you think about it when the development comes in I mean you have no say on what those houses look like.

Mr. Yost: Take Tad for example across the street brought in his plans he actually superimposed the building right there next to McDonalds where the carwash was, he had it all designed exactly like he wanted and came in and the Planning Commission said oh lets add little fence posts out front and make it a little more country, he put a didn't we went through the whole process with him. CVS brought there plan in you said no go redo it so no matter what everybody is going to put their money into an Architect and bring in a plan.

Mr. Coakley: The only difference with this is that this isn't a usable building, we review it, our recommendations go to the Commissioners, if they don't agree with it if they can override it by a 2/3 vote.

Mr. Hoewing: We didn't really have a say in the CVS either, they came in with a plan and they could have, if they would have waited this out or taken us into Court they

probably could have beat us I think, but they didn't want to wait and we just kept on dragging it out and finally beat them, but they didn't have to change it frankly.

Mr. Coakley: Well yes and no.

Mr. Hoewing: No they didn't.

Mr. Coakley: Subdivision Regulations do...

Mr. Hoewing: Not design. Only things like setbacks George and size that is all, you don't have any way to say you can't build a California style house for example, you can build a California style house and I can't stop you.

Mr. Strong: Except for...

Mr. Hoewing: Yeah in the CBD but in a residential you don't have any. But this case is different in the sense that we are trying to make this compatible so if the Planning Commission doesn't think it is compatible than I think you ought to spend some time reviewing it. We have got some time so I wouldn't say you should just rubber stamp it if you don't agree.

Mr. Bachman: Well you know I think I will just summarize my thoughts and not worry being able to get over my concern about the process employed here and that is I think the front of the band shell looks under evaluated, under considered in terms of design features, there is nothing there. And the back I think is if that is what you want to do have it reflect the design of the Town Hall and kind of link the 2 together, line of sight and make a connection that works but the front of it could be more of a statement of some creativity or some design excitement, I think we missed the opportunity there, and the structure is going to be there forever so we do it now you are not going to come back and change it, that is my main comment. It is going to be a very significant, since it is now in the middle of the Commons at one end almost like a goal post position, it is not the gazebo over tucked in a corner, I think it deserves my opinion it deserves some extra consideration for what the front of it looks like you are going to see that as much or more than you are going to see the back of it facing the parking lot.

Mr. Hoewing: Well lets think about it for a minute, it is a cover so it is a roof, so you have got options in terms of making it look more like it fits in and I mentioned one, you could put dormers or something that makes, that gives it definition this way, you could put a Cupola on top or something that makes it look old fashioned, but it is a roof so to some extent it is going to be flat, now you could have it designed this way instead of the way it is...

Mr. Yost: That didn't work we tried.

Mr. Hoewing: Oh we did ok so that wouldn't work.

Mr. Yost: The roof was just huge.

Mr. Hoewing: Huge that way, this way it was...

Mr. Yost: Almost 40 foot wide, to have the gable that way would be even...

Mr. Hoewing: But this way you could do like dormers coming out or something that would make it look old.

Mr. Bachman: Well you have got there are only a couple design features, you've got columns in the front right now they are brick there is nothing to them right there is no design feature there.

Mr. Yost: I think there is little lights on them or something, but the concrete itself is very bright and it goes up, stepped up and circular...

Mr. Bachman: And you've got the sloped roof so the question is what can you do with that if anything.

Mr. Hoewing: So those are 2 options I can think of that would make it look more traditional.

Mr. Bachman: I mean I like the back tying into the Town Hall is fine.

Mr. Hoewing: This is actually, these posts actually have capstone, so it is brick up to the capstone so it goes this high then the capstone which actually is attractive, it is not just a straight brick, then it goes up from there. I mean to give it more definition Bob what you could do is have a capstone and not have brick from there you could have a cement or a column going up from there that is another way to make it look different, from the capstone if you wanted. They wanted to put the brick I remember because they wanted to make it look more like this building, so they wanted to have brick on it in the front somewhere.

Mr. Bachman: I would have to go outside and look up there are dormers on this building?

Mr. Hoewing: Yeah there are, and that was the reason they are not functional.

Mr. Bachman: Than Link your idea that suggestion may have some merit if you are trying to tie it in both ways to the Town Hall and with a sloped roof it is consistent with the design of this Town Hall so you have some design features on the front and the back. The back I mean you look at the back I look at the Town Hall so it works even I can figure that out, but there is nothing on the front that says anything at all I think there is a chance to take advantage of it and...

Mr. Hoewing: Well the other option is we have got some time so take some time and look at other designs you see online of other, the one in Frederick frankly isn't that attractive to me I have seen that one.

Mr. Yost: Yeah we went and looked at that, we have traveled all over the place and looked at, I actually found this design online after pulling out my hair after the third time back at the Parks Board.

Mr. Hoewing: The original one that they were going to consider was terrible, the Parks Board had that was very bad, a prefab.

Mr. Coakley: If somebody asked me to describe some of the band shells I've seen normally when you are there you are there to see something and you tend to focus on the performance and stuff and everything and not pay any attention at all to the structure itself.

Mr. Hoewing: Yeah but Bob is right during the day when nothing is going on the gazebo actually did by accident I think because we didn't really think about the design for that either but it looked more like it fit in the Town.

Mr. Yost: Right.

Mr. Hoewing: So give it some thought.

Mr. Bachman: And your idea of the dormer windows if that turns out to be the case you could have a lighting system where at night those 3 dormer windows could be lit up.

Mr. Hoewing: That would be interesting.

Mr. Coakley: Yeah I kind of like that idea.

Mr. Bachman: And you now have a structure that was talking to the Town all the time not just when it is in active operation. So I think there is an opportunity in the front of

that to achieve what the Town wants to achieve in terms of having an important resource and amenity item to the Town.

Mr. Hoewing: Subject to your --- we might just bring it up again and let people think about it.

Mr. Coakley: Well go ahead and do that then and we will get some pictures and see if there is any other suggestions. And for the record Link I am not sure how much legal weight it would hold but in our Subdivision Regulations it says the Planning Commission shall not approve the Site Plan if it finds that the development would not achieve optimum compatibility, safety, efficiency and attractiveness or that public facilities are inadequate.

Mr. Hoewing: Uh those are great words.

Mr. Coakley: How legally defensible that would be if CVS said heck no we are just going to go ahead and build our standard stock store and we could say well no our regulations say it has to be this way.

Mr. Hoewing: We had more clout in that case because we also have in our Master Plan the design standards, they are not regulations but they are standards so we actually had that as leverage over them too.

Mr. Strong: All right this is the Skatepark titled the Poolesville Recreation Center. There was some brainstorming at one time about what could eventually end up on this particular piece of property. The stormwater concept plan was approved through Montgomery County and also the stormwater management plan for the grading of the 10,000 square foot area which would be where the Skatepark would set which is an impervious area, the parking lot is a gravel parking lot with asphalt aprons and also curb and gutter and a sidewalk in front of it. The sidewalks on the interior are 6 foot and the exterior are 5 foot. There is no sewer or water for the site, no electric to the site, it is just an impervious area that has been approved for 10,000 square feet although the Skatepark will not be that large. The current layout of the Skatepark, which was approved by Parks is just this area here, the area of impervious nature is from here, there is the ability to expand out beyond the LOD at later dates, we cannot design, we came up with this because this is a large change in stormwater regulations that is going to take place as of May 1, which will increase the amount of --- that will have to take place. Whatever changes are done to these plans after May 1 or actually after January 31 because they are not accepting concept plans anymore would have to go under the new guidelines. It is a fairly simple and straightforward plan, this area here is just the stockpile area that you see being constructed presently, the soil will be flipped over to balance the site and the area that was graded.

Mr. Sneed: Is it fenced?

Mr. Yost: Around the Skatepark itself it will be fenced, yeah it will be an 8-foot black chain link with vinyl coating.

Mr. Strong: So most of this is just the grading.

Mr. Coakley: How soon after McDonalds complains are we going to put porta-johns on site?

Mr. Yost: I don't know.

Mr. Strong: We will be happy to give the (inaudible).

Mr. Stump: I'm not sure about that. I have been trying to get rid of some of that business.

Mr. Coakley: I mean it could be and also weren't they talking about holding events or something?

Mr. Hoewing: Yeah they definitely will try to do that.

Mr. Yost: When they hold events if they do we will do just like every other park that doesn't have a restroom, we do get the porta-john facilities in place. On this particular project we did receive \$175,000.00 bond bill from Senator Garagiola from the State.

Mr. Stump: What is the total cost now?

Mr. Yost: Right around \$400,000.00 I believe.

Mr. Stump: Maintenance annually?

Mr. Yost: There is really not that much maintenance with it I mean the guys have to check it everyday and we will have to open and close the park same as all the parks, basically just adds another park into the circulation we do. No lights.

Mr. Coakley: Will it be staffed?

Mr. Yost: Nope.

Mr. Coakley: Oh.

Mr. Hoewing: We got a lot of input from kids on this one too so I have no idea what this stuff is but they say it is the right thing.

Mr. Yost: And the Commissioners did appoint a Committee also to design the exact Skatepark itself, the units or whatever they are in there.

Mr. Coakley: John I assume the gravel parking lot is for cost savings.

Mr. Strong: No it is actually part of the stormwater plan.

Mr. Coakley: As opposed to impervious concrete.

Mr. Strong: (Inaudible) you do that at a later date, because the stormwater management it takes the water away so you could just put in infiltration later.

Mr. Yost: John do they have the plan that shows kind of like the Master Plan that the committee was working on? On this particular parcel here George you were part of this weren't you, on that Committee, Parcel 840 or you Cal, I thought one of you guys were. Ok this particular parcel does show the Skatepark up in that quadrant there, it shows a Tot Lot, and a pavilion or something at some time in the future and then all that is left of the plan is a Rec Center or a Community Center at some time in the future, and the gravel will be paved or impervious asphalt at that time.

Mr. Strong: This whole area at the time of conversion for the recreation center would become parking spaces not all the way down but to about here, this would stay green and depending on stormwater regulations at the time, which we can only believe are going to be more and more stringent then we would go to what would be required. We do believe that impervious concrete is going to becoming more of a standard thing that you see in development driveways but until the time that this is built we don't know what will happen.

Mr. Sneed: So what is the estimated completion date for this phase?

Mr. Yost: Well the Skatepark construction actually can't begin until probably late February or early March just because of the weather itself, in a couple months they said they would have it done.

Mr. Strong: The grading if somebody will go out and warm up the earth they will be done very shortly.

Mr. Coakley: Is there any piping for stormwater?

Mr. Strong: There is some additional stormwater management piping that takes place but there is minimal we are treating using vegetative swales, we are adding the structure here, it will come down into the existing structure here and we are adding an inlet pipe here with the grade and duct it down to the existing structure here which ties into this structure.

Mr. Coakley: Does that tie into the shopping center that has the underground...

Mr. Strong: This runs along Wootton Avenue.

Mr. Yost: No it won't go up to the underground storage.

Mr. Sneed: But it will have curb, did you say curb and gutter?

Mr. Strong: Curb and gutter.

Mr. Sneed: And what about where that is placed, did we get that 5 feet that we talked about in the Committee to widen the roadway there, the frontage.

Mr. Yost: No.

Mr. Sneed: Why?

Mr. Strong: Cost.

Mr. Yost: Cost was the biggest issue.

Mr. Sneed: Cost of...

Mr. Strong: Moving the roadway back this way, we talked about moving the roadway back 5 feet and then it was 5 or 8 feet.

Mr. Yost: I think it was just 5.

Mr. Strong: 5 feet either way the initial cost when we did the cost analysis.

Mr. Strong: For paving?

Mr. Yost: For paving, obviously we had to go all the way up to Norris Road also to make it...

Mr. Sneed: Well wasn't that the idea, the idea was to make that, think of the future, for those of you who were not on the Committee, when this lot was before the Committee there was a discussion about the roadway all the way from what is the name of the road here?

Mr. Yost: Fisher.

Mr. Sneed: Fisher all the way out to Norris and the idea that Winchester Homes being built and completed that road will become a more used road.

Mr. Strong: There was also an issue with bringing the as I recall on the next property up putting the sidewalk along side to remove the sidewalk 5 feet to the right-of-way...

Mr. Yost: There wouldn't be room for it or something and then I think the Commissioners said here we are spending taxpayer money so 3 or 4 people can park up at the top of the street they should make the street no parking they have not acted on that yet actually the Parks Board should act on that. That is kind of the way the conversation went and then monies have just been cut off on a lot of our revenue streams so...

Mr. Sneed: To me it is very short sided, doesn't take into the future growth of the use of the road and the completion of Winchester into mind, it doesn't take into consideration what that road should become for safety reasons because it is a narrow thoroughfare as it is and there is a lot of kids in that area and it does not take into consideration what is necessary to make that road safe for the number of increased traffic volume that we can expect from Winchester being completed and I think that is a bad idea and I wouldn't spend the money then if money is the issue I wouldn't spend the money for curb and gutter I would wait on that the frontage until we have money to do the whole street, so

bank the money for the curb and gutter there now I don't know what temporarily can be done but I would do that and then wait till such time as the street can be made safe in the coming years for the entire stretch of that road.

Mr. Hoewing: The real road problem is not that road it is the one on the other side where the High School is.

Mr. Sneed: Well that is right but the roads don't tie right.

Mr. Hoewing: The problem is they don't allow parking in the road that road is plenty wide.

Mr. Sneed: Sorry?

Mr. Hoewing: If you don't allow parking that road is plenty wide.

Mr. Sneed: Well it is not plenty wide.

Mr. Hoewing: Oh yes it is. It is plenty wide. Without parking on it it is plenty wide.

Mr. Sneed: You mean on either side?

Mr. Hoewing: Yeah.

Mr. Sneed: Well in our Committee we considered that was probably not going to be an option because of the townhomes there is insufficient parking at the townhomes and so what you are doing is you may be creating a rule but it is not practical. The problem is the transition at the stop sign at Norris that is the problem.

Mr. Yost: That is the problem right there.

Mr. Sneed: So what we learned on the Committee is the right-of-way at the northeast corner of that intersection the easement goes a number of feet off the roadway, actually to the current fence, the property owners fence and so there is plenty of room for improving the sidewalk and the configuration of the sidewalk and that transition at that stop sign in the future, I understand it will be in the future but it would behoove the Town to address that at some point in the future. So what could temporarily take place in the frontage there to save money now and use it later?

Mr. Yost: Save money don't build the sidewalk and curb right now but they didn't want to do that but you could make that recommendation.

Mr. Sneed: I certainly would.

Mr. Bachman: So there will be a sidewalk on the Wootton Avenue side of the Skatepark but it won't, will it connect, there is no sidewalk along the Selby parking lot right?

Mr. Yost: Not right now but as that phase gets developed the front portion that Donogan owns he has the requirement to place the sidewalk along the rest of that portion there.

Mr. Bachman: You mean towards the high school?

Mr. Yost: No going down towards Fisher.

Mr. Bachman: That side would have to have a sidewalk at some point.

Mr. Yost: Yes.

Mr. Hoewing: Yeah.

Mr. Bachman: And how about going up towards Norris Road beyond the Skatepark.

Mr. Yost: We own that property right there so it would be on us to put that sidewalk in.

Mr. Bachman: So the expected implications is there would be a full sidewalk on both sides.

Mr. Yost: At some point in time.

Mr. Bachman: Between Norris and Fisher.

Mr. Yost: Yes.

Mr. Strong: Then there is this portion to consider where that location would be.

Mr. Sneed: I mean the point is this plan can't be considered by itself, I suppose the Commission considered that, but looking at this by itself that property by itself without taking the entire block into consideration seems to me to be shortsighted. Link what is the sense of the Board what do you take the sense of the Commission to be with respect to that?

Mr. Hoewing: I think in part the reason they wanted to do it was because that when that gets done then all you have to do to finish off if you are going to put the Community Center there is you have already got the curb and gutter and that is all built and all you have to do is put the Community Center in, so we got the money now lets get it done, that was their thinking.

Mr. Coakley: Of course if you did put a Community Center there you would be drawing more people from Brightwell Crossing and the whole west side of Town would probably be coming down Wootton Avenue.

Mr. Strong: If you recall we had a parking arrangement just in a concept plan of 84 spaces in a parking lot area.

Mr. Hoewing: Technically on the streets shouldn't that be something the Parks Board has been focusing on, because they are supposed to have streets now.

Mr. Yost: Yeah.

Mr. Hoewing: Well I think it is a recommendation that should be made and see what happens.

Mr. Yost: As far as which one the widening of the roadway?

Mr. Hoewing: Well holding off on the curb and gutter. I think the other reason the gravel parking lot was there too is because we don't know where the parking lot will end up when we have the Community Center there right that is the other reason.

Mr. Strong: For this design we used the front --- just because of stormwater management.

Mr. Yost: Right by the time you put in the gravel underground system like Selby's.

Mr. Hoewing: How much runway do we have in the High School do we have enough room to widen that road out or do we have to condemn some land or something.

Mr. Yost: Where McKenzie used to live and the next house they are fairly close to the road there.

Mr. Hoewing: I would think so I don't know how you could do anything. That is a bad area.

Mr. Sneed: That is a Town road though right?

Mr. Yost: Correct.

Mr. Hoewing: That is right the sidewalk is right in front of their house right now, the old sidewalk is not really a good one but it is there.

Mr. Coakley: You took out the curb and guttering the sidewalk would still stand?

Mr. Strong: I would have to take a look (inaudible).

Mr. Yost: What was the question.

Mr. Strong: If you took out the curb and gutter would the...

Mr. Coakley: Would the sidewalk still remain?

Mr. Strong: Would the sidewalk stay?

Mr. Yost: But I guess the real question is at the end of the day are you going to if you move the street back 5 foot well the sidewalk could move back also.

Mr. Sneed: Well you could move the sidewalk now right. I mean was the sidewalk designed to be...

Mr. Strong: You may not be able to move the sidewalk right away because of where the drainage swales are, the way the drain swales are configured if we move it...

Mr. Yost: What existing now you mean?

Mr. Strong: Well no based on this plan, this plan is County approved if we start moving things back that way it may impact that.

Mr. Sneed: So is the sidewalk than adjacent to the curb?

Mr. Strong: It is right here.

Mr. Sneed: How many feet to the curb? Is it the normal 5 feet?

Mr. Strong: No.

Mr. Yost: The sidewalk is 5 foot wide itself.

Mr. Strong: They have it set at 15 because of the, they wanted to keep it like a park setting, they didn't want the sidewalk right up against the, they wanted more of a green space, it is set at 15 feet back right now from the edge of the roadway. The question I have is we have drainage swales for kicking water to these structures, which are 10 feet back from the roadway, which we may run into some conveying water issues right now if you go this way.

Mr. Hoewing: I'm forgetting Wade are all these integrated or can the Skatepark, there has got to be an entrance way into the parking lot, those aren't relying on necessarily having this all sorted out, the curb and gutter and the sidewalk.

Mr. Yost: I don't think so not at all.

Mr. Hoewing: Ok.

Mr. Coakley: Well if it is part of the Stormwater Management Plan that has been approved it might be.

Mr. Yost: Well if we deleted the sidewalk completely and curb and gutter right now.

Mr. Strong: Just put the apron in here (inaudible) you could put in the curb and gutter from the apron itself, the sidewalk if you just pulled it out to the green grassy area...

Mr. Yost: That is what I thought.

Mr. Strong: We are sheet flowing the water across one way or another the sidewalks can't --- the green space.

Mr. Coakley: If kids are walking how would they access it?

Mr. Strong: They would have to walk up this.

Mr. Coakley: Up the driveway to the parking lot.

Mr. Strong: The driveway to this sidewalk right here.

Mr. Coakley: And where is the apron going in in relation to where Hoskinson comes in?

Mr. Strong: Neighborhood is here, Hoskinson is here, townhouse entrances here and the entrance here.

Mr. Coakley: And that doesn't present a problem having an entrance that close to a three way stop.

Mr. Strong: No.

Speaker: I was just thinking...

Mr. Coakley: Do you want to come up and identify yourself please.

Mr. Pierce: Bob Pierce 20300 Westerly Road. I was just going to suggest and I don't know if this was considered but there is a alternative to a simple gravel parking lot that I have seen used on environmentally designed sites, it's a plastic honeycomb and we use

the finer grade stone, still pervious but you can plow it you don't get ruts in it for snow removal and stuff I don't know if that was considered.

Mr. Strong: Yes we did, cost is a bit more and the, it also had problems with you have to have the perviousness of the soil but we have looked at it.

Mr. Coakley: Is the parking lot going to be closed in the evening?

Mr. Yost: No.

Mr. Coakley: So people currently parking on the street if they wanted to could end up parking in that parking lot.

Mr. Hoewing: Well they are already in the park if they were in the grass anyway, unless you put a gate on there you are not going to get it stopped.

Mr. Bachman: Cars and boats were on that property.

Mr. Yost: I don't think we will have any opposition to let people park there.

Mr. Bachman: Will it be illegal to park there?

Mr. Yost: No.

Mr. Hoewing: So what do you want to do anything?

Mr. Coakley: Well I am sort of curious about Cal's comment about short and long term sightedness.

Mr. Sneed: The roadway could become an issue when the Master Plan process I would think.

Mr. Hoewing: At the Focus Group the only extended comment people had about the need for more care and attention on Planning was the CBD there was a lot of concern about it looking and needs to have a lot of attention and that actually ties into the CBD so probably you can make a recommendation on it that is probably a good idea that you think they should hold off and consider what to do with that road as part of the Master Plan.

Mr. Sneed: So we would make a recommendation to delay the curb and gutter design and implementation until such time as the Master Plan is addressed if possible.

Mr. Stump: And the sidewalk?

Mr. Sneed: Well I would leave that up to them I mean it is 15 feet back if we ultimately take 5 feet of roadway I don't if the sidewalk is going to be affected.

Mr. Strong: This drainage swale here, the start of that drainage swale is at 5 feet and where we move this back how that will impact that drainage swale area is up in the air I don't know.

Mr. Yost: Well at that point you would have to sheet flow over the curb. You would have to make it sheet flow over the curb.

Mr. Strong: And then where it goes from there down I don't know. When we looked at it this is where we came to is we are taking water and putting it in here where this volume of water becomes here and we would have to look at it.

Mr. Coakley: And how would the aprons have to be reconfigured if you don't have curb and gutter?

Mr. Strong: Well this apron would extend further up into the site conditions. Right now there is a --- that is right here that carries the water into the swale. Again we would have to look at it, there is also a fire hydrant right here that it looks like it would affect.

Mr. Yost: That is not a big deal.

Mr. Strong: The pipe and the valve would have to be moved, there is no manhole (inaudible).

Mr. Hoewing: Well we don't have to answer all those questions, you can make the recommendation then the Commission has got to take a look at it.

Mr. Coakley: But I sort of lean toward not spending money if in the next 10 years or so we anticipate widening the road and making additional improvements.

Mr. Hoewing: So you going to make a motion?

Mr. Sneed: We need a motion?

Mr. Hoewing: I think so you are going to make a recommendation.

Mr. Sneed: Any other discussion points. Make a motion to the Commission to not install the curb and gutter for the site at this time but to consider long term planning for the entire length of the roadway to Norris Road and also consider the storm drainage issues at the eastern part of the property as they consider future widening of that road.

Mr. Hoewing: You don't want a second?

Mr. Stump: Second.

Mr. Coakley: All in favor?

All: Aye.

Mr. Stump: You --- second it.

Mr. Hoewing: Yeah but you guys are the Planning Commission I am supposed to be...

Mr. Coakley: You have to be careful.

### **Old Business**

Mr. Coakley: Ok solar guidelines.

Mr. Bachman: George I have one comment. Did we make a motion regarding the band shell plan review?

Mr. Hoewing: No.

Mr. Bachman: So if we are making a motion with regard to the Skatepark Plan Review I would like to propose we make a motion with regard to the band shell plan review.

Mr. Coakley: Well my understanding was with the band shell that we were going to look at some go online maybe look at some other...

Mr. Yost: And have it back on the agenda that is what I wrote.

Mr. Coakley: Have it on the agenda for next months and come back with ideas to see if we were thinking about recommending a copula on top or dormer...

Mr. Bachman: So we have reached no decision about the band shell plan review nothing just reported back to the Commissioners until we meet again.

Mr. Hoewing: Yeah I think that would be fine.

Mr. Bachman: Ok.

Mr. Hoewing: That gives you guys a chance to think more deeply about it.

Mr. Coakley: Ok solar guidelines.

Mr. Yost: I gave you a copy of the Ordinance itself that the Commissioners have been reviewing and on page 6 is the tried to capture everything you guys have mentioned at the last meeting regarding what you would put into some kind of standards if you are going to have standards.

Mr. Coakley: Bob did you want to start it off because you had some concerns about solar in the Central Business District in particular last time.

Mr. Bachman: Ok thank you George. I sent an email out to all the members of the Planning Commission on Thursday, December 17 and then I also George I think came back with an email to you on Wednesday, December 23 formally asking that we reexamine this solar discussion at this meeting. When I left the meeting, the last

Planning Commission Meeting I was I had supported the idea of the existing solar allowed in residential with no permit process there and then the idea was to come up with guidelines for solar as I understood it a permit process in the commercial area of the Town and a permit process in the CBD and George I think you had suggested that the permit process in the CBD be guided by Section 7 of the Zoning Codes.

Mr. Coakley: That would be the Subdivision Regulations.

Mr. Bachman: Subdivision Regulations but within 24 hours I realized I was uncomfortable with that because I felt that the Master Plan spent a great deal of time talking about the need to protect the historic the design features of Poolesville CBD to protect this village concept or this old rural town appearance aesthetically and because of architectural design, so that brought be back to planning to recommend to this group that we look at the solar issue and treat it the way that we are going to treat other parts of the Town and it is an open process for residential, develop a permit process for commercial and continue with the Special Exception process for the CBD. And part of the reason that I still feel that way almost 3 weeks later is that when I looked at the recommendations of the Secretary of the Department of Interior as well as the National Trust for Historic Preservation and even the Maryland Historic Preservation Group they all when it comes to structures with some historic architectural design, a clearly historic design, that there would be efforts to avoid as much as possible having the solar structures be visible on the front of the buildings to the point that they might preclude allowing solar panels on the front, in fact they have been both in the U.S. and in Britain the historic preservation or protection groups both in the government and the NGO non government organization level recommend not having the solar systems be visible from the front of the buildings that is the vantage point where you see the historic character of that structure which is usually in the front of most buildings, and instead they recommend that they be placed in the back on ground structures or depending on the roofline if there is a roofline that allows that has an area that is locked a flat roof on the top then there is a way to have them there but when they are talking about sloped roofs they are pretty clear about not recommending with any exceptions solar. So it makes me feel more comfortable with my recommendation that we adhere to a Special Exception for the CBD because there seems to be a consensus among these groups that are trying to protect historic structures that there needs to be some significant limitations in the front of these structures even if it is a southern exposure where you would say that is the kind of place where you get sun, they seem to be pretty clear about the fact that protecting the appearances overrides whatever the gains might be of putting the solar panels on the front of the building and affecting how they look so I just throw that out to the group for consideration.

Mr. Coakley: Well I guess my comments are that at the last Commissioners Meeting or a couple Commissioner Meetings ago that I attended the concern was raised about the cost that you might put a small business owner under of going through the process and what does it cost now Wade?

Mr. Yost: \$650.00.

Mr. Coakley: \$650.00. And that that would appear on the surface that I guess the Town might be against going green and trying to do the right thing in that regard. The current permitting process which cost what \$30.00 if we require the entire Planning Commission to review also my understanding I have to look in the subdivision regs but I believe any

site plan in the commercial and central business district doesn't necessarily require but you can hold a public hearing and that would be I guess if we say if we make that mandatory that for solar in commercial and central business district require a public hearing and the entire Planning Commission review with the public hearing that that would keep the cost down without I think losing too much in the way of oversight for what was being placed there.

Mr. Bachman: Well that goes back to the proposal that I made at the last meeting that if there is a concern about the price why don't we waive the fee but still have the structure the Special Exception.

Mr. Coakley: Because then the Town would have to pay for the advertising required when you go through the Board of Zoning Appeals and stuff and everything you have to put notification in the paper, you have to...

Mr. Yost: Post the property, transcribe the extra minutes, just admin costs.

Mr. Bachman: Well ok but the issue is that the and it can be overlooked but it has to be accepted as being pretty clear amongst groups that have looked at this, is that the addition of solar panels to a visible section of a historic building or a building with historic value or historic aesthetic value is the point of conflict between being green and trying to protect your aesthetics I mean they have said this is where the collision occurs and there is no way you can avoid it and they are basically saying in the front of the building that is where you are going to see this collision and we can pretend that we don't care about it but we can't pretend that it is not real and I think the Special Exception process when it is functioning appropriately is designed to require people to make a proposal that is a Special Exception to the rule and the rule would be essentially you know no solar structures in the front of buildings where they would detract from the aesthetic value, the Special Exception well I would like to have mine to be approved. So properly functioning it would be essentially saying it is more important for us to protect the historic aesthetics of our Town center than it is to give a green light to solar panels on the front of these buildings. I guess I feel that that, the Master Plan spends a lot of time talking about the CBD and it doesn't mean we are not green at all it just means that in terms of having creating visible detractions to the appearance of the buildings is something that we are concerned about.

Mr. Stump: Are you applying those comments specific to the CBD or also to the commercial district?

Mr. Bachman: No only to the CBD. On the commercial I still support George's idea of coming up with some guidelines for permitting solar in the commercial areas.

Mr. Hoewing: So there are guidelines in there now do you think those are the kinds that we will be talking about?

Mr. Bachman: Which guidelines.

Mr. Hoewing: There is a draft of the guidelines put in there that Wade probably --- what we talked about last time, so if we had those as the guidelines for the commercial and then we had a Special Exception in the CBD there is no they can actually follow the same guidelines I guess but in addition there is no allowance for putting solar panels on the front of the building or where they are in sight except under a Special Exception, would that satisfy you?

Mr. Bachman: You are saying that the protection on, is this page 3...

Mr. Hoewing: Page 6 the whole red section there that has got residential and then it has got commercial. What I was saying is take the commercial and say those all apply in the CBD too but in addition in the CBD you've got saying you can't have it in the front.

Mr. Yost: Well what is the difference in having a Special Exception process to look at it or having a plan review process that the Planning Commission has to approve?

Mr. Stump: That was my next question.

Mr. Yost: Because I am kind of confused on that also, what you get out of one you get out of the other because you have the same guidelines.

Mr. Stump: Is there a cost difference that was going to be one of my next questions too, or is it the same cost either way?

Mr. Yost: No.

Mr. Coakley: Well yeah it is more expensive if you go through the Board of Zoning Appeals.

Mr. Hoewing: I mean the one disadvantage of the Special Exception process is you guys basically just make a recommendation to the Board of Zoning Appeals they may disagree with you. So you may be better off just having a requirement that you don't allow it in the front of the buildings but there has to be a hearing...

Mr. Yost: Well we didn't want to (inaudible) because you said they make shingles that have the sensors and all.

Mr. Coakley: They have shingles and then like I said the Embian Corporation I sent that around on emails they are coming out with some kind of silicon dust.

Mr. Yost: This gives you correct me if I am wrong Alan full authority to look at the aesthetics of it and if it is not pleasing than you can reject it. Is that correct?

Mr. Wright: Aesthetics is a very, it is hard to pin down in the case law lets put it that way.

Mr. Hoewing: Everybody doesn't have the same aesthetics.

Mr. Wright: You can consider aesthetics its not to be the only consideration but it can be considered and a small factor, particularly I would say in the CBD and a different establishment than is designed specifically to protect (inaudible) the town flavor.

Mr. Bachman: George the only distinction I would make on this red section on page 6 is that I would not lump together commercial and central business district zones because I would want the central business district zone to make a strong statement about solar panels on the sides of roofs that face the street would not be allowed, solar structures on the side of the street, on the roofline or of the structure that faces the street would not be allowed and...

Mr. Stump: Allowed without what?

Mr. Bachman: Period.

Mr. Stump: There has got to be some appeal mechanism be it a Special Exemption or Site Plan or something.

Mr. Bachman: Well the issue would be one of visibility I mean sure if it is a flat roof or flat roof building where they could have a --- or something which Link was talking about that covers it than there is no issue there but it is the issue of visibility.

Mr. Stump: What if there is a building that has zero historic attributes to it in the CBD because there are plenty of them.

Mr. Bachman: Which are they?

Mr. Hoewing: The old Selby's.

Mr. Stump: The gas station, Bassett's, Jon's, I could probably rattle off a few other.

Mr. Sneed: Well Healthworks doesn't have a front facing roof.

Mr. Hoewing: Sure it does.

Mr. Coakley: It doesn't have a front facing roof and it also doesn't face, it faces northeast.

Mr. Bachman: I think that is a valid point there are some structures in the CBD that if you look at them you could not assign to them a architectural design, a common design, a well known design.

Mr. Stump: Unfortunately they are interspersed amongst all the other ones.

Mr. Bachman: Right but you still the other side of the issue is the desire to keep the CBD looking, keeping the design and the aesthetics positive so it may be that some of those buildings that aren't historic still couldn't be look (inaudible) with a solar system.

Mr. Yost: But just think about the front of the building when you have shingles that look like, so you are precluding things technology in advance and that is one thing we were talking about before, so I don't know how you really phrase it other than how I tried to do it here.

Mr. Stump: Well you could qualify it like you tried to do there.

Mr. Yost: Well right.

Mr. Coakley: But I think all of that could be factored in under the review process.

Mr. Bachman: At least say systems do not extend beyond rooflines and show limited visibility from roadways but that is a little bit too vague for me in terms of a historic building where if you have these solar panels showing on some of them it is not historic, it has been ruined.

Mr. Coakley: Than we don't approve the plan.

Mr. Bachman: Well but I think the guidelines need to make a pretty clear statement that we are not encouraging we are going to try to protect the visual appearance of the historic buildings and other buildings in the CBD. The roadway appearance.

Mr. Hoewing: So you want to put in a line that they should not be visible from the street, which is what we had a long time ago I guess.

Mr. Bachman: Right.

Mr. Coakley: Yeah that was in the original.

Mr. Bachman: Yes Link I think that is what I would be driving at, would not be visible from the street.

Mr. Hoewing: For the CBD only?

Mr. Bachman: Yes.

Mr. Yost: Ok.

Mr. Stump: Is there still the option for the Site Plan Review to overrule that though, it is not an absolute.

Mr. Hoewing: The way I was hearing Bob describe it he doesn't want to have an Exception in the CBD for that.

Mr. Bachman: Pardon me?

Mr. Hoewing: The way I was hearing you describe it you don't want to have an exception for visibility from the street in the CBD, that is just a prohibition.

Mr. Stump: Regardless of whether the technology is sufficient to make it totally almost invisible to the fact that it is...

Mr. Coakley: A solar producing...

Mr. Stump: Shingles all the newer technology that is what I wasn't sure about.

Mr. Bachman: I can't see the future but currently, currently as far as I can tell and didn't spend a lot of time on this but I did look at it, there is no examples of where groups that are trying to adhere to the Secretary of Interiors recommendations are approving solar systems on the front of historic buildings.

Mr. Stump: Well we are not bound by the Secretary and the Department of the Interior, I find them wrong on a lot of different topics, we are talking about Poolesville.

Mr. Bachman: That is right they have been wrong on many topics but the dissent that I get from what I read these recommendations are considered to be very, very good in this particular instance and it doesn't just relate to historic structures the Secretary's recommendations are voted...

Mr. Hoewing: So number D says systems must be compatible with the aesthetics of the building design and neighboring structures. But if you are in an area like across the street from the hardware store is that long old white used to be the hotel that would seem to me and it is right next to that old brick house that was an old one too.

Mr. Yost: The Dietz' house.

Mr. Hoewing: So if one of those tried to put on a solar panel that was visible from the street and obviously was modern and didn't fit in the with the aesthetics that would probably be prohibited I would think.

Mr. Bachman: I agree.

Mr. Hoewing: But not on John's Hardware Store I would think right. That wouldn't be prohibited on the hardware store.

Mr. Stump: Or if either of those structures were using say shingling or something in paints that are not out yet but close to coming out that you can't even tell that they are solar then why not, but if you want to put the big panels up then our review process would say no I don't think so, the point is to have a case by case review process.

Mr. Hoewing: I guess maybe one way to get around it is instead of saying "systems must be compatible" you could have the language that would say something along the lines of "systems must be..."

Mr. Stump: What is wrong with the way it is?

Mr. Hoewing: Like I said I think the issue what I am hearing from Bob is if you are talking about across the street in that situation it would almost certainly be precluded, but if you are talking about the Hardware Store no it wouldn't be precluded.

Mr. Stump: Is it compatible with the Hardware Store building, is it compatible with the rest of the block probably not.

Mr. Yost: It also has to be compatible with the Master Plan and the Streetscape Plan.

Mr. Stump: Exactly that is why I think that wording is sufficient.

Mr. Wright: When you get as broad as the Master Plan and the Streetscape Plan it leaves a lot of room for disagreement I mean it gets pretty subjective.

Mr. Stump: Right and this is a very subjective issue.

Mr. Coakley: May I suggest we edit item E under 2 and just say "systems in the commercial district must not extend beyond the roofline and shall have limited visibility from the roadways", add in F "systems in the CBD must not extend beyond the roofline and shall not be visible from major roadways".

Mr. Stump: Sorry you lost me there.

Mr. Coakley: F would be “systems in the Central Business District must not extend beyond the roofline and shall not be visible from major roadways”, which is pretty much what we had in the original product that we put together.

Mr. Bachman: So E would be for commercial and F would be for the CBD.

Mr. Coakley: Yes. And still go through the permitting process with the Commission holding a public hearing.

Mr. Hoewing: I mean I don’t think these are actually conflicting even if it is visible from the roadway and it happens to be a shingle system it wouldn’t matter the aesthetics would fit so that would still work.

Mr. Yost: But you guys would have the say.

Mr. Hoewing: Right it is not saying and right or is it saying and, if it is saying and then you have to satisfy all those that is a problem, or is it saying and, if it is saying and you got to satisfy every one of them, which means you still can’t have it visible no matter what it is.

Mr. Stump: That is what I am concerned about.

Mr. Yost: You can’t see it, its not visible.

Mr. Coakley: Visible is not a down because...

Mr. Hoewing: It is visible it is just not...

Mr. Coakley: You are not aware of the fact that it is a solar energy producing entity.

Mr. Stump: But it is still visible.

Mr. Wright: We could put some language in there saying that “except where technology is not distinguishable from the architecture” or something.

Mr. Hoewing: Oh that would be a good way of doing it yeah.

Mr. Stump: I would be interested in seeing something like that.

Mr. Hoewing: It is getting close right there actually.

Mr. Coakley: Yeah I like that.

Mr. Bachman: Well that takes into account the future.

Mr. Hoewing: Yeah it does actually. We have to work on it.

Mr. Coakley: Capture that. Occasionally he comes up with a gem, we don’t want to lose him.

Mr. Hoewing: It is bonus time.

Mr. Stump: In theory it’s on tape. I’m emphasizing theory.

Mr. Bachman: Are we going to repeat this wording?

Mr. Hoewing: I think we are going to have to look at it again. Can we circulate something like that or do we have to actually vote on it tonight?

Mr. Wright: You can circulate it.

Mr. Hoewing: I know that we could vote on it and say “subject to ensuring that we are all satisfied with the wording as compatible with what we think we heard” you can do that normally. Why don’t you read again what you have got and we’ll see if it is close.

Mr. Bachman: We have got rewording for E and F right.

Mr. Yost: E just includes in the commercial district.

Mr. Bachman: Must not extend beyond rooflines...

Mr. Coakley: Commercial zone whatever.

Mr. Yost: Right.

Mr. Bachman: Ok so what is E then?

Mr. Yost: That is E.

Mr. Bachman: I mean what is it. Somebody just read it if you would.

Mr. Yost: Systems in the commercial district must not extend beyond roofline and shall have limited visibility from roadway.

Mr. Bachman: Ok and F.

Mr. Coakley: The new F is “systems in the Central Business District must not extend beyond roofline and shall not be visible from major roadways”.

Mr. Yost: Except when the technology is not distinguishable from the construction...

Mr. Hoewing: Or did you say not conflict with the aesthetics of the surrounding buildings or something like that, how bout that.

Mr. Coakley: No I liked whatever he said originally.

Mr. Hoewing: Well it can't be distinguishable.

Mr. Stump: Yet.

Mr. Hoewing: I don't think so.

Mr. Wright: Well if we are talking shingles or siding or paint or something as though you wouldn't notice.

Mr. Bachman: Is not distinguishable?

Mr. Hoewing: From the surrounding.

Mr. Yost: It should be from if you are talking about that specific building from the architectural design of that building.

Mr. Hoewing: Well we also have language that says that building and the surrounding structures or something like that.

Mr. Coakley: Well that is still in place we can still use that.

Mr. Stump: Yeah that was C.

Mr. Wright: So I really don't see the difference between these 2 sections, it is really very minimal, with a proposed F...

Mr. Hoewing: You mean between the CBD and Commercial.

Mr. Wright: Yeah.

Mr. Coakley: One is limited visibility the other one is no visibility.

Mr. Wright: Well I am having trouble with limited visibility, that is the phrase that is all that I circled when I was reading it, limited visibility does that mean you see all parts of it sticking out from the side of the building, its either visible or it is not.

Mr. Hoewing: Well it could be limited in the top, if you have got a flat roof and it sticks up a little bit that could be limited, you could have that. And that is the way a lot of them would be because they have flat roofs.

Mr. Yost: You will have it visible from one side and not the other side.

Mr. Sneed: You like minimal better, you like minimal?

Mr. Wright: I just thought if you are going to say you don't want it to be visible it might as well just say not visible but major roadways is better.

Mr. Yost: That is not always possible.

Mr. Sneed: That is what we talked about, we talked about the Selby's Shopping Center where there may be instances where it may exceed the roofline minimally and that might...

Mr. Yost: And from Wootton Avenue you would see it, Fisher Avenue you wouldn't so.

Mr. Wright: Well the point is you don't want it to be visible from the front of the building so if you said the major roadways is better than just saying roadways because you get into whether talking about how...

Mr. Coakley: Limited visibility would be limited to one elevation or something like that so you might be able to see it from the rear of the shopping center but not from the front.

Mr. Wright: Well we could just say from the...

Mr. Bachman: Well I think if you said from major roadways but what you added Alan is the most important aspect as well and that is unless the solar technology is not distinguishable from the design and aesthetics of that building, which means John's solar system would be judged on John's building and the house across the street which has a historic structure, its design would be judged on that building, I think that does allow for variability and accommodation of different both historic and non-historic structures.

Mr. Coakley: Yeah I think this would certainly give us as much review material as we currently use to look at any site plans anybody else brings in.

Mr. Yost: Will you ever have one to review?

Mr. Coakley: Pardon?

Mr. Yost: Will you ever have one?

Mr. Hoewing: Not anymore.

Mr. Coakley: I am sure we will eventually.

Mr. Hoewing: Probably so.

Mr. Bachman: Well thank you all very much for your consideration.

Mr. Yost: So February just take this language to the Commissioners, you guys are good with it.

Mr. Coakley: We need a motion to approve this.

Mr. Yost: You probably should.

Mr. Wright: We narrowed it down to specific language or...

Mr. Hoewing: What you read, what somebody read.

Mr. Wright: As I am hearing it we would leave the D that it must be compatible with the aesthetics of the building design and neighboring structures. And that it not be visible from, does not extend beyond the roofline...

Mr. Yost: That is for F. D is for commercial only.

Mr. Wright: So just distinguish say with regard to E...

Mr. Coakley: E we add after systems in the Commercial District and everything else stays the same.

Mr. Bachman: And D remains exactly as it is currently.

Mr. Coakley: Yeah everything prior to that stays the way it is. We add a new F that says "systems in the Central Business District must not extend beyond roofline and shall not be visible from major roadways except and then your language..."

Mr. Bachman: No unless.

Mr. Coakley: Oh unless.

Mr. Hoewing: Unless it is not distinguishable from the...

Mr. Bachman: Unless the solar technology is not distinguishable from the design and aesthetics of that building. Or you could say the design and aesthetics of the applicant building that is pretty clear.

Mr. Wright: I don't know why we wouldn't want that to apply in the Commercial District as well that is what I am having trouble with.

Mr. Stump: Because we don't, the Commercial District we want to leave it much more wide open, our concern for aesthetics primarily applies in the CBD not in the

Commercial District, that is the main sticking point we have. There are others too but that is the major one.

Mr. Wright: Well in each case they must be compatible with the aesthetics of the building design and neighboring structures. In the Commercial District we say it must not extend beyond the roofline and we are allowing limited visibility...

Mr. Bachman: That is the only difference unless you want minimal.

Mr. Wright: Minimal is better I think because it does suggest that if you glimpse it you couldn't help it the installation.

Mr. Coakley: Yeah but limited is a little more vague, if you say minimal than somebody is going to say well it is only 30% showing so that is minimal, limited you could say well limited to a certain view or a certain angle.

Mr. Wright: Yeah that's what bothers me but I will go with either way.

Mr. Hoewing: It is just like pornography we know when we see it.

Mr. Coakley: He sounds like he knows what he is talking about. Ok do I hear a motion, well before we do that Mr. Pierce you had your hand up earlier did you...

Mr. Pierce: I just wanted to point out 2 things, 1 is that for all practical purposes you are talking about probably 6 buildings, because the ones on the south side are going to have it on the back, so it is just the north side and you ought to really just simply look at those buildings and none of the north south rules will have it ---. And the other thing is I would suggest distinguishable probably not a good word I would suggest probably unless or the language you just talked about is consistent with the concept as opposed to distinguishable because I could distinguish that there is 2 different colors in that floor right back there but if it is consistent with the overall décor than it is fine, so I think the word distinguish is not a good use for that.

Mr. Hoewing: I'm happy with it.

Mr. Coakley: It sounds like distinguishable gives us more latitude.

Mr. Hoewing: I think so probably is a little firmer. So are we ready to vote?

Mr. Coakley: Yes.

Mr. Hoewing: I got to get up at 4:00 tomorrow so, I got a bus to catch at 5:30.

Mr. Bachman: I make a motion to accept the revisions to items E and F as agreed upon by the Planning Commission on page 6 of the Alternative Energy Systems Draft Ordinance.

Mr. Stump: Second.

Mr. Coakley: All in favor?

All: Aye.

Mr. Hoewing: Do we need a motion to send to the Commission or are we already sending it to the Commission now with that vote.

Mr. Coakley: I think that vote sends it to the Commission. Ok now you can either stay for this or not and again you are going to see it again I put together a little presentation for Tuesday night for the State of the Town. I think the main person that might want to stay is Cal because if I don't get back from upstate New York because of snow or something like that you are going to be doing the presentation. Or actually before we do that I think Wade did you make copies, yeah Wade gave out copies of the Annual Report that I put together to send to the Commissioners that then goes to the State so just take a moment and look that over and let me know if you see any glaring errors that I made or if

you have any recommendations to change or something like that and I will go ahead and do that and then...

Mr. Hoewing: This is for the State of the Town Meeting?

Mr. Coakley: The PowerPoint but this is...

Mr. Hoewing: Yeah I read the report, it looks good you didn't highlight the important words I contributed but that is all right.

Mr. Coakley: And my objective on this every year is to keep it to one page.

Mr. Stump: I like that objective it was very good last year.

Mr. Hoewing: This year not so much or...

Mr. Stump: Keep it the same.

Mr. Hoewing: Ok I got you.

Mr. Coakley: Ok so is everybody...

Mr. Yost: Looks good.

Mr. Coakley: Ok I will give you the disc can you download it onto your PC there, that takes 3.5 do you have a port for 3.5 no.

Mr. Yost: Just email it to me.

Mr. Coakley: I will email it to you. Ok so I will introduce the members of the Planning Commission and it would be nice if you were all here and I would have you all stand up and let people see who you are. It is this coming Tuesday. And the Planning Commission has 2 major responsibilities, the planning process and land subdivision and we do that through Master Plan review and revision and the last one we did was dated 2005 and there is a State requirement that we review it every 6 years and make any changes at that time that we want to, so 2011 will be our next target for that. We also have the water sewer allocation process we discussed some tonight. We have the wellhead protection regulations that we ensure that or help to ensure that our groundwater supply stays unpolluted. We review and approve all subdivision plans that come through and that also includes changes made to existing homes in the Town of Poolesville and businesses, etc. And then if anyone requests a Special Exception we review that prior to sending our recommendations to the Board of Zoning Appeals. And we also have the Subdivision and Zoning recommendations that periodically we do a review of the regulations and then send our recommendations to the Town Commissioners to make changes to them. Some of the specific focus that we have done in the past year, we had the subdivision plan oversight particularly with the Winchester and the Kettler properties that are currently under construction. We reviewed and made recommendations to the road construction standards and we also produced the Growth Management and Water Resource Element Plans, which we needed to incorporate into the Master Plan by October of this past year. Additionally we are working on the alternative energy recommendations for the subdivision regulations and we reviewed the forest conservation changes and sent them to the Town Commissioners for review and they are still under consideration there. And we are in the process of reviewing underground storage tank regulations and that is all.

Mr. Yost: Would you like me to, email this to me go ahead and add this on a couple more slides, do you want me to add this to the PowerPoint slides also for the presentation or no?

Mr. Coakley: No.

Mr. Yost: Ok.

Mr. Sneed: We had a bulb problem up there huh?

Mr. Yost: It is not doing it now but it is still doing it.

Mr. Coakley: I always bring a flashlight and practice.

Mr. Bachman: I have a question for Wade. There is a sidewalk coming out of what is the subdivision down there by the pool, there is a sidewalk coming...

Mr. Yost: Stoney Springs.

Mr. Bachman: From Stoney Springs toward the Town but it stops and it doesn't really connect with our sidewalk system or is there a gap there currently.

Mr. Yost: The church has to put it in but they are working with Stoney Springs and I believe Stoney Springs is willing to install it for them. When they were here they said they would.

Mr. Coakley: They were a couple of years ago.

Mr. Yost: We have a PIA with the church that they have to do it and the Commissioners gave them a certain amount of time to comply with that.

Mr. Bachman: We have residents though in Stoney Springs right now right we have got people living there and the sidewalk is not completed so I would encourage us to try to confirm whether Stoney Springs or the Church is going to build the gap.

Mr. Yost: All right.

Mr. Hoewing: I don't think people in Stoney Springs walk they drive. They drive everywhere in Cadillac's.

Mr. Coakley: Ok anyone else have any comments.

### **Adjournment**

Mr. Coakley: Do I hear a motion to adjourn?

Mr. Stump: I move we adjourn.

Mr. Sneed: Second.

Mr. Coakley: So moved.