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VIRGINIA: At a Work Session on the Comprehensive Plan of the Hanover County Planning Commission in the Board Auditorium of the Hanover County Government Building, Hanover County, Virginia, on Thursday, May 9, 2013 at 4:00 P.M.

PRESENT: Ms. Claiborne R. Winborne, Chairman
Mr. Larry A. Leadbetter, Vice-Chairman
Mr. Jerry W. Bailey
Mrs. Edmonia P. Iverson
Mr. C. Harold Padgett, Jr., Chairman
Mrs. Ashley H. Peace
Mr. Randy A. Whittaker

STAFF

PRESENT: Mr. David P. Maloney, AICP
Mr. Dennis A. Walter
Mr. John A. Bender
Mr. Lee W. Garman
Mrs. Betty S. Gray

Meeting Called to Order

The Chairman, Ms. Winborne called the meeting to order at 4:00 P.M. *All members were present.* There were 36 citizens present.

COMPREHENSIVE PLAN WORK SESSION

Ms. Winborne thanked everyone for attending the work session. The communities had opportunity for input through the 6 community meetings and other formats and at the end of today's session if there is anything after hearing the Commission's discussions that anyone would like to contribute please feel free to send e-mails and contact us and please attend the public hearing where the public will have the opportunity to speak. This is a work shop format which means we will not be receiving public comment.

Mr. Leadbetter said since he was the one that called this meeting to be continued he wished to put on the table a list of comments and talking points in order to stay on focus and take advantage of our time. My list of the talking points for the Commission to stay focused on and he added that these

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talking points were influenced by the citizen input during the public meetings and general correspondence.

1. Explanation of the Suburban Service Area, which he had asked Mr. Padgett to give a brief and concise description of the SSA.
2. The growth rate and that was touched on at the last meeting by Mrs. Peace. He wanted to get a little more detail on that with the short term and long term affects in reference to the accuracy of the growth rate.
3. If we reduce the growth rate should we be less aggressive with the Comprehensive Plan and pull back on some areas and re-evaluate them in the next review.
4. The zoning ordinances controlling the density are very confusing. For example 1 to 4 units per acre can mean 8 units per acre in certain circumstances. This should be put on the table for debate to discuss what benefit this has and what other options we have to make this less confusing for all.
5. What are the current densities surrounding the neighborhoods of Holly Hill and the Meade Subdivisions; as well as the density of Cedarlea.
6. Are there options in our current ordinances that can be used to decrease the impacts of higher density on existing and established neighborhoods

Mr. Padgett asked Mr. Maloney to put up the slide that shows the Suburban Service Area (SSA) boundary. The term SSA goes back to at least 1982 when the first Comprehensive Plan for the County was done. The SSA means this is the area where the County provides the most services. The infrastructure is in place to support a higher density. The infrastructure meaning good roads and good traffic pattern flows and predominately city water and sewer, which is very important and expensive to provide. Looking at the map, the colored area encompasses about 20% of the County's area. The County has 471 square miles, which is the equivalent of approximately 300,000 acres and approximately 60,000 of that are in the SSA. That means the balance of 240,000+ acres is designated as rural and agriculture and that is where we want it to stay as long as we can. This is what the citizens of Hanover have told us for years and that has been our objective for quite some time. So, we want to concentrate on density within the SSA and less density out in the rural areas. The water and sewer

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lines cost millions of dollars per mile due to getting right of way, clearing, digging, cutting across roads, tunneling under roads putting in the piping, the supply and the treatment facilities and it has been available in these areas or it is due to be phased in within the next 5 to 10 years in some cases.

Mr. Padgett stated that this current update is not proposing any increase in the boundary or size of the SSA. It is bounded mainly north and south by I-95 and the U.S. Route 1 corridor and along the lower part generally I-295 and the Mechanicsville area and the Atlee/Elmont area as well on either side of I-95 and U.S. Route 301 and U.S. Route 360.

Mr. Padgett advised that their objective is to channel about 70% of the growth in terms of new dwellings into the SSA. The SSA can accommodate density, that is what it is designed for and we have several categories that would include Suburban General (1 to 4 units per acre), Suburban High (4 to 8 units per acre), Multi-Family (8 to 15 units per acre), and the Multi-Use and Mixed-Use which we are planning to cap at 15 units per acre. Previously the density could have gone as high as 30 units per acre but we feel that is too high for Hanover.

Mr. Padgett explained that the use of the SSA land requires a decision by the owner of the property to do something new. The County does not tell them what to do or when to do it. We assume that only about half of the vacant land will actually be available because folks that own it do not want to do anything with it at this time. So, the owners and developers decide when the market conditions are suitable to meet their aims. The County does not own any land for development nor does it decide specific uses, just a variety of general uses. That is basically the concept of the SSA.

Mr. Leadbetter added as stated in our current Comprehensive Plan one of the major intended purposes of the SSA is to allow higher density residential growth within its borders and maintain low density in the rural areas in order to prevent sprawl and provide long term protection of the rural character of the County. Millions of taxpayer dollars have provided the infrastructure to support this

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concept. This has been supported by the majority of our citizens through our elected officials since the early 80s. The SSA appears to be one of the most misunderstood and overlooked components of the Comprehensive Plan. The SSA principals are the guiding and governing influence in many of our decisions. Our recommendations should be consistent and abide by the policies and principals in place as they apply.

Mr. Leadbetter stated that the purpose of giving this brief explanation and clarification of the SSA is based in part by a survey that he had provided to the citizens in the Elmont and Meade areas for their comments. There was an overwhelming response, including over 156 e-mail correspondences. One of the questions in the survey is “do you understand what the SSA is, including its intent and purpose.” Out of the many responses that he received back only 4 citizens responded with yes. So, that is one of the reasons he felt the need to explain the SSA.

Mr. Leadbetter added the following questions to Mr. Maloney:

1. When was the Suburban Service Area (SSA) last expanded.

Mr. Maloney advised that the SSA was expanded as part of the 2007 Comprehensive Plan update. The areas of expansion specifically included the area that was designated Business Park generally northeast of the Town of Ashland, a relatively small area what was then designated as Suburban Low (1 to 2 units per acre) bordering the western edge of the Town and extending the SSA boundaries west to bring in the Hylas/U.S. Route 33 area and additional areas immediately to the south of Ashland Road.

Mr. Leadbetter said we are not expanding those boundaries in this Comprehensive Plan update.

Mr. Maloney said no, there is no proposal under the current draft Plan to expand the existing SSA boundaries.

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Mr. Leadbetter:

2. If the density is not controlled in the SSA will it sprawl into the rural areas and if so, what information is used to support that.

Mr. Maloney advised that there are several questions and several issues involved in that question. The first issue is about density. The Comprehensive Plan and the Zoning Ordinances are what they are. And it is not so much a matter of whether density is going to expand into the planned rural areas of the County because under our policies and actual land use regulations there is really not a mechanism to increase density beyond what is currently planned. The by-right density in the Agricultural district is 1 unit per 10 acres; the available density through rezoning to either the AR-6, Agricultural Residential district or the RC, Rural Conservation district is 1 unit per 6.25 acres. So, he would never envision a scenario in which there will be traditional suburban densities 2.5 to 3.5 units per acre expanding into the rural areas of the County. He felt there has been a point of confusion throughout this process. He said growth rate and density do not equate and are not the same thing. Our Plan assumes a growth rate as currently adopted in 2007, it assumes averaging old growth rate of between 1.5% and 2.5% per year. Understanding the anomalies over the past few years and setting that aside it is safe to assume whether it is 5%, 2% or 5% per year Hanover is going to grow in the future. The population is not going to remain stagnant. So, the real question for the County has been and remains are where we want to concentrate that growth. We understand that regardless of density residential development requires services beyond water and sewer. It requires road improvements, adequate capacity in our schools, parks and recreation areas, libraries, law enforcement protection, fire protection, and many other services that local governments provide.

Mr. Maloney said the question remains where do we want to concentrate those services. There are two issues at stake. 1) The cost of improving roads in a confined area which equates to approximately 20% of the County's boundary is significantly less than expanding road infrastructure

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across the entire County. To provide water and sewer services with an economical rate within a defined boundary over a defined time period has a certain financial reality to it, rather than having to extend services throughout 471 square miles. So, there is an economic and financial impact for the community, the builder and developer. 2) If we take the financial considerations off the table and this is really what the Comprehensive Plan is all about, the question is what we as a community want to look like. Are we satisfied to let that growth distribute equally throughout the County. If we are going to create 10 acre lots, we are taking somebody's farm, forest land, open space and converting it to low density residential development. Historically, the residents of Hanover County have very strongly said "we want to remain largely a rural County." And there is a cost and a price to that. Maintaining that open space, maintaining that rural environment, maintaining those agricultural resources. Those prime farm lands, those forest areas by maintaining drainage areas largely unaffected by development has a cost to it. And part of that cost is to identify an area within the County to concentrate development. That is the strategy Hanover County has employed since 1982. This is not a new strategy and this is not a strategy that is evolving out of this process tonight. This is a strategy that has been in place for over 30 years. To answer the question do we expect to see density in the rural area, probably not unless there is a dramatic change to our land use policies. Do we expect to see population growth filter into these areas if we do not make sufficient area within the SSA, yes over time we will. No one knows for certain when that may happen but we can put in place certain assumptions which the Commission discussed a year ago with the Board of Supervisors and with the Economic Development Authority using certain reasonable assumptions that are supported by historical trends allows us to identify and create and plan for a community that we believe continues all the valuable traditions that we know as Hanover County.

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Mr. Leadbetter:

3. After this Comprehensive Plan is there a foreseeable need in the next Comprehensive Plan to expand or increase density in the SSA.

Mr. Maloney answered based on all of the assumptions and trends we know to date he would not foresee a need to expand the boundaries in 5 years.

Mr. Leadbetter:

4. If it is determined in the future that we need a higher density how do we determine whether we increase the density or expand the SSA?

Mr. Maloney answered that is a choice that we as a community are going to have to make and as he has said before this is not a plan for the Planning Department. This is a plan through citizen engagement is the responsibility of the Planning Commission. No one can predict when or if the SSA boundary might need to be expanded. Now, when we talk about adding fairly minimal density to the SSA the areas, not including the areas of U.S. Route 33 & Hylas and around the intersection of U.S. Route 1 and Cedar Lane because we have not finalized a land use concept for these areas, we have changed and added some density to approximately 3000 acres which equates to 5 or 6 square miles. If we were to transfer those future residents from the SSA to the rural areas of the County and use a density of 1 unit per 10 acres to accommodate all those homes instead of the 5 or 6 square miles of land use change we would consume 34 to 40 square miles of land in converting that area in the rural area of the County to 10 acre lots. So, the question is what we want our footprint to look like in the future. If the community says "we don't care" it's ok to allow this rural area to be divided into 10 acre lots or 6.25 acre lots then that is a choice we as a community have; however, if we value that open space as we heard very clearly from the citizens during the last update in 2007 that open space was valued then we need to think about mechanisms to encourage that growth within the SSA. Now, here again as planners we think long range (20 years). The horizon for this Plan is a 20 year horizon and

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that is difficult to comprehend so that is why we revisit this Plan every 5 years. When is the best time to plan. Is it at a time where we have options, where land is not being consumed and we can take a critical analysis and figure out what makes sense for the long term future or is the right time when the land is being consumed and we are simply reacting to development demand.

Mr. Maloney explained if we did nothing to update this Plan that is a perfectly legitimate landing point; however, at some point whether it is now or in the future as the land is being consumed we are going to have to make some difficult and hard decisions. From a staff perspective it is easier to make those decisions when we have the time on our side to rationally make them, to carefully evaluate the alternatives rather than having to be forced to make them as land is being consumed as a result of development. The Commission should pick a growth rate because whatever you are comfortable with that is going to happen. Ignoring the Plan or delaying the hard decisions is not going to stop growth.

Mr. Leadbetter said the second question was the growth rate issue. Mrs. Peace commented on the growth rate at the last work session. He said he would like to hear more discussion as to the short term and long term effects in reference to the accuracy of the growth rate and he wanted general comments from everybody on that.

Mrs. Peace summarized for the folks in the audience at our last meeting we got into a lengthy discussion about the proposed growth rate. We were presented with a range that has been typically appropriate for the growth rate of 1.5% to 2.5% and at that time it was at 2% and so staff was working with that growth rate in preparing the revisions to the draft plans. And then upon further reflection and seeing where we are a year later finally coming out of the economic recession and doing some more research about building permits and new construction in the community pretty much the “lack thereof growth” and also really looking at some more demographic analysis, unfortunately Hanover County is fairly stagnate as far as our population growth. So, we felt that the 2% was a little ambitious in

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projecting what our future population is going to look like. So, we advised staff to go with the 1.5% growth rate. That growth rate is not only used in the Comprehensive Plan document to project the demographics for the County and the necessary housing that we are going to need for the future and other elements, which is used for the Capital Improvement Program and for budgeting the facilities. This change impacts the budget pretty significantly so, we felt that using a more conservative growth rate would allow a more conservative budget to be prepared and help the County utilize its resources more efficiently and effectively.

Mrs. Peace asked Mr. Maloney to explain how the growth rate and the population projections also really are correlated with the discussions about density and housing and all of the other issues that have been coming up through this process.

Mr. Maloney stated that it is easy to get growth rate and density confused. But they are really two different “animals” all together. The density is how many units per acre. Typically in a suburban environment you count multiple units per acre. In a rural environment it is just the opposite. It is typically acres per unit. In Hanover County the by-right density in A-1 is 1 unit per 10 acres. So, all that says is how close and compact are our dwellings. And for purposes of Comprehensive planning we always think in terms of gross density. For example there could be 200 homes located on a 100 acre parcel and that would be 2 units per acre. That is the gross density. If you take that 200 homes and only develop on 50 acres the gross density is still 2 units per acre. Now, the actual footprint of the density may be higher because you are keeping half the property in open space and putting half the homes on 50 acres but the gross density does not change. Now, because property has so many different characteristics, for purposes of planning we always think in terms of gross acreage. When we get to implementation and look at our ordinances we have net acreage calculations and certain areas have to be excluded and so forth. But that is the difference between the gross density and net density.

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Mr. Maloney explained that growth rate is the rate of growth as it typically calculates as a percentage. If the County has a 100,000 population and during calendar year 2013 a thousand people move into the County we have a 1% growth rate. Then the question is where we place those one thousand people and how much land is needed to accommodate them. So, if we know we have a 1% growth rate at 1,000 and 2.68 persons per household on average but that gives us a demand and we need that many homes per year to accommodate on average those people. Do we spread those homes over the 100 acres, over 50 acres, over 1,000 acres. We are going to get the 1,000 people so, how dense do we put them in terms of dwelling and the real issue is not so much what we think the right density is but what is a reasonable density based on our Comprehensive Plan because Hanover County is not in the development business. Hanover does not buy property, zone property and/or develop property. The private sector provides that service for us. The private sector consumes the land and conveys those lots to the homeowner. So, do we want a "one size fits all" where everybody has to live in a single family subdivision which is 2 units per acre or do we want to provide some market diversity as the market has different demands. Just because we as a County says no thank you we do not want multi- family and townhouses, or other uses we do not want that does not mean there is not a demand for it. And it certainly does not mean that we are not going to get the request for it. We know what those demands are and there is no sense in planning if we are not going to take market considerations into account.

Mr. Maloney said does that mean we should let the market control, absolutely not. Does that mean do we absolutely ignore the market, absolutely not, it is a middle ground and part of this planning process is weighing and balancing those competing interest. There is a broad view of what we think we want to look like and it was adopted in 2007 and we have options. Some people want to live in a townhouse and some people want to live on 20 acres. It is important to give people

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opportunities to live in an environment and in a lifestyle they so choose. But Hanover County does not force people to sell their land. Hanover County does not confiscate property for any particular use. It is up to the private sector to negotiate with the property owners and as Mr. Padgett pointed out in his comment that is exactly why we build in the 2 to 1 because not every property owner regardless of where they are wants their land developed. But a number of property owners do want to be able to take advantage of the capital investment that they have in their land. We are not regulating the growth but guiding it in a cooperative environment and setting.

Mr. Leadbetter:

3. If we reduce the growth rate, which we have, should we be less aggressive with the Comprehensive Plan and pull back on some areas and re-evaluate them in the next 5 year review.

Mr. Maloney advised that is certainly an option. But do we want to plan when we have time to plan or do we want to plan and make decisions when we are forced to make those decisions. Right now we have time to plan.

Ms. Winborne said we did reduce the growth rate to 1.5%, and that was in response in trying to reduce an overly aggressive projection.

Mr. Leadbetter said correct.

Mr. Maloney said and really these proposed changes are intended to delay the timeframe where we have to consider expanding the boundary beyond what the current Plan allows.

Mrs. Peace regarding the 1.5% versus 2% said the actual growth rate is trending a little under .5% the last few years.

Mr. Maloney stated that the current fiscal year we are trending closer to 1%.

Mrs. Peace said that is very little population growth. The way that the last few years have gone with the economic conditions and the market conditions and the fact that we do not have very many

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employment centers in the County, she did not believe that Hanover is going to look any different 5 years from now than it does today although it sounds very significant to the market place when talking about these ranges. It is important that we understand what the 1.5% means in the real world because if we have no growth and we have no new people coming into Hanover County then the County is completely stagnate and will not move forward. And we will not have the revenues to be able to continue the services that we have today. Therefore, really the County will be dying if we do not have population growth.

Mr. Leadbetter:

4. The Zoning Ordinance and controlling the density is very confusing. For example: 1 to 4 units per acre can mean 8 units per acre in certain circumstances. This should be put on the table for debate and discuss what the benefit of this is and what the options are to make this less confusing for all.

Mr. Maloney explained as part of the various zoning options contained within the Zoning Ordinance a number of years ago Hanover County adopted a MX, Mixed-Use zoning district. And the intent was to give another option for property owners and residents to develop and live. A Mixed-Use is really intended to be more of a traditional neighborhood village zoning concept, where the business and residential uses are truly intermingled within the same structure or located close together. A typical example is having the first floor retail and 2 or 3 stories above that for Multi-Family condominiums, apartments and so forth. So, there would be integrating those uses and incorporating traditional neighborhood designs in terms of very walkable communities, functional streets and sidewalks, and so forth. Under that scenario if a property owner chose to pursue a rezoning request utilizing the Mixed-Use scenario they would be allowed to request up to twice the underlying density. They were in an area that is currently shown at 2 to 4 units per acre and with a Mixed-Use development they would have the ability to ask for up to 8 dwelling units per acre. And that's gross. Therefore, if it is an area is shown for residential there would be some commercial and by ordinance

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we would want it on the lower end of the commercial to residential ratio, roughly 20% to 30% commercial with the remainder residential. If a property owner were asking for an area shown for commercial then there would be a higher ration of commercial to residential like 40% to 50% range.

Mr. Maloney continued by saying if somebody were to request a Mixed-Use in an area shown for residential under the current ordinance they could ask for up to twice the underlying density. If it was in an area shown for commercial under the existing ordinances they could ask for up to 30 units per acre. However, as Mr. Leadbetter pointed out one of the policy changes that are being considered as part of this update is to temper that density limit and pull that back to no more than 15 units per acre.

Mr. Leadbetter said he believes it is confusing because it appears the residential zonings can be double the density in those zonings. He asked that the policy be reworded so it is less confusing.

Mr. Maloney said that can be done; however, he felt there are more complicated matters to resolve, such as higher densities are necessary to support a Mixed-Use type use. Therefore, the question begs if we have a Mixed-Use district that is applicable in areas planned for 1 to 4 units per acre and it is really not a viable zoning mechanism limiting that residential density to 4 units per acre, if so, then is there really a point to having that Mixed-Use district applicable in that area. So, the question is not so much whether or not to change the densities but what makes sense is if we are going to change the Mixed-Use district and we want to retain planned densities as described in the Plan the question then is should we re-evaluate areas within the County that a Mixed-Use development may be more appropriate.

Mr. Leadbetter said that is something we need to look at while we have the opportunity.

Mr. Whittaker asked if the RS zoning (1 to 4 units per acre) has a commercial side to it.

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Mr. Maloney answered no. Straight RS zoning does not have a commercial requirement. It is a single family residential district. However, we do have some provisions under limited circumstances where somebody could request through a Conditional Use Permit to convert an existing residential structure to a small office.

Mr. Leadbetter:

5. What are the current densities in the neighborhoods of Holly Hill and Meade Subdivisions.

Mr. Maloney advised that Holly Hill is a little bit more of a challenge because there are no recorded subdivisions; however, it is generally low density development. He suspected that the immediate density is somewhere close to 1 unit per 10 acres, which is comparable to a density in a rural subdivision. Moving further west to the Cedarlea and Cedarlea Park subdivisions those are suburban densities; Cedarlea Park are 1 $\frac{3}{4}$ units per acre, and Cedarlea is 2 units per acre. The Meade subdivision has 10 acre lots, so the density is 1 unit per 10 acres.

Mr. Leadbetter asked what the density around Meade is.

Mr. Maloney answered he believed that is 1 to 2 units per acre or a little less.

Mr. Leadbetter:

6. Are there options in our current ordinance we can use to decrease the impacts that higher density has on existing neighborhoods.

Mr. Maloney answered absolutely. All of the residential zoning districts have provisions for open space that is owned by a Homeowner's Association. There are requirements for buffers and so forth and even in the SSA against existing neighborhoods, it has been a long standing policy not to require individual lots within a subdivision to have buffers because that makes the property owner responsible for enforcing the buffers and we do have open space requirement from time to time the Commission and Board of Supervisors have approved plans that is part of the common open space. So, there is flexibility and design through our residential districts to assure that there is an appropriate

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and reasonable transition from a suburban development to lower density developments that may be adjacent to it.

Mr. Leadbetter asked how somebody that lives in one of those neighborhoods would understand those buffer policies.

Mr. Maloney answered that the open space and buffer requirements are set forth in our Zoning Ordinances and the Zoning Ordinance is a technical regulatory document and ordinances can be somewhat challenging to understand unless you have some practical experience as to how they are implemented. So, he would always encourage citizens if they have questions and concerns is contact him and the staff and we will sit down show them examples of approved subdivisions and how buffers have been employed to protect other communities, and explain in detail how we would apply the ordinances.

Mr. Leadbetter:

7. Can Hanover County have a policy that demands apartments.

Mr. Walter answered that the issue of land use is by in-large the type of land use rather than the ownership of the property. For instance there are various categories in our Comprehensive Plan and there are various zoning districts for single family residential use but you will never see that it requires single family owner occupied. Staff does not know of any Zoning Ordinance in Virginia or in the Country that specifically says this is for "owner occupied single family residential use." Because it is not a function of the government to determine how property is occupied in the sense of ownership but more so how it is occupied in terms of use. When you go throughout the Country there are townhouse communities, condominiums, apartments, traditional single family residential, carriage houses, assisted living facilities, all of which are residential uses. We try to categorize them because it makes it easier to determine their impacts and when someone comes in to request a certain type of use it makes it

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easier to figure out what the off-site impacts will be and what can be done to mitigate that. He reiterated that he was not aware of any authority for Hanover County to say this particular property can never be rented or this particular property can only be occupied by the folks who live there. If someone rents their property out it does not change the character of the use and the County cannot prohibit someone from renting their property.

Mr. Leadbetter asked he knew of any other counties in Virginia that has a policy where they ban certain residential uses.

Mr. Walter answered that he was not aware of any and his understanding is if anyone formerly challenged it in court it would be “struck down.”

Mr. Maloney said going back to Mr. Leadbetter’s question regarding how property owners can better understand the Ordinance for buffers and so forth a very important component as part of any residential zoning there is a requirement that the applicant has to submit a conceptual plan as to how that property will be laid out showing where the roads will be, where the lots are going to be located, where the open space is going to be located, it will show the number of units, the type of units, the density of the project, how it is going to be buffered against neighboring communities and so forth. Hanover County requires a conceptual plan and we have provisions in our Ordinance that say they have to develop their project in substantial conformity with this Plan.

Mrs. Peace said Hanover cannot prohibit residential properties from being rented but are there are any prohibitions from the County’s perspective on what type of stores can go into a commercial or retail space.

Mr. Walter explained that Hanover does have the ability to determine the various types and uses for property. There is a list in the Code of Virginia for considerations for Zoning Ordinances for the current and future use of the property, appropriate uses, and preservation of certain things that are

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determined to be desirable for a community for example preserving agriculture, forest and historic resources. Once that is sorted out it comes down to in part how to differentiate between uses. And sometimes it is a matter of how intense the use is. There are retail establishments that differ from one to another in terms of their impact both on site and off site in terms of traffic flow within a property as well as aesthetic impacts as well as impacts to the transportation network. There are books that are published that show the traffic impacts of various uses. And because they can determine that certain types of uses have different impacts that can be taken into consideration to determine what level of review they should be in which sort of fit within the same sorts of categories. So there are some commercial uses and some retail uses that are more consistent with residential neighborhoods because their traffic impact is lower or their aesthetics are different and our Comprehensive Plan in our zoning district allows for some of those.

Mr. Walter continued by saying there also are a number of uses depending upon what exactly they are doing there have different impacts. For instance in our industrial districts there are things that have major potential off-site impacts. Uses that have massive amounts of smoke that are generated or present a danger like gasoline storage, explosives, manufacturing are much more intense than some low impact manufacturing product. Therefore, within the retail usage there are some that have relatively little off-site impact and there are some that have relatively large off-site impacts.

Mrs. Peace said to summarize if someone had a retail strip mall and the uses met all of Hanover County's Zoning Ordinance requirements Hanover County cannot tell the landlord they cannot let someone rent a space if they have met the requirements.

Mr. Walter said that was correct. Hanover cannot say who they can rent to unless what someone is proposing is inconsistent with the zoning regulations.

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Mrs. Peace said therefore if the business being proposed is consistent with the Zoning Ordinance that business can by-right rent a space and they would not even have to come before the Planning Commission.

Mr. Walter said that was correct.

Ms. Winborne said before the Commission turns the meeting back over to staff, she wished to thank Mr. Leadbetter and Mr. Padgett for their comments and staff for addressing these points that were brought forth for consideration.

Comprehensive Plan Changes - staff

Mr. Maloney stated that staff made a number of changes and he would summarize them. There are some edits on Growth Management, Future Land Use, staff updated the Utilities and Community Facilities sections specifically as they address the revision in the growth rate that the Commission suggested last time which is 1.5% per year and staff updated some text relating to the schools. Minor edits have been made to the Environmental Section as well as the Economic Development Zones.

Regarding the future land uses page 11 was revised as it pertains to the applicability of Mixed-Use in the Destination Commerce Land Use Destination. Staff took out the reference to Mixed-Use as an applicable zoning district in Destination Commerce as a Land Use. Staff inserted a policy statement on page 4 under the Economic Development Zones (EDZ) that talks about the applicability of Mixed-Use in the Lewistown EDZ which does comprise a Destination Commerce land use. He stated that he had a discussion with the Ms. Winborne and Mrs. Peace regarding that change. The reason it is being limited is a practical matter. There are 3 areas shown for Destination Commerce; Lewistown EDZ, a future area between the 54 interchange and the U.S. Route 30 interchange in the vicinity of Old Ridge Road as a potential interchange and Destination Commerce and then there is an area near Doswell.

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Ms. Winborne said if we use page 4 we are not precluding that Mixed-Use could come into that Destination Commerce Land Use within the Lewistown EDZ.

Mr. Maloney said that is correct. In fact whatever the land use is within the Lewistown EDZ the Mixed-Use would be an appropriate consideration but that does not mean it is automatic. The property owner still has to submit a zoning application and has to go through the process and that is a discretionary process.

Ms. Winborne asked if this gives Mr. Gaskin the flexibility he spoke to us about.

Mr. Maloney answered absolutely.

Ms. Winborne asked Mrs. Peace if she was comfortable with this language since she raised the concern previously.

Mrs. Peace answered yes but wanted to clarify that someone would not have to amend the land use map.

Mr. Maloney said no anybody would have to amend the Comprehensive Plan. They will have to amend the zoning map through the zoning process.

Major Thoroughfare Plan

Mr. Maloney advised that as a broad Thoroughfare Plan the County's traffic consultant has confirmed that they do not see the need for any changes. As a result of proposed changes to the land use it is not going to change the functional classifications or the locations of any of the Major Thoroughfares. He said staff does have proposed changes but reiterated it is not driven by the changes in land use and the changes are minor.

1. U.S. Route 360 and Lee-Davis Road: There is a circular network and our Thoroughfare Plan shows somewhat of a circular network of a 60 foot minor collector. Given existing development, lack of right of way, lack of future redevelopment in the long term staff does not see what this serves and proposed to take it off the map.

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2. There was a network shown generally through the Bell Creek Development. Bell Creek is largely developed. Conceptually it showed a continuation of Bell Creek with an east/west connector between Atlee and Shady Grove roads and a future connector between Pole Green and Studley Road. We really have that connector now but it looks more like it is Bell Creek Road up to Verdi Lane. We do have reserved right-of-way through the Bell Creek project out to Studley Road. And the east/west connector, if you go into the Bell Creek development in the vicinity of Left Flank Road would form the stub of the east/west connector that is shown here. So, it is a modification to reflect planned conditions verses build conditions.
3. U.S. Route 1 and Sliding Hill Road: There has been much discussion about the interim improvement to realign Cedar Lane north of the Hargrove Insurance Agency. We have the ultimate alignment which shows an extension of Sliding Hill Road but for purposes of clarity we are showing that interim alignment as well.
4. Cold Harbor and Creighton roads: There was a 60 foot minor collector coming into the area generally in the vicinity of the Selwyn property and a 100 foot major collector stubbing into that project which did not make a lot of sense. We know as this property develops there will be an internal network connecting both Creighton and Cold Harbor Roads and rather than designating them as formal thoroughfares we will rely on a project design to determine a location, geometry and capacity of those roads as we evaluate through the zoning process.
5. U.S. Route 33 and Hylas: Currently there is a proposed east/west connector that has been on the map for quite some time, and an extension of Winns Church Road stubbing in. That is the existing alignment. We think there are opportunities to actually connect to Henrico County and so we are extending Winns Church Road and realigning the east/west major arterial to "T" in. So, we will have the east/west and the connectivity but we are modifying it to what we think is probably a more likely alignment of those various roads.
6. Historic Pole Green Church Foundation: Currently we have a proposal and a survey proposal to realign Creighton Parkway extended to tie into Rural Point Road in the vicinity. That extension bisects the Historic Pole Green Church property. At the Church Foundation's request they hired an engineer to re-evaluate an alternative alignment. They provided the County details as to the feasibility of construction for that alignment. Our Public Works staff has reviewed that information and has determined for planning purposes this is a feasible alignment. It would probably require either the intersection of Rural Point Road coming into this as an intersection or perhaps subbing it but that is a detail we can address a little more as we get closer to actually planning that road. There a couple of options. Staff is supporting this re-alignment through that section.

Mr. Bailey asked if the re-alignment will still be running across Mr. Brooks' property.

Mr. Maloney advised that this is a general alignment and as we get to a point where we are actually developing there will be a realistic perspective of how these roads are actually constructed. A majority of these roads will have reserved rights-of-way for construction of the road as part of the

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development project. Hanover County is not in the new road building business. We may as we are doing for the Atlee Station Road/Atlee Road Connector identify projects to connect the dots once the road has been largely extended to finish that connection.

Mr. Maloney explained that all of these alignments will be driven by development. It will be built incrementally and rights-of-way will be reserved incrementally as the underlying properties are considered for rezoning. So, there will be chances for modified alignments as we go through more details, surveying and engineering. In acquiring rights-of-way obviously we want to align the road where it is least disruptive to the underlying property owner and most cost effective for the County to build. He said this road looks like it is going through Mr. Brooks' property and it is likely this road will not be developed until Mr. Brooks or a subsequent property owner chose to develop that property and then the exact alignment would be negotiated as part of that zoning process.

Mr. Bailey said so the proposed re-alignment would not go across Mr. Brooks' property.

Mr. Maloney said no sir. The current Plan shows the re-alignment going through Mr. Brooks' property not the proposed change.

Mr. Leadbetter asked how this road would be funded.

Mr. Maloney answered that typically roads are funded through the Richmond area MPO using Surface Transportation Planning (STP) funds. The County gets through the MPO an annual allotment and the County banks those allotments and matches them with other funding sources, such as the secondary roads and so forth, and packages it over a series of years and at the appropriate time when we have enough funds available we will get authorization to commence the project.

Mr. Maloney stated those are the proposed changes to the Major Thoroughfare Plan. Other than the minor realignments which he reiterated are not driven by the under land use changes but rather by refining and modifying for more efficient transportation network.

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Mr. Leadbetter asked about the proposed realignment for Cedar Lane.

Mr. Maloney said this is an interim realignment and that is a funded project.

Land Use Map Request

Mr. Maloney stated there is a property owner at the intersection of Atlee Station and Honey Meadows Roads who just recently requested an increase in the density. Currently the Plan shows Suburban General 1 to 4 units per acre. They are asking it to be changed 4 to 8 units per acre.

Ms. Winborne asked if that decision needed to be made at this work session.

Mr. Maloney answered not right now. He pointed out that a majority of projects along Atlee Station Road are single family detached projects. There are some projects that have townhouse components in Cool Spring Forest and the yet to be developed Giles Farm all have townhouse components to them. He questioned the character of this particular corridor but again that will be a decision for the Commission as to whether or not this is an appropriate location to add additional density. Atlee Station Road is somewhat a constrained road already.

Mr. Whittaker asked if this is the land owner as of record asking for this.

Mr. Maloney answered yes sir.

Mr. Padgett stated that they also want to add a day care.

Mr. Maloney explained under our zoning ordinances through the Special Exception process there may be some opportunity for that; however, that would be considered as part of a future zoning request.

Mechanicsville Small Area Plan

Mr. Maloney explained that this is not a change in land use but rather a change in land use coding. There has been a lot of confusion between what is being shown on our land use legend between Mixed-Use and Multi-Use. There are very specific Mixed-Use land use designations but that

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is really in the context of the Mechanicsville Small Area Plan. Multi-Use in terms of the broad changes we have been discussing is applicable elsewhere. He said in order to help try to avoid the confusing staff is proposing to take the footprint of the Mechanicsville Small Area Plan and showing it as a color under itself with a reference back to the text of the Small Area Plan for the specific land uses.

Ms. Winborne thought that is a very creative idea. Using a single color and then being able to find the narrative to explain what that means may be a way to add to some transparency that people can clearly understand what is trying to be conveyed.

Mr. Whittaker agreed. He said it makes it a lot easier to understand.

Mr. Maloney advised that the Commission needs to begin landing on a final proposal for the Hylas/U.S. Route 33 and Cedar Lane/U.S. Route 1 corridors. He said he has had numerous discussions with Mr. Leadbetter and we think for each of these areas there may be one additional alternative that we may want to put on the table. He asked if the Commission wished to see those now.

Commission members agreed to continue with the proposals.

Cedar Lane/ Route 1

Mr. Maloney said they revised the existing Plan and another version of the Plan pulling back the Multi-Use and limiting the 4 to 8 units per acre designation. The challenge with this is not so much the land use itself it is this arbitrary boundary line and as Mr. Leadbetter and he were informally talking, if there is consideration to eliminate Mixed-Use from any of the conventional residential land use designations perhaps it makes more sense to use Holly Hill Road with the understanding that with that change the Mixed-Use would not be applicable there and the highest available density would be 8 units per acre up to Holly Hill Road. So, this is another alternative.

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Hylas/U.S. Route 33 Area:

Mr. Maloney said the Commission reviewed the existing Plan and an alternative 2 Plan that the Commission has kept on the table, there was alternative 3, and alternative 4, which essentially eliminates this Multi-Use and extends the residential somewhat. After many discussions there is alternative 5 which expands the Multi-Use, maintains some Business Park and provides transition between the 4 to 8 units per acre designation and the Meade Subdivision. The current Plan shows the area around Meade as Business Park except for the western boundary.

Mr. Maloney said if the Commission is comfortable adding the alternative 5 then staff would add that to the website.

Ms. Winborne said “the more the merrier.”

Mr. Ledbetter said on the Meade area with alternative 5 the Business Park is back where it was to start with on that property side.

Mr. Maloney stated that in looking at the existing plan yes it is.

Mr. Leadbetter asked is that the only density change in looking at the backside of that property.

Mr. Maloney answered there are some intervening properties between the boundaries of Meade and this area is 4 to 8 units per acre. What would be shown for those intervening properties would be 1 to 4 units per acre density.

Mr. Leadbetter asked if he could show where the Meade property line is.

Mr. Maloney explained approximately where the property line is. He said a work session is scheduled for a week from today, same time and location. Staff will post those additional alternatives on the website.

Ms. Winborne advised that the Commission’s goal for the next work session, since they have explored the broader questions that citizens might have had about land use in our Comprehensive Plan,

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is to dedicate ourselves to making some decisions between all these alternatives to come to some resolution about which alternatives we would like to remove from consideration. She asked if the drafts are ready is that a reasonable goal for a 2 hour work session.

Mr. Maloney answered yes, and staff will have a clean draft based on the text changes including the handouts for today available next week. He added they can create a land use map and a Thoroughfare Plan that shows these changes but there will have to be place holders for Cedar Lane/U.S. Route 1 and U.S. Route 33/Hylas areas.

Ms. Winborne asked the Commission members if they were in agreement with that. All members were in agreement. She said Mr. Maloney and his staff have done an extraordinary job. She thanked him and thanked him for providing the alternatives for everyone to thoroughly consider.

Miscellaneous Issue

Mrs. Peace announced that she may not be present at the next meeting due to a medical issue.

Mr. Padgett announced the he would not be present either as he will be on vacation.

Ms. Winborne thanked everyone for attending the meeting and if anyone had any comments or thoughts regarding what was presented tonight to be sure to contact a Commission Member or the staff.

Recessed

The Commission took a break at 6:07 P.M.

Meeting Reconvened

Madam Chairman called the meeting back to order at 7:00 P.M.

Citizens' Time

No one addressed the Commission during Citizens' Time.

Consideration of Agenda Amendments by Action of the Commission

There were no changes to the agenda.

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PUBLIC HEARINGS

Ms. Winborne read the Commission’s Rules of Order for a Public Hearing and explained the reason for the expedited cases.

Mr. Maloney explained that all of these cases are requests for cash proffer amendments. Staff organized these cases by district.

Mrs. Winborne asked if there was anyone who wished to speak to any of the cases on the expedited agenda. Mrs. Emma Lee Mitchell, Beaverdam District, said she was representing properties in the South Anna District case C-17-07(c), AM. 1-13, Leah and Brett Banton, Et al., and she wished to have that request removed from the expedited agenda.

Ms. Winborne said they would be heard during the Individual Hearings.

REZONING PROFFER AMENDMENT CASES

C-14-05(c) ASHLAND PARK DEVELOPMENT, L.L.C, ET AL. (ASHLAND PARK), AM. 1-13 Requests an amendment to the proffers approved with rezoning request C-14-05(c), Am. 1-08, Ashland Park Development, L.L.C., on GPIN(s)7870-89-4157, 7870-89-5118, 7870-89-5270, 7870-89-6139, 7870-89-9770, 7870-89-9784, 7870-89-9799, 7870-99-0804, 7870-99-0819, 7870-99-0924, 7870-99-0939, 7871-90-0043, 7871-90-0059, 7871-90-0163, 7871-90-0188, 7871-90-1206, 7871-90-0370, 7871-80-9333, 7871-80-8380, 7871-80-8266, 7871-80-8169, 7871-80-8154, 7871-80-8140, 7871-80-8045, 7871-80-8030, 7870-89-8924, 7871-80-6091, 7870-89-6918, 7870-89-5991, 7870-89-5893, 7870-89-6840, 7870-89-7820, 7870-89-7779, 7870-89-8728, 7870-89-7656, 7870-89-7617, 7870-89-6669, 7870-89-5792, 7870-89-5742, 7870-89-5616, 7870-89-5508, 7870-89-5511, 7870-89-5459, 7870-89-6520, 7870-89-6580, 7870-89-7429, 7870-89-7306, 7870-89-6368, 7870-89-6317, 7870-89-5357, 7870-89-5306, 7870-89-4355, 7870-89-0460, 7870-79-9483, 7870-79-8435, 7870-79-8572, 7870-89-0505, 7870-89-0621, 7870-79-7695, 7870-79-6599, 7870-79-6543, 7870-79-6433, 7870-79-4491, 7870-79-4590, 7870-79-3407, 7870-79-3318, 7870-79-2309, 7870-79-1325, 7870-79-0340, 7870-69-9267, 7870-69-8283, 7870-69-8119, 7870-68-9946, 7870-79-5256, 7870-89-9423 and 7870-78-9769, zoned RS(c), Single Family Residential District with conditions, and located on the east line of Blunts Bridge Road (State Route 667) approximately 1,050 feet north of its intersection with Mayers Run Drive (private road) in the **BEAVERDAM MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

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Mr. Maloney briefly presented this request to eliminate the existing cash proffers and replace it with a road improvement proffer amount of \$2,036.00. Staff recommended approval subject to the proffers submitted with the application.

C-7-11(c) AM. 1-13 HHHUNT PROVIDENCE, L.L.C., Requests an amendment to the proffers approved with rezoning request C-7-11(c), Helen F. and Riley B. Lowe, et al. (HHHunt Corporation), on GPINs 7880-83-0625, 7880-84-9165 and 7880-84-9468, zoned RS(c), Single Family Residential District with conditions, and located on the east line of Woodside Lane (Town of Ashland Road) approximately 350 feet north of its intersection with East Patrick Henry Road (State Route 54) in the **BEAVERDAM MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney advised that this request was to eliminate the current cash proffer for the \$19,503.00 and replace it with a road improvement proffer in the amount of \$3,080.00. The proposed revision is an amount calculated based on the transportation proffer methodology that was distributed in the Commission's packet.

Ms. Winborne opened the public hearing and asked if the applicant was present for the Ashland Park Development. The applicant was not present. Ms. Winborne advised that with the applicant not being present it is presumed that the applicant is in agreement with the staff recommendations.

Ms. Winborne asked if the applicant was present for HHHunt Providence and if they were in agreement with staff recommendations. The applicant from the audience said yes, they were in agreement. She asked if anyone else wished to speak in favor of or in opposition to either of these requests. Seeing no one come forward, she closed the public hearing.

Upon a motion by Mrs. Iverson, seconded by Mr. Whittaker, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-14-05(c), AM. 1-13, ASHLAND PARK DEVELOPMENT, L.L.C. ET AL. (ASHLAND PARK) SUBJECT TO THE FOLLOWING PROFFERS DATED APRIL 19, 2013 AS OUTLINED IN THE STAFF REPORT:**

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1. Contribution for Road Improvements. The Property Owner, for themselves, their successors and assigns, agree to pay Hanover County, prior to issuance of a Certificate of Occupancy for the property, the amount of Two Thousand Three Hundred Six and 00/100 Dollars (\$2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.
2. Tree Preservation. Any cutting of trees in rear and side yard of each lot shall be selective, with no cutting of trees of five-inch caliper or greater, except that such areas may be cleared to extent necessary for drainage and utility easements in connection with the development of the property, for the grading and clearing of lots for construction and when required by Hanover County. During the construction and installation of the utilities and roads all trees to be protected and which are adjacent to such construction shall be clearly marked.
3. Additional Plantings. Two additional deciduous trees of 2-inch caliper will be provided on each treeless lot. The Owner and/or the homeowner shall make section of these trees.
4. a. Lots 1 – 29 and Lots 117 – 136 on Exhibit A. The lots designated in this subsection on the Property shall be improved with dwellings that have a minimum floor area of 1,800 square feet for a one-story dwelling and 2,200 square feet for a one and one-half or two story dwelling. Minimum floor area shall not include garages or breezeways in any category. Floor area shall be measured along the exterior walls of the structure. No cinder block, cement block, solite block, or asbestos shingle shall be permitted for the finished exterior of any structure.

b. Lots 30 – 116 on Exhibit A. The lots designated in this subsection on the Property shall be improved with dwellings that have a minimum floor area of ~~1,800~~1,200 square feet for a one-story dwelling and ~~2,200~~1,500 square feet for a one and one-half or two story dwelling. Minimum floor area shall not include garages or breezeways in any category. Floor area shall be measured along the exterior walls of the structure. No cinder block, cement block, solite block, or asbestos shingle shall be permitted for the finished exterior of any structure
5. Exterior of all foundations shall be brick unless the residence is constructed with synthetic stucco, in which case the foundation may be synthetic stucco. Where wood burning fireplaces are installed there shall be stucco chimneys on stucco houses and brick chimneys on all other such houses.
6. A minimum of one streetlight shall be provided at each intersection. Street lighting and street signage shall be subject to approval of the Planning Commission at time of subdivision.
7. An architectural control committee shall be created by restrictive covenants applicable to the Property to be filed by the Owner prior to recordation of the first section of the subdivision. All house plans shall be approved by the architectural control committee prior to building

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permit issuance by the County, and all applications for building permits shall be accompanied by verification by the architectural control committee or its representative that the requested structure has been approved. All dwellings shall include at least one of the following features, namely, a dormer, a bay window, a porch at least six feet long, or a roof line consisting of more than one gable.

8. All improvements required by these proffers, including plantings, streetlights, sidewalks, pedestrian ways and entrance landscaping the signage shall be subdivision improvements.
9. Dedication of Right-of-Way. The Owner agrees to dedicate twenty-five feet (25') of right-of-way from the centerline of Blunts Bride Road (State Route 667) to the property for future road widening, free of cost to the County upon request of the County or VDOT.
10. Entrance Improvements. The entrance from Blunts Bridge Road and a 150' turn taper shall be constructed in accordance with VDOT requirements at the time of construction plan approval. These improvements shall be subdivision improvements.
11. Prior to the conveyance of the first lot, the Owner shall cause to be formed a homeowners association in which membership will be required of all lot owners. The Owner shall relinquish control of the homeowners association when 75 percent of the lots are developed and occupied, but architectural control until all lots are developed. The homeowners association shall be charged with maintenance of the common areas, the streetlights, the signage, the sidewalks, and the pedestrian path as shown on the conceptual plan; once the responsibility of the Owner has terminated.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

Upon a motion by Mrs. Iverson, seconded by Mr. Bailey, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-7-11(c), AM. 1-13, HHHUNT PROVIDENCE, L.L.C. SUBJECT TO THE FOLLOWING PROFFERS DATED APRIL 24, 2013 AS OUTLINED IN THE STAFF REPORT:**

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1. Contribution to Road Improvements. The Property Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Three Thousand Eighty and 00/100 (\$3,080.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.
2. Access to parcels adjacent to Washington Lacy Park. Parcels with GPINs 7880-84-5819, 7880-84-4745 and 7880-84-5796 (the "Adjacent Park Parcels") are currently accessed through the Property. The Property Owner shall ensure that vehicular access to the Adjacent Park Parcels is not impeded and that vehicular access remains in place upon completion of construction. Vehicular access across the Property may be provided through a public or private road system at Property Owner's discretion. Any private road system on the Property to facilitate this proffer shall be free of cost to the owners of the Adjacent Park Parcels and free of encumbrances. Should Property Owner disturb any existing access road or driveway located on Phase III Park or Adjacent Park Parcels, Property Owner shall restore that access road or driveway to its original condition but shall not be responsible for improvements to any access road or driveway located on Phase III Park or Adjacent Park Parcels.
3. Dedication of Right of Way – Woodside Lane. Upon request of the County or VDOT, the Owner agrees to dedicate to the County or the Commonwealth of Virginia, free of cost and free of encumbrances, fifty feet (50') of right-of-way from the centerline of Woodside Lane to the property for future road widening purposes.
4. Dedication of Right of Way – Providence Church Road. Upon request of the County or VDOT, the Owner agrees to dedicate to the County or the Commonwealth of Virginia, free of cost and free of encumbrances, twenty-five feet (25') of right-of-way from the centerline of Providence Church Road to the property for future road widening purposes.
5. Landscaping in Buffer along Providence Church Road. In addition to the existing trees and vegetation in the buffer along Providence Church Road, the Property Owner shall plant an evergreen hedge in the common area along the rear property line of any lot backing up to this buffer (the "Providence Church Road Lots"). The hedge shall be of a plant material similar to but not limited to wax myrtle and must be in place prior to the conveyance of any Providence Church Road Lot to an owner other than the initial builder. Should an approved privacy fence along the rear property line of the Providence Church Road Lots be required by the HOA's restrictive covenants, then the requirement for the evergreen hedge shall be waived. Such fence requirement shall require that the fence be built prior to conveyance of a Providence Church Road Lot to an owner other than the initial builder.
6. Architecture and Architectural Control. The property shall be developed with a unified architectural theme. The standard of compatibility may be met through scale, materials, forms, and/or colors which may be embodied in architecture that is contemporary as well as traditional. An architectural control committee shall be created by restrictive covenants

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applicable to the Property which shall be filed by the Property Owner prior to recordation of the subdivision plat.

7. Minimum House Sizes. Single family homes shall consist of not less than 1,700 gross square feet. Minimum floor area shall not include garages or breezeways. Floor area shall be measured along the exterior walls of the structure.
8. Tree Preservation. Existing trees of five inch caliper or greater located on the Property shall not be removed with the exception of dead or diseased trees or parts thereof. This shall not prevent the removal of trees necessary for the construction of improvements, driveways, drainfields, or drainage facilities.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

C-24-08(c) AM. 1-13 **FOUR WEST COMPANY, ET AL.**, Requests an amendment to the proffers approved with rezoning request C-24-08(c) and C-24-08(c), Am. 1-11, Four West Company, on GPINs 8706-07-2799, 8706-08-1030, 7796-97-6402, 8706-07-0687, 8706-07-0542, 8706-08-4801 and 8706-09-8222, zoned R-4(c), Residential Cluster Development District with conditions and RS(c), Single Family Residential District with conditions, and located on the west line of Cool Spring Road (State Route 652) at its intersection with Hughesland Road (State Route 2170) in the **CHICKAHOMINY MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney briefly presented this request to eliminate proffer amounts in the amount of \$17,085.00 for single-family detached units, and \$18,551.00 for townhouse units. The applicant has submitted revised proffers in the amount of \$4,583.00 per single family detached units and \$2,789.00 per townhouse units.

Mr. Padgett stated that the joint applicant is Robert and Kathleen Seay.

Mr. Maloney said that was correct.

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Mr. Padgett asked if that was because they already owned one of the properties of this development or has a house there.

Mr. Maloney said yes and it was his understanding is there is a contract to purchase a portion of that property; however, they have not executed that contract but that portion of the property is part of the application. Ultimately a portion of their property will become part of this development.

Ms. Winborne opened the public hearing and asked if the applicant was present and in agreement with the staff recommendations.

Mr. Harry Pollard, from the audience and representing the applicant said yes they were in agreement.

Ms. Winborne closed the public hearing.

Upon a motion by Mr. Padgett, seconded by Mr. Leadbetter, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-24-08(c), AM. 1-13, FOUR WEST COMPANY, ET AL. SUBJECT TO THE FOLLOWING PROFFERS DATED APRIL 23, 2013 AS OUTLINED IN THE STAFF REPORT:**

1. Contribution for Road Improvements for Single Family Units (159). The Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Four Thousand Five Hundred Eighty-three and 00/100 (\$4583.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.
2. Contribution for Road Improvements for Townhouse Units (117). The Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Seven Hundred Eighty-nine and 00/100 (\$2789.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used

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for such improvements, the County shall return the funds paid to the Owner or his successors in title.

3. Elevations and Exterior Materials. At the time of initial occupancy, (1) each house shall be constructed so as to appear substantially similar to the submitted elevations, as shown on the conceptual plan, titled "Cool Spring West," dated 8-4-08, and last revised October 31, 2011, (2) foundation materials shall be either brick or stone, (3) at least two materials from the "Siding Materials" list shall be used for the siding of each house, (4) no more than 3 adjacent houses (which shall include houses across a street) shall be constructed with the same elevations and the same materials. For the purposes of this proffer, a variation in the color or type of one or both of the siding materials shall be construed to be construction using different materials.
4. Transportation Improvements. Transportation improvements shall be constructed in substantial conformity to those described on page 7 of 14 of the approved Conceptual Plan and such improvements shall be constructed to VDOT standards and specifications.
5. Dedication of Right-of-Way. A right-of-way 30 feet in width from the centerline of Cool Spring Road (State Route 652) to the Property for future road widening, shall be dedicated free of cost to the County, upon request of the County or VDOT.
6. Tree Preservation. Existing trees of 5 inch caliper or greater on the Property shall not be removed with the exception of dead or diseased trees or parts thereof. This shall not prevent the removal of trees necessary for the construction of improvements, driveways, or drainage facilities.
7. Cemetery Removal or Relocation. Should the Property Owner wish to remove and/or relocate the human remains from the cemetery on the "Reserve Lot", said Property Owner must comply with the permit procedure administered by the Virginia Department of Historic Resources. The Property Owner shall be responsible for all costs and expenses associated with the cemetery removal or relocation.
8. Vehicle and Boat Storage. Restrictive covenants prohibiting the storage of boats, utility trailers, campers and similar vehicles within the group parking area shall be imposed by the Developer prior to the transfer of the first unit to the owner.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

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C-17-01(c) AM. 1-13 **W. V. MCCLURE, INC. AND CHRISTIAN RIDGE, L.L.C. (CHRISTIAN RIDGE)**, Request an amendment to the proffers approved with rezoning request C-17-01(c), Curtis Bennett and Carroll Bennett, Jr., on GPINs 8775-10-5432, 8765-71-7190, 8765-71-7839, 8765-72-6318, 8765-72-7005, 8765-81-2204, 8765-81-3860, 8765-82-1621, 8765-82-1804, 8765-71-5478 and 8765-71-6795, zoned RC(c), Rural Conservation District with conditions, and located on the south line of Old Church Road (State Route 606) at its intersection with Christian Ridge Drive (State Route 2340) in the **COLD HARBOR MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney briefly presented this request to amend the cash proffers of \$19,503.00 and submit road improvement proffers in the amount of \$2,306.00 per parcel.

C-5-04(c) AM. 1-13 **FLANNIGANS MILL, L.L.C.**, Requests an amendment to the proffers approved with rezoning request C-5-04(c), Helen F. and Riley B. Lowe, on GPIN 8765-10-7211, zoned AR-6(c), Agricultural Residential District with conditions, and located on the west line of Flannigan Mill Road (State Route 693) approximately 375 feet north of its intersection with Cavalry Lane (private road) in the **COLD HARBOR MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney briefly presented this request to eliminate the \$5,929.00 and the road proffer in the amount of \$2,771.00 and they have submitted a road improvement proffer in the amount of \$2,306.00. Staff recommended approval of both of the above requests.

Ms. Winborne opened the public hearing and asked if either of the applicants were present. They were not; therefore, it is assumed they are in agreement with staff recommendations. She asked if anyone else wished to speak regarding either of these cases.

Mr. Mark Dodson, a resident of the Cold Harbor District, expressed concern that the Christian Ridge folks have taken about a mile swath of trees down in the last year. He asked if they were going to cross the Madequin Creek and how much closer they will be coming to his property.

Mr. Maloney explained that the Christian Ridge subdivision is a RC, Rural Conservation Subdivision and the property has already been recorded. He explained that in the RC district the lots are clustered and the lots that are the subject of the zoning request are highlighted in red on the map.

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The area in the back has fairly recently been timbered; however, there are no more lots proposed, nor is there anymore available density back in that area which is identified as the Preservation Lot. As part of the approved rezoning one home site was approved for the Preservation Lot, therefore, the property owner does have the ability to construct a single family home but there will not be an extension of the subdivision per say. One of the requirements of the RC district is development in substantial conformity with the conceptual plan. The property owner reserved three potential home sites, but only one home can be built.

Ms. Winborne said if there is no one else who wishes to speak for or against these two requests then she would close the public hearing.

Upon a motion by Mrs. Peace, seconded by Mr. Padgett, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-17-01(c), AM. 1-13, W.V. MCCLURE, INC. AND CHRISTIAN RIDGE, L.L.C. (CHRISTIAN RIDGE) SUBJECT TO THE FOLLOWING PROFFERS AS OUTLINED IN THE STAFF REPORT:**

1. The Property Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 (\$2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.
2. Exterior foundation of houses shall be of brick or stone construction unless the house is constructed of synthetic stucco (DriVit) in which case the foundation may be of like material. Above the foundation the exterior of the houses shall be constructed of brick, stone, synthetic stucco (DriVit), premium vinyl siding or concrete-based siding material (Hardi Plank). At least 15% of the houses shall be constructed with a brick or stone front on the exterior of the houses.
3. Minimum houses sizes shall be as follows: 2000 square feet for one-story building and 2200 square feet for a one and one-half or two-story building. Minimum floor area shall not include garages or breezeways in any category. Floor area shall be measured along the exterior walls of the structure.

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4. The road as shown on the plan conceptual, titled "Christian Ridge", dated September 10, 2001, submitted and prepared by Engineering Design Associates, Consulting Engineering and Surveyors shall be constructed to the state secondary road standards.
5. All wells to be constructed on each lot in the subdivision shall, at a minimum, comply with the requirements of Class 111B well, also known as bored deep well.
6. There shall be no removal of trees of five-inch (5") or larger caliper in the required rear and side yard area of each building lot, as defined by the Zoning Ordinance, with the exception of dead or diseased trees. This, however, shall not prevent the removal of trees necessary for the construction of improvements, driveways, utility easements, drain fields, drainage facilities, wells swimming pools or basketball or tennis areas. In addition, this shall not prevent the removal of trees for open areas within the walking trails and recreation areas in the Common Open Space areas as shown on the Conceptual Plan. No trees five inches (5") in caliper or greater may be cleared in the remaining area of the Common Open Space with the exception of clearing necessary for the installation of utilities.
7. On at least fifty percent (50%) of the lots within the subdivision, any garage which is attached to the dwelling shall be entered from the side or rear of the lot. Detached garages shall be located in the rear yard.
8. The owner agrees to dedicate thirty (30) feet of right-of-way from the centerline of State Route 606 to the property for future road widening when requested by the County, free of cost, and free of encumbrances interfering with the use for road purposes. The amount of land so dedicated shall be included in the acreage total of the Property as such total may be used to determine compliance with any of the requirements of the RC zoning ordinance.
9. Owner agrees to construct an eastbound right-turn lane in compliance with applicable standards of the Virginia Department of Transportation running from Old Church Road into the subdivision. At a minimum the right turn land will consist of a 150 foot taper and a 150 foot storage bay.
10. The number of building permits to be issued for the construction of homes shall be limited to fifty (50) per calendar year, beginning in the year in which the subdivision plat for the property is recorded.
11. In the event the owner of the preservation lot desires to harvest timber from such lot, prior to undertaking such activity the owner shall prepare a timber management plan which, at a minimum, details the area to be timbered and the reforestation plan for such area. Prior to harvesting timber the plan must be reviewed by the Virginia Department of Forestry and approved by the Hanover County Planning Commission. This shall not prevent the clearing of trees for road construction, utility construction or ponds or the clearing of trees within the bounds of the homesite as shown on the conceptual plan.

The vote was as follows:

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Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

Mr. Padgett noted that timbering is a permitted activity for the preservation site.

Mr. Maloney stated that was correct. What staff has done because the RC district requires development in conformity to the conceptual plan staff has requested the applicant, if they are interested in timbering a portion of the property, to note it on the conceptual plan, so that there is a reasonable explanation that at the time of zoning that the property may be timbered and in fact one of the requirements in Christian Ridge was to bring a timbering plan back to the Commission and within the last year the Commission has reviewed that Plan as an administrative review.

Upon a motion by Mrs. Peace, seconded by Mr. Padgett, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-5-04(c), AM. 1-13, FLANNIGANS MILL, L.L.C. SUBJECT TO THE FOLLOWING PROFFERS AS OUTLINED IN THE STAFF REPORT:**

1. Contribution for Road Improvements. The Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 (\$2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.
2. Foundation. Exterior foundations of houses shall be brick or stone construction unless the house is constructed or synthetic stucco, in which case the foundation may be of like material.
3. House Size. Minimum house sizes shall be 2,500 square feet of finished floor area for two (2) story houses and 2,200 square feet for a one (1) story house. Minimum floor area shall not

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include garages or breezeways in any category. Floor area shall be measured along the exterior walls of the structure. All attached garages shall be open to the side or rear of the dwelling. No cinder block, cement block, solite block, or asbestos shingle shall be permitted for the finished exterior of any structure. A minimum of twenty-five percent (25%) of the exteriors of each house shall be brick unless the house is constructed of stucco or synthetic stucco.

4. Dedication of Right-of-Way. The Owner agrees to dedicate twenty-five (25) feet of right-of-way from the centerline of Flannigans Mill Road (State Route 693) to the property for the future widening of said road when so requested by the County, free of cost, and free of encumbrances interfering with the use for road purposes.
5. Tree Preservation. There shall be no removal of trees of five-inch (5”) or larger caliper in the required rear and side yard of each building lot, as defined by the Zoning Ordinance, with the exception of dead or diseased trees. This, however, shall not prevent the removal of trees necessary for the construction of improvements, driveways, utility easements, drainfields, drainage facilities, wells, swimming pools, basketball or tennis areas.
6. Conceptual Plan. The Property shall be divided in substantial conformity with the conceptual plan attached, “FLANNAGANS MILL, Cold Harbor District, Hanover County, Virginia, “CONCEPTTUAL PLAN”, dated April 28, 2004, revised September 2, 2004, prepared by Timmons Group.
7. Wells. Each home shall be served water by an individual deep well.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

Mrs. Peace asked what the total lots and total acreage was.

Mr. Maloney answered that this has not gone to record yet, therefore, he did not have a subdivision plat. However, the number of lots is below the 50 lot limit in terms of total density.

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C-48-05(c) AM. 1-13 GARDEN BROOK WAY, L.L.C., Requests an amendment to the proffers approved with rezoning request C-48-05(c), Am. 1-11, Hanover Friends Church and BWW Holdings, L.L.C., on GPIN 8725-20-9771, zoned RS(c), Single Family Residential District with conditions, and located on the east line of Compass Point Lane (State Route 1075) approximately 900 feet north of its intersection with Mechanicsville Turnpike (U.S. Route 360) in the **HENRY MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney briefly presented this request to eliminate the existing cash proffer of \$11,246.00 and submit a road improvement proffer in the amount of \$2,306.00. Staff recommended approval.

Ms. Winborne opened the public hearing and asked if the applicant was present and in agreement with staff recommendations. The applicant from the audience said yes he was in agreement. She asked if there were any other comments. Seeing no one come forward, she closed the public hearing.

Upon a motion by Mr. Bailey, seconded by Mr. Whittaker, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-48-05(c), AM. 1-13, GARDEN BROOK WAY, L.L.C. SUBJECT TO THE FOLLOWING PROFFERS DATED APRIL 24, 2013 AS OUTLINED IN THE STAFF REPORT:**

1. The Property Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 (\$2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.
2. Dwelling Size. Each house shall have the following minimum finished floor areas, exclusive of covered porches, covered stoops, breezeways, garages, basements, and cellars, as follows below:

1 Story	–	1,400 square feet
1½ Story	–	1,800 square feet
2 Story	–	2,100 square feet

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3. **Building Materials.** Exterior foundation of houses, including attached porches and stoops, shall be of brick or stone construction unless the house is constructed of synthetic stucco (DriVit) in which case the foundation may be of like material. Pier supports shall not be allowed as part of the exterior perimeter foundation wall. Above the foundation the exterior of the houses shall be constructed of brick, stone, synthetic stucco (DriVit), premium vinyl siding or concrete-based siding material (Hardi Plank). All houses shall have dimensional shingles. Decorative aluminum rails shall be used on front porches.
4. **Tree Preservation.** Existing trees of 5 inch caliper or greater on the Property shall not be removed with the exception of dead or diseased trees or parts thereof. This shall not prevent the removal of trees necessary for the construction of improvements, driveways, drainfields, or drainage facilities.
5. **Roads.** The Property Owner shall build the internal roads to VDOT standards and specifications for residential subdivisions and the internal roads shall be dedicated to VDOT for maintenance and acceptance into the state highway system.
6. **Entrance Improvements.** The entrance from Mechanicsville Turnpike (U.S. Route 360) and a right turn lane with 150' of taper and 200' of storage shall be constructed in accordance with VDOT requirements at the time of construction plan approval. These improvements shall be subdivision improvements.
7. **Traffic.** The Property Owner shall construct traffic calming devices, such as a 4-way stop signs and/or speed humps, along Compass Point Lane (State Route 1075) as recommended by VDOT. Such improvements shall be installed or bonded with the first section recorded. All road improvements shall be constructed in accordance with VDOT standards and specifications.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

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C-2-03(c) AM. 1-13 J&N ASSOCIATES, L.L.C. (CARRINGTON GLEN), Requests an amendment to the proffers approved with rezoning request C-2-03(c), Shirley B. Mangrum, et al., and Sleepy Hollow Farm, L.L.C., on GPINs 7719-20-6729 and 7718-29-1890, zoned RC(c), Rural Conservation District with conditions, and located at the intersection of Carrington Glen Lane (State Route 1038) and Underwood Court (State Route 1039) (Lot 7), and at the terminus of Carrington Glen Lane (State Route 1038) (Lot 18), in the **SOUTH ANNA MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney presented this request to eliminate the cash proffer of \$7,866.00 and submit a road improvement proffer of \$2,306.00. Staff recommended approval.

Ms. Winborne opened the public hearing and asked if the applicant was present. He was not; therefore, it is assumed that the applicant is in agreement with staff recommendations. She asked if anyone else wished to speak. Seeing no one come forward, she closed the public hearing.

Mr. Leadbetter advised that he had spoken with the applicants and they are in agreement with the staff recommendations.

Upon a motion by Mr. Leadbetter, seconded by Mrs. Iverson, the Planning Commission voted **UNANIMOUSLY TO RECOMMEND APPROVAL OF C-2-03(c), AM. 1-13, J & N ASSOCIATES, L.L.C. (CARRINGTON GLEN) SUBJECT TO THE FOLLOWING PROFFERS DATED APRIL 23, 2013 AS OUTLINED IN THE STAFF REPORT:**

1. Contribution for Road Improvements. The Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 (\$2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.
2. Exterior foundations of houses shall be brick or stone construction unless the house is constructed of synthetic stucco in which case the foundation may be of like material.
3. Minimum finished floor area for house sizes shall be 2,600 square feet for 1 story, 2800 square feet for 1½ story, and 3,000 square feet for 2 story homes. Minimum floor area shall not include garages or breezeways in any category. Floor area shall be measured along the exterior

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walls of the structure. All attached garages shall open to the side or rear of the dwelling. No cinder block, cement block, solite block, or asbestos shingle shall be permitted for the finished exterior of any structure.

4. The Property Owner agrees to dedicate a fifty (50) foot right-of-way from the centerline of Pouncey Tract Road (State Route 676) to the property for future road widening free of cost to the County, upon request of the County or VDOT.
5. The Property Owner agrees to dedicate twenty-five (25) feet of right-of-way from the centerline of Dogwood Trail Road (State Route 620) to the property for future road widening free of cost to the County, upon request of the County or VDOT.
6. There shall be no removal of trees of five-inch (5") or larger caliper in the required rear and side yard area of each building lot, as defined by the Zoning Ordinance, with the exception of dead or diseased trees. This, however, shall not prevent the removal of trees necessary for the construction of improvements, driveways, utility easements, drainfields, drainage facilities, wells, swimming pools or basketball or tennis areas. In addition, this shall not prevent the removal of trees for open areas within walking or riding trails and recreation areas in the Common Open Space areas as shown on the Conceptual Plan titled "Carrington Glen Subdivision" by Goodfellow, Jalbert, Beard and Associates, Inc. dated, March 24, 2003, and revised June 10, 2003. No trees five inches (5") in caliper or greater may be cleared in the remaining area of the Common Open Space with the exception of clearing necessary for the installation of utilities.
7. The Property Owner agrees to construct a right turn lane from Pouncey Tract Road (State Route 676) to the property consisting of a 150' storage and 150' taper in accordance with VDOT standards and specifications.
8. The owner shall agree to build the internal road to VDOT standards and specifications for residential subdivisions.
9. Contribution for Road Improvements. The Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 (\$2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.
10. Exterior foundations of houses shall be brick or stone construction unless the house is constructed of synthetic stucco in which case the foundation may be of like material.
11. Minimum finished floor area for house sizes shall be 2,600 square feet for 1 story, 2800 square feet for 1½ story, and 3,000 square feet for 2 story homes. Minimum floor area shall not include garages or breezeways in any category. Floor area shall be measured along the exterior

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walls of the structure. All attached garages shall open to the side or rear of the dwelling. No cinder block, cement block, solite block, or asbestos shingle shall be permitted for the finished exterior of any structure.

12. The Property Owner agrees to dedicate a fifty (50) foot right-of-way from the centerline of Pouncey Tract Road (State Route 676) to the property for future road widening free of cost to the County, upon request of the County or VDOT.
13. The Property Owner agrees to dedicate twenty-five (25) feet of right-of-way from the centerline of Dogwood Trail Road (State Route 620) to the property for future road widening free of cost to the County, upon request of the County or VDOT.
14. There shall be no removal of trees of five-inch (5") or larger caliper in the required rear and side yard area of each building lot, as defined by the Zoning Ordinance, with the exception of dead or diseased trees. This, however, shall not prevent the removal of trees necessary for the construction of improvements, driveways, utility easements, drainfields, drainage facilities, wells, swimming pools or basketball or tennis areas. In addition, this shall not prevent the removal of trees for open areas within walking or riding trails and recreation areas in the Common Open Space areas as shown on the Conceptual Plan titled "Carrington Glen Subdivision" by Goodfellow, Jalbert, Beard and Associates, Inc. dated, March 24, 2003, and revised June 10, 2003. No trees five inches (5") in caliper or greater may be cleared in the remaining area of the Common Open Space with the exception of clearing necessary for the installation of utilities.
15. The Property Owner agrees to construct a right turn lane from Pouncey Tract Road (State Route 676) to the property consisting of a 150' storage and 150' taper in accordance with VDOT standards and specifications.
16. The owner shall agree to build the internal road to VDOT standards and specifications for residential subdivisions.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Aye
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

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INDIVIDUAL PUBLIC HEARING

C-17-07(c) AM. 1-13 LEAH AND BRETT BANTON, ET AL. (DOGWOOD TRAIL), Request an amendment to the proffers approved with rezoning request C-17-07(c), Walter H. Dabney, on GPINs 7708-05-4713, 7708-15-7816 and 7708-25-5924, zoned AR-6(c), Agricultural Residential District with conditions, and located on the northeast quadrant of the intersection of Dogwood Trail Road (State Route 620) and Watkins Road (State Route 721) in the **SOUTH ANNA MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer. (PUBLIC HEARING)

Mr. Maloney presented this request to amend the cash proffers of \$14,240.00 and submit a road improvement proffer in the amount of \$2,306.00. Staff recommended approval subject to the revised proffers as submitted.

Ms. Winborne opened the public hearing and asked the applicant to come forward.

Mrs. Emma Lee Mitchell, representative of the applicants came forward. She thanked the Commission Members and Mr. Maloney for handling her case at the April 11, 2013 when she could not be present due to her parents' tragic accident. She thanked them for the cards as well. She said they all appreciate the hard work the Commission does and for trying to do the right and fair thing for our citizens. "And that's what we all try to accomplish." She said she does not have any property in the Dogwood Trail or have any personal interest in any of these lots. She was only assisting some of her friends in this request.

Mrs. Mitchell said this subdivision is a 4 lot AR-6 development. She said 3 of the applicants got together for this application. She did not know how to get in touch with the 4th applicant. So, that is why the application involves 3 lots. Out of the 3 lots regarding the proffer amendment is asking for one lot to be amended to the \$2,306.00 and the other 2 lots are asking to have the proffers amended to zero dollars. She explained why this is part of their request. She said when the Board of Supervisors voted in November 28, 2012 there was a window period until March 13, 2013 of a "no cash proffer

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policy.” The 2 lot owners who are asking to amend to the zero amount because they got caught in this “window” during the building and negotiations of their building of homes.

Mrs. Mitchell stated that one of the applicants is present tonight Travis Jowers and he is one that got trapped in this “window and this timeframe.” The proffers on these lots are over \$16,000. Now, we understand that can be amended to the \$2,306.00; however, because of the circumstances and the timing of this “window,” \$2,306.00 is a lot when someone has made decisions and the “rules changed on you” after March 13, 2013. She said the other person is Johnson Construction, Grayson Johnson, Jr. who also negotiated a contract during this time period when there was a “no cash proffer policy” and he also entered into a legal binding contract not accounting for any cash proffers because it was in that “no cash proffer window.” We believe that every case should stand on its own merit and she hoped that is what the Commission will do tonight with this particular situation.

Mrs. Mitchell said in closing she said she knew the Commission understands that the decisions that they and the Board of Supervisors make really does affect people’s lives “when you’re talking about these kinds of monies.” It does affect people’s lives and they make life decisions based on that County policy at the time. So, for those reasons she hoped that the Commission would consider this and do what is right and fair for these citizens. She said they are requesting as presented in the Commission’s packet the GPIN #7708-05-4713 does volunteer the proffer of \$2,306.00 and the GPIN #7708-15-7816 and GPIN #7708-25-5924 are volunteering the zero cash proffer.

Ms. Winborne thanked Mrs. Mitchell for her presentation.

Mr. Bailey asked if the lot on GPIN 7708-05-4713 was approved at the same time the others were and that person just happens to agree with the \$2,306.00.

Mr. Maloney answered he thought that was correct; however, before he answered that question specifically he said there appeared to be an error in the staff report. He apologized to the applicant and

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to the Commission. He said apparently staff misunderstood the intent of the request. Coming into this meeting tonight it was his understanding that all of the property owners were in agreement and upon close review he was just learning that only one of the property owners is in agreement. Therefore, without disputing anything Mrs. Mitchell just said he really did not have much background as to when properties changed and so forth. So, without delaying this case he was a little bit of a loss as how to respond to Mrs. Mitchell's comments because he did not have the facts in front of him.

Ms. Winborne thanked Mr. Maloney. She said "it's just one of those days." She asked if he was comfortable with moving forward.

Mr. Maloney responded by saying he will always encourage the Commission to do what they think is the right thing to do and if they believed that Mrs. Mitchell's request is an appropriate and reasonable request then he would encourage them to reflect that in their motion. If on the other hand they believe that an amount should be proffered or to do something different then he would encourage them to reflect that in their motion as well.

Ms. Winborne advised since he mentioned that he did not review what Mrs. Mitchell had presented she did not know if he was asking the Commission to delay consideration.

Mr. Maloney said no, he just did not have the details to coordinate when properties were transferred in relationship to the change in the policy and so forth. He again apologized to the applicant and the Commission on this matter.

Mrs. Peace said this is a 4 lot subdivision.

Mr. Maloney stated yes ma'am.

Mrs. Peace said therefore she would assume its minimal traffic impact from this subdivision.

Mr. Maloney said that is sort of the fundamental question that we have been dealing with all along in these cases. He agreed that this is minimal traffic but what our methodology looks at is the

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“accumulative impact.” So, if we take the approach that for instance 52 lot subdivisions are going to have minimal impact to the roads that is a perspective. However, collectively those 52 lot subdivisions are going to contain 100 lots, each of which generates assuming they are single family homes, roughly 9.5 vehicles trips per day. Therefore they would be talking about almost 1,000 vehicle trips. So, when in isolation that is a fair assessment. He said this proffer policy that has developed is intended to look at the “accumulative” impact of additional roads on the transportation network, not the impact from one “specific” development.

Mr. Padgett asked if the Commission had a similar case recently in Coolwell where there were 3 property owners who were in the same window just a couple of months ago.

Mr. Maloney answered there have been so many requests processed lately that he did not recall the specifics without doing some research. He said from the staff’s perspective is the action that occurred on November 28, 2012 was for the Board of Supervisors to eliminate the proffer policy. That was a prospective action and as was discussed at length with the Board of Supervisors, the Planning Commission and the proffer committee, in fact collectively they recognized that regardless of what the policy states the obligation exists until such time as the Board of Supervisors takes an action to change the proffers for that particular policy. So, irrespective of dates until such time a zoning amendment is approved by the Board of Supervisors assuming it has a cash proffer obligation attached to it that obligation exists. That obligation in and of itself did not go away when the policy changed.

Mr. Maloney reiterated that he could not speak to when properties were transferred in the “window” as to when that occurred in light of the Board’s change in the proffer policies, from the time they eliminated the previous policy in November until the time they adopted the current road proffer policy in March. However, regardless of when in that “window” any lot that was approved through the zoning process they still had a “proffer obligation.” And not until the Board of Supervisors took an

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action on that obligation is the obligation eliminated or modified. He understood there was some confusion that whether the Board did not have a proffer policy when the lot was transferred but in fact that individual still had a proffer obligation. And the Board of Supervisors did not eliminate that obligation in that intervening period, again, until such time as an application was made and brought through the rezoning process.

Mr. Padgett said he was sure that was the same argument that was used when the Coolwell case came to the Commission a couple of months ago. And those 3 people did not want to pay and the Commission did not agree for that reason.

Ms. Winborne asked if they had discussed whether or not they were within that window.

Mr. Padgett answered yes, they were within that window. And those 3 people did not want to pay for the same reason as these folks and he understood what Mr. Maloney has said about the proffer policy existing. He asked if they make an exception here what they will do when they have other windows.

Ms. Winborne believed this is a great case of semantics because if the cash proffer policy was eliminated November 28, 2012 she was "hard pressed" to understand how they can then argue that the policy existed.

Mr. Padgett stated the policy is prospective at that point.

Mr. Maloney explained that the policy may not have existed but the obligation under the existing zoning did. That is why all of these requests are going through this process. He said if eliminating the cash proffer policy in and of itself eliminated the obligation then "we would not be holding these special meetings and this hearing tonight." In order to be relieved of the proffer obligation the property owner has to apply for a zoning amendment and that has to be approved by the Board of Supervisors. So, regardless of what the policy is, the obligation exists on the property.

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Ms. Winborne asked if would be reasonable to say that after November 28th and prior to the transportation policy there are citizens in good faith who entered into business arrangements believing what was in the press that the County eliminated their voluntary cash proffer policy.

Mr. Maloney answered he believed that is for the Commission to decide.

Ms. Winborne said it could be a scenario that that is what people believed happened. They had no reason to know that the County was going to come back and add a transportation proffer.

Mr. Maloney explained that he did not disagree with that statement. It absolutely was a confusing period; however, the Planning Department staff and he has been available to those individuals that inquired as to what the process, policy and implementation was and we were available to clarify some of those questions had we been asked.

Mrs. Peace said to clarify at the time then they really were obligated to the \$14,240.00.

Mr. Maloney said that is correct and they are still obligated right now. It has been a confusing process and a process influx and it has been challenging for the staff to keep up and navigate through the changes and so he understood how applicants may have been confused but “once you cut through that” it did not change the fact that the obligation in fact will exist until the Board of Supervisors takes an action on this case.

Ms. Winborne asked theoretically if this applicant for an example had come on March 5, 2013 before the adoption of the transportation policy then in his mind would the amount been zero.

Mr. Maloney answered maybe technically it would be but the reason there is this backlog of cases is because action was deferred waiting to resolve that question.

Ms. Winborne said but the public would not have known that all of this was in the mill to try to get to some closure about the transportation policy.

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Mr. Maloney explained that his staff advised applicants through that transition period until the Board of Supervisors takes an action to amend or modify the proffer their obligation exists. And that is why staff discussed the policy to bond the cash proffer with the Board of Supervisors, because staff did not know what the Board of Supervisors was going to do and staff did not want to tell applicants that they could not move into their homes, or they could not apply for a Certificate of Occupancy knowing that there may be an opportunity to change that obligation. This policy was created so if builder "A" sells the lot to owner "Z" and it is up to builder "A" to obtain the Certificate of Occupancy that amount would be bonded held in escrow until such time as the Board of Supervisors made their final decision. So there are really three outcomes: the Board could said they were not changing the proffer, in which case the County just collects on the cash bond; the Board could say they are going to do away with the proffer completely in which case staff would just release the cash bond; or the Board could say they are going to modify that amount in that case staff would refund the difference of what was submitted and the new amount.

Mr. Maloney said when the Board of Supervisors on December 12, 2012 (the date that they approved that bonding) the Board made it very clear that prior to November 28, 2-12, if a cash proffer had actually been paid to Hanover County there was not going to be a refund. But the Board understood that between November 28, 2012 and December 12, 2012 there was this gray area and the staff, the owners, developers, and builders did not have clear direction so the Board said for those proffers that were paid within that limited time period as part of a zoning application the applicant could request a refund of the proffer but they would also have to specify who that refund went to.

Mr. Padgett said as he recalled on the Coolwell case the 3 property owners who said they were not going to agree to it than their proffer obligation remains at \$14,000 or whatever it was because we

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did not agree and he assumed the Board did not as well. These 2 requests are not saying they refuse to pay it they are saying they would like forbearance.

Mr. Maloney agreed.

Mr. Padgett advised that his “trouble” is that this set a precedent here because we are doing something different from what we have already done.

Mr. Maloney stated that this is the “tricky” part of any proffer is that it is not an obligation, theoretically it is voluntary. And what staff will continue to convey to applicants is that a methodology has been developed and the amount is \$2,306. He said if through studies or a reasonable alternative methodology something can be substantiated and they can demonstrate something different staff is willing to consider that. But at the end of the day the obligation is on the property owner to assure that there are no substantial negative impacts to the transportation network.

Mr. Walter said regarding the Board’s action on November 28, 2012, December 12, 2012, and in March 2013 he understood that folks may have interpreted it in various ways but what the Board of Supervisors did in November was basically “repealed” the cash proffer policy. That meant for applicants who were coming in they were not expected to adhere to that policy by repealing it however, it did not mean that a cash proffer of zero was the policy. It meant that each case was going to be handled individually and there was not going to be a uniform policy. Therefore, he understood that people may have interpreted that by repealing a \$19,000 proffer there would be zero amounts to pay and that is not in fact the case at all. He said that would be similar to if someone was having a yard sale and instead of putting stickers on every item they would just tell people the cost of an item. It does not mean that anybody can just take what they want and leave.

Mr. Walter continued by saying at no point did he ever hear that the Board of Supervisors had said a cash proffer of zero is what they were recommending. They always said they expected rezoning

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applicants to deal with their impacts but they did not provide a uniform approach for that until March when they adopted a transportation approach. But at no point did the Board say there would be a zero amount for cash proffers.

Ms. Winborne stated that having been on the Proffer Committee her understanding was the Board did eliminate the cash proffers and therefore, elimination meant zero amount.

Mr. Walter said he understood that was what the Proffer Committee understood; however, the Board's action was to repeal the cash proffer policy. He felt that the confusion was because some of the discussion at the committee meetings was it should be zero amount; however, the Board of Supervisors never said it should be zero. He said his recollection of what the Chairman said when he made his motion at the Board of Supervisors' meeting was he is repealing the policy and there was considerable discussion that matters would be handled on a case-by-case basis but it was expected that applicants would still meet whatever off-site impacts were generated by that development. He stated he was not present at the meeting but that is the way it has always been reported to him since November.

Mrs. Peace asked what the timeframe was for paying the proffer and if there was any type of program to perhaps pay in increments.

Mr. Maloney answered that the proffer amount is due at the time the Certificate of Occupancy is issued.

Mr. Leadbetter said based on the November 28th meeting it was clear that the cash proffers were eliminated.

Mr. Walter stated he was there for the November meeting because he made the presentation to the Proffer Committee. He said it was clear for any existing obligation the Board of Supervisors could not on November 28, 2012 or December 12, 2012 change any existing proffers. That had not been

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advertised, there were no public hearing before the Planning Commission. It was a policy. He said he understood that an impression was created among some people that on November 28th the Board of Supervisors action were to eliminate cash proffers which would have meant that the County was not expecting folks to pay existing cash proffers; however, legally that was not correct. The cash proffers are an obligation and in order for the Board of Supervisors to change that obligation the applicant has to go through the process that we are going through right now.

Mr. Maloney stated that on December 12, 2012 the Board of Supervisors did consider some alternatives to truncate or minimize the public hearing process based on some fairly vague and ill worded legislative authority but at the end of the day the Board felt that a process had not been established, a process that works well within our community and for purposes of actually amending and individual cash proffer it would not be prudent to take advantage of some of these poorly defined processes that may have been available to them.

Mr. Maloney reiterated that had this process been as simple as eliminating the cash proffers nobody would have this obligation of going through this series of public hearings.

Mr. Leadbetter said he has the motion from that meeting which he read: "Mr. Peterson moved that the Board accept the cash proffer and capital funding committee's recommendation to eliminate the balance of receivable cash proffers provided that the parties responsible make proper applications to amend their zoning cases to delete the cash proffer condition." He said that sounded like it was eliminated.

Ms. Winborne added for those going forward.

Mr. Maloney said yes for those going forward but the motion clearly states for the existing ones there has to be a zoning amendment.

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Ms. Winborne asked if these people bought their property after that date and is that not the point of contention.

Mr. Leadbetter stated he wished to read the rest of the statement as Mr. Peterson added a sentence to the motion that “we instruct the County Attorney to work with the Planning Director to develop a means of expediting applications to remove the proffer condition from existing zoning cases and bring back to the Board of Supervisors for approval.”

Mr. Maloney said that is correct.

Mr. Leadbetter asked is that not what we are doing.

Mr. Maloney said yes that is what we are doing.

Ms. Winborne asked when this property was purchased.

Mrs. Peace asked or should the question be when it was rezoned.

Mr. Maloney answered that he believed the question is when the actual date the lots were transferred to the current owners was.

Mrs. Mitchell stated that the point is not when was the purchase of the lots but the transfer of the lots which was 2011 for Mr. Jowers and January 2013 for Mr. Johnson. She said the point they are trying to make is different and not when the lots were purchased. She said these folks went into contracts for building during that “window of no cash proffer policy.” And then it changed on them so now they are in the hole for the additional \$2,300. They had legal binding contracts during that “window period” based on that November 28, 2012 motion that Mr. Leadbetter just shared. She said “I’m certainly not an attorney, but if I look at the December 12, 2012 minutes when the Board started the discussion that night on proffers, on November 28th the Board conducted a Cash Proffer and Capital Funding Workshop to discuss the recommendation after which the Board voted to eliminate cash proffers both future and past. She said her only point is she did not know how the public is supposed

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to know anything any different. She said it was in the minutes, it was in the paper, the Board of Supervisors were interviewed the public saw it and she was on the Proffer Committee and she did not know how anyone is supposed to know any different except for what they heard and saw in the motions and what was publicized in the paper. She said she is just talking about a few folks that got caught in this “window” and Mr. Maloney says this is why they are going through this process to look at each case individually and she agreed with that. She said there have been some other cases where people have been refusing to sign because they had paid proffers earlier. Now we are talking about two different things here. She said there may be others and she believed they should be treated the same as these folks.

Mr. Maloney advised that he typically does not ask questions of the applicant but just to get the facts out because we are learning as well and so we all understand and are on the same page, the issue is not when the property owners bought the property. The issue is they have contracted within this intervening period with builders to have homes built. And part of that contract did not anticipate a cash proffer.

Mrs. Mitchell said that is correct.

Ms. Winborne thanked Mr. Maloney for clarifying what “the window” meant.

Mrs. Mitchell said the other lot is voluntarily offering the \$2,306 because they were not caught in “the window.”

Mr. Padgett advised the he did not know if Coolwell is the exact same thing but it certainly sounds a lot like it. And the Commission voted the other way on that one and it was in his district. He added that they still have the original proffer of approximately \$14,000 because they refused to pay this road impact proffer. “That’s what gives me a little heartburn on this.”

Mr. Leadbetter said they refused to offer anything.

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Mr. Padgett stated that is true and as a result they have to pay the original proffer amount.

Mr. Leadbetter said those folks probably did not realize that.

Mrs. Peace asked if those folks in Coolwell come back with individual applications.

Mr. Maloney answered yes they can.

Mr. Whittaker stated that he was present at every meeting for the Proffer Committee, and he was at the meeting when the Supervisors made a motion on this and he had walked out that night with the same impression that Mrs. Mitchell had that the proffers were eliminated.

Ms. Winborne asked if anyone else wished to speak in favor of or in opposition of this request.

Mr. Bailey asked if Mr. Maloney remembered the Lawson case.

Mr. Maloney answered he did.

Mr. Bailey asked if he had built a house in this time frame.

Mr. Maloney answered that he transferred a house in this time frame as he recalled.

Mr. Bailey said he had initially agreed to pay \$2,000. And subsequent to the motion to accept it, we had an amendment and it actually passed 5 to 2 and went to the Board and he was denied the \$2,000 and had to pay the \$2,306. So, does that fall within the same parameters as this.

Mr. Maloney answered that in a sense each case is different. He said if he stepped back and irrespective of any case and he did not mean this as a criticism against anybody but there are two levels of obligation. One is the obligation between two parties and a contract; and one is an obligation to Hanover County as a governing regulatory policy entity.

Mr. Maloney agreed with everybody that that intervening period was confusing, complex and not clearly understood by most everyone. He thought that they all had a pretty good understanding of what they believed happened but he did not think anybody had a good understanding of the total consequences and impact to that decision in the process by which the Board got there. So, as a

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governing body, a regulatory body and a policy entity they all needed to take a step back and ask themselves what is the role of government. Is it to assure people are made whole in their private contracts between one another or is it to implement our policies in a broad and fair manner. He said he was not going to determine for the Commission as to what fair is and so whatever the Commission decides; however, the Commission chose to act on this he would recommend that they take it from the broad policy and implementation level and not focus so much on “is there fairness in that contract or that arrangement” and he understood that one influences the other but at the end of the day staff was available to provide applicants advice to the extent they could. Staff was successful in doing that and staff would have helped the applicants’ inch through this process as it was unfolding. He reiterated that he was not “trying to be critical of anybody” but he was just trying to separate our role as a governing role from the private contractual arrangements. He added that however, the Commission interprets that and whatever they decide he would caution them to keep those two perspectives in mind.

Ms. Winborne closed the public hearing.

Mr. Leadbetter stated that the policy has been very confusing and he felt this was the type of thing they were trying to protect with the elimination of the cash proffer policy. He said these people will be his neighbors and he knew they were probably looking at this issue to make decisions for their future and because there is a lapse in time where we did not know exactly what the policy stated or what we would implement to replace the traffic policy or whatever we came up with. He knew at one time they did not even know whether they were going to have a traffic policy. There was talk about having a decal revenue or this type of thing. He said for our citizens to try to know what is going on in that sector when we did not know ourselves, he did not know how that can happen. Therefore, in reference to this case he would make a motion and he asked the Commission and staff for help.

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Mr. Maloney asked if it was his intent to approve this case as requested with one of the 3 lots paying proffers and two of the lots not paying proffers.

Mr. Leadbetter answered that was correct.

Mr. Maloney advised that he could simply make a motion to recommend approval subject to the proffer submitted and that will address it.

Mr. Leadbetter asked if that is the way the proffer was submitted.

Mr. Maloney answered yes sir.

Mr. Leadbetter made a **MOTION to RECOMMEND APPROVAL OF C-17-07(c), AM. 1-13, LEAH AND BRETT BANTON, ET AL. (DOGWOOD TRAIL) AS APPLIED FOR BY THE APPLICANT.**

Mr. Whittaker **SECONDED.**

Mr. Padgett advised that he was not unsympathetic with the applicant's plight here but what gave him "heartburn" as he mentioned, is that this case is "almost a mirror image of the Coolwell case" and therefore, he would not vote to support this motion for that reason. He asked if this motion passes that the Coolwell case also be brought to the attention of the Board of Supervisors to look at and see if it was the exact same request by those folks, and if it was in the interest of fairness to all, all applicants should be treated equally.

Ms. Winborne suggested instead of asking the Board of Supervisors to check into this that the Commission should ask staff to contact the folks at Coolwell since they did refuse to pay the proffers and to perhaps make an overture to them if they did want to come back and make a particular request.

Mr. Padgett said they will definitely be back otherwise they will be paying approximately \$14,000 in proffers.

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Mr. Maloney advised that he would review the facts with Coolwell and be in touch with Mr. Padgett to make sure our collective memories are at least accurate and staff will proceed accordingly and if there are similarities between this case and the Coolwell case in terms of circumstances staff will reach out to those property owners.

Mr. Leadbetter added that he would like to eliminate the fact that we need to debate the difference between cases while deciding on a case because that is very difficult to do.

Ms. Winborne said what strikes her is the notion that it was the Board's intent that cases be viewed case-by-case and that is what we are here to do; to consider the facts of what is before us. She understood that Mr. Padgett cannot forget what happened 3 months ago but today what we are discussing are the contractual obligations that were entered into in this particular window and these folks are making a petition. She said she respected her colleague's thoughts; however, if there was a window and through all of this confusion and in good faith these folks entered into a contractual obligation then the rules changed, she felt that is what Mr. Peterson meant when he talked about individual consideration she believes it meant to look at each case-by-case.

Mr. Padgett agreed that each case should be review individually but they also needed to look at the precedent and they have talked about precedent a number of times.

The Planning Commission voted **6 to 1 to RECOMMEND APPROVAL OF C-17-07(c), AM. 1-13, LEAH AND BRETT BANTON, ET AL. (DOGWOOD TRAIL) SUBJECT TO THE FOLLOWING PROFFERS SUBMITTED APRIL 25, 2013 AS OUTLINED IN THE STAFF REPORT:**

1. Contribution for Road Improvements. The Owner, for himself, his successors and assigns, agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of Two Thousand Three Hundred Six and 00/100 (\$2,306.00) per single family unit built on the Property. The funds shall be used for the purpose of completing off-site road improvements relating to the development allowed by the rezoning and included in the Business and Residential Development Road Improvements Transportation Policy, adopted

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March 13, 2013. In the event funds are paid and are not used for such improvements, the County shall return the funds paid to the Owner or his successors in title.

2. The Property Owner, for himself, his successors and assigns of GPINs 7708-15-7816 and 7708-25-5929 agrees to pay Hanover County prior to issuance of a Certificate of Occupancy for the Property, the amount of 00/100 (\$0) per single family unit built on the Property.
3. The exterior foundation of houses shall be brick or stone construction unless the house is constructed of synthetic stucco (DriVit) in which case the foundation shall be of like material. Above the foundation, the exterior of the house shall be constructed of brick; stone, synthetic stucco (DriVit), premium vinyl siding or concrete based siding material (HardiPlank).
4. The minimum house size shall be two thousand (2,000) square feet per one story home and two thousand four hundred (2,400) square feet per two story home measured along the exterior walls of the structure, but not including garages or breezeways in the circulation.
5. Existing trees of 5 inch caliper or greater on the Property shall not be removed with the exception of dead or diseased trees or parts thereof. This shall not prevent the removal of trees necessary for the construction of improvements, driveways, drainfields, or drainage facilities.
6. Each lot shall be served by a drilled deep well.
7. The property shall be developed in substantial conformance with the Conceptual Plan, as submitted by Balzer and Associates, Inc., titled "Dogwood Trail Rezoning, Conceptual Plan" dated 5-7-07 and revised 10-23-07.

The vote was as follows:

Mr. Bailey	Aye
Mrs. Iverson	Aye
Mr. Leadbetter	Aye
Mr. Padgett	Nay
Mrs. Peace	Aye
Mr. Whittaker	Aye
Ms. Winborne	Aye

The motion carried.

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MISCELLANEOUS ITEMS

2013 CPEAV Legal Seminar

Mr. Padgett announced that there was an update on legislative actions being given by Mike Chandler on May 30, 2013 in Staunton, Virginia. He said he has been to a number of these seminars and he thought it would be good for another Commission member to attend this year.

Mr. Maloney advised that there is some money in the Planning Department budget to send 1 or 2 Commission members.

Ms. Winborne asked if anyone wished to attend.

Mr. Whittaker said he would be glad to attend.

Mr. Maloney announced that there is an ULI event on Tuesday which is free and he would forward the information to the Commission Members in case any of them wished to attend.

Next meeting

Ms. Winborne reminded the Commission there is another work shop on the Comprehensive Plan on May 16, 2013 at 4:00 p.m. with the regular meeting to follow.

ADJOURNMENT

There being no further business Madam Chairman adjourned the meeting at 8:25 P.M.