

**POOLESVILLE PLANNING COMMISSION
MEETING OF MARCH 10, 2010**

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

Call To Order

Mr. Coakley: Poolesville Planning Commission meeting of March 10, 2010 is called to order. Present is Mr. Sneed, Mr. Stump and Mr. Coakley, along with the Town Engineer, the Town Attorney and the Town Manager.

Announcements

Mr. Coakley: Do we have any announcements?

Mr. Yost: I have one. I just want to bring up to your members that George is currently serving on the CEDC as the Planning Commission member and he has been on there for at least 3 years.

Mr. Sneed: Say that again. Start over.

Mr. Yost: George is on the CEDC as a Planning Commission Member and he has been on there since the inception which I think is 3 or 4 years but he is ready to step down from that position and we are looking for another Planning Commission Member to step up and be part of that Committee. It is a real fun committee, they meet once a month, do all the planning for the concerts in the parks, the movies in the parks, they do work with the businesses trying to improve economic status and work with people down county. It is a fun group to work with, but anyway we are looking for another volunteer to step up.

Mr. Sneed: Tonight? Well we are missing a member I mean I think we should give everybody a fair chance.

Mr. Yost: Absolutely I just wanted to make sure it was on record.

Mr. Sneed: When are we going to, have you attended your last meeting or...

Mr. Coakley: Well no I told everyone I would stay until we found a replacement.

Mr. Sneed: How often do they meet?

Mr. Coakley: Normally once a month so I believe it is next Wednesday.

Mr. Sneed: Can you give us a flavor for what you do when you go to the meetings?

Mr. Coakley: Well the last meeting I wasn't able to attend, I was out of Town, they had the, they had Mr. Silverman that is head of the Montgomery County Economic Development Committee, he came out and attended and gave us some information and we gave him some information to see how or what I guess the Town can do to encourage and what the County can do to stimulate business, encourage business in Poolesville. So it is that sort of thing and then like I said a lot of it is also community related activities whether it is the concerts or Christmas Lighting Ceremony and those sorts of things.

Mr. Sneed: Chuck do you have any interest in it?

Mr. Stump: Maybe but not tonight, I'd mull it over but if you are interested go for it.

Mr. Coakley: Yeah think about it.

Mr. Yost: Link was on it for a while also as a Commissioner. The group is 3 residents, 3 business members and then 3 government members.

Mr. Coakley: And things actually get done, it is fulfilling. There are some groups and committees that I guess aren't as productive. Ok any other announcements?

Mr. Yost: That is it.

Citizen's Comments on Agenda Items

Mr. Coakley: Ok on the agenda tonight are approval of the minutes of February 17, 2010 and under new business review Special Exception No. 001-10 which is the gas station convenience store auto repair and car wash detailing that is at the old Getty Station, discuss the Master Plan Review and then also go over and discuss Ordinance No. 178 Alternative Energy. Any citizens have any comments on any of the agenda items?

Approval of Minutes

Mr. Coakley: Ok hearing none then do I hear a motion to approve the minutes of February 17, 2010?

Mr. Sneed: I will make a motion to approve the minutes of February 17, 2010.

Mr. Stump: Second.

Mr. Coakley: All in favor?

All: Aye.

Mr. Coakley: Ok the minutes have been approved.

New Business

Mr. Coakley: Ok under new business review Special Exception No. 001-10 Fisher Avenue LLC, 20021 Fisher Avenue, Gas Station, Convenience Store, Auto Repair & Car Wash Detailing. Do you want to give any prelim or...

Mr. Yost: Sure we have a complete package that was in everybody's packet as far as what was submitted by the applicant for the station and convenience store it existed before. We drew up letters also for some property owners contiguous in the area if they had concerns. John and I actually went out to the site and did some preliminary investigation as far as the flow, how it was constructed and we have some recommendations for the site. Also in the packet I included things from other Special Exceptions, other car repair places or filling stations so you can see some of the parameters that are placed on them, hours to number of vehicles allowed on the property without tags at certain times and things like that.

Mr. Strong: John Strong, Huron Consulting, Town Engineer. When we looked at it, Wade and I, looked at it and I went back out there and took another look at it, there are several things to look at. This is the site picked up from Google Earth, there are several different areas where the water would flow into the site and into the system, these are the fuel pumps for where the diesel used to be, it breaks toward this property, this property breaks this way and it flows back to a culvert or a drainage swale back here, there is a culver that is in place on the backside and who placed that culvert I do not know. If you look at this plan its slightly off of that property this corner line here where that culvert is but that is not a surveyed in drainage area. It comes into this collection point draining this way and this way and also up that way. Then it comes through here and comes down that drainage swale there which is depicted across this property. There are inlets for the stormwater management, in the back of the property there is a inlet yard inlet type and that's in the fuel island area the pipe flow goes in this direction from there and then its picked up and this is Fisher Avenue up here it enters into this storm structure here and

then there is a pipe that goes in that direction, we would assume that it ties into this 33 inch drainage pipe that runs right along Fisher Avenue but without actually having it televised or confirming that we can't say for sure. This is the culvert I was speaking of, this is the entrance point which is right over in here it flows through the property and through the triangular area of fencing that is located over in this corner of the property, it is just a wood board fence, this is where it comes out of the culvert there is a sump drain coming from what appears to be that property. And there is a little containment area that is very, very slow flowing through here. We did note that there was some sheen in the oil, there was a sheen on the water but the cause of that sheen could not be determined, just by visual inspection, you can get that by stagnant water too. As you can see this is where I was talking about it breaking to this portion of the property over here. The site generally has some containment but its probably not fully contained depending on the rainfall that occurs. We did note that this drain wasn't backed up but it does have a small diameter pipe probably in the 6-inch nature in the back of the property by the fuel islands and if you will slip to the next slide, we have some recommendations for the site for stormwater management. All the site stormwater should be directed to an oil grid separator, we just depicted a stormceptor these are very common they can be placed inline, they don't need a lot of fall they work by simply taking the water and dropping it down into a bottom section where the grit and oil is captured and then as the water fills this section back up to seek its level it comes out this portion here, they can be serviced easily and it reduces the amount of runoff. Any water coming off the site could be brought to the pre-treatment area prior to leaving the site, that can be done by either inlets or a grate inlet or redirecting the flow to a treatment area. We would recommend that they supply us a plan or a topo to ascertain the site stormwater is confined and treated prior to leaving the site, again this is pretty common throughout the county in Special Exceptions that you would go ahead and reconcentrate the water into a pretreatment area. It may require construction of additional confinement areas that can be just done by damming the, or berming the area up so the water doesn't depart the site and it is concentrated back to an inlet or a grate of some sort.

Mr. Yost: So John if the Special Exception is approved by the Board of Appeals then the owner would have to submit a Site Plan to the Planning Commission for approval we would implement this.

Mr. Strong: That is correct.

Mr. Coakley: John is this separator is that like a sump pump that's submerged or is that an above ground facility.

Mr. Strong: No that is below ground, this would be, right there would be the surface elevation you can get them as little as $\frac{3}{4}$ of an inch clearance so there are several different varieties used now but they all kind of have the same intent and same type of construction to keep the oil out of the water system as much as possible.

Mr. Sneed: I'm not sure I understand it. So the clean water comes out of there or the clean water, where does the clean water go?

Mr. Strong: Ok this the dirty water comes in here and it falls down into this portion here, you see there is a pipe right there, as this water level rises there is a ledge if you will right here as the water rises back up it can't go anywhere but back up this tube...

Mr. Yost: But see the oil doesn't go down to the bottom of that tube to be able to hydraulically lift out because it is trapped in the top of that.

Mr. Strong: Yeah it is trapped in the top of this portion here as the water rises up so only the clean water or cleaner water is coming up through this tube because the oil is up in the shallow ban here and it rises out of this tube and comes back out this way into the storm system.

Mr. Sneed: And you are recommending a certain number of those on specific sites or this is a...

Mr. Strong: No this is just a general recommendation at this point. It would depend on and we will get to that in just a second, the owner of the site would have to provide the engineering in order to determine what the number would be because he may find that rather than regrading the site it may be just easier to bring it to several different places and then treat it in several different places. Ok flow should be based on 10-year storm, engineers understand what that means basically it is about approximately 1 inch of rainfall. When you have a rain event it is what they call the first flush, which picks up all the oil and carries it to a facility, there will be maintenance that will have to be done on a structure like this, the Town actually has some oil grit separators in use presently. State Highway has installed some oil grit separators on Fisher Avenue to pick up roadway salts and grime and such and they are a little different, they are just simple baffles which are like big septic tanks with different level baffles so the oil gets trapped and doesn't carry over to the next baffle. We did not go into any of the buildings or structures and see where the floor drains went nor how they are tied in, this was just looking at the exterior.

Mr. Yost: But that would be a requirement of the Site Plan correct?

Mr. Strong: Correct.

Mr. Yost: Next one?

Mr. Strong: That is it.

Mr. Yost: Ok.

Mr. Sneed: What about the swale or the area in the back that you identified.

Mr. Strong: If site water is carried off the site where contaminants could be carried off that would have to be pre treated before it left the site, in other words if he were currently some of the water flows from the diesel pumps down this way, he may have to install a grate to carry the flow and pipe it to a pre-treatment area or he may have to put in a grate right at the edge of the property so it is catching the water as it is flowing down from the diesel pump area, assuming that the diesel pumps stay where they are.

Mr. Yost: And the sheen we saw, we also noted that Mr. Speelman's property as well as around the perimeter of this property, --- were used which have grindings from old paving projects from when they milled the road down and took the top of it off and grind it down petroleum products do leak out of that during rain events and I know John had put some on his parking lot like last year or something so knowing that the gas station has not been open for a long time and the tanks have been empty for some time I was surprised to see sheen on the water still so not necessarily came directly from that site but that is something we might want to think about, we can have the other site plans come in.

Mr. Strong: That is correct. We find that millings is just crammed down asphalt which is a petroleum product and you've exposed basically an aggregate so instead of just having one side being hit with erosive product such as if it is water, saltwater different things like that you find that you do have a higher hydrocarbon content that gets carried along off the millings that we do.

Mr. Coakley: Chuck you have a question?

Mr. Stump: No.

Mr. Sneed: So there is two issues there is we are going to wait for the business owner to bring a site plan to us that is going to address these issues, and the other issue is property that does not belong to him we've identified issues with some adjacent properties...

Mr. Yost: Potential problems.

Mr. Sneed: Potential problems which we would handle after we hear how that property is...

Mr. Yost: Well we can take a closer look at it, we have never really investigated it we just ran out and took a look at, took some pictures, saw how things drained so it wasn't really in depth, but we just noted that as potential problems also.

Mr. Coakley: Yeah I think the problem areas that I have seen so far and from some of the comments we have gotten back would be the drainage, both the outside and the inside because I think someone had said or I read somewhere in the prior information that there may be a drain inside the one building that discharges directly out the side of the building towards the adjacent property so that is one thing, the other would be the hours of operation and any relative noise to those hours.

Mr. Stump: The original hours of operation were at the old approval from the Commissioners was 5 am to 10 pm before when it was still in business?

Mr. Yost: I believe so they actually came in and asked for an amendment to that if I recall George to open later remain open.

Mr. Coakley: I thought they had asked till midnight.

Mr. Wright: They wanted to be open all night didn't they?

Mr. Coakley: Originally they asked for 24 hours and then I can imagine how long you'd have to wait in line to get to a gas pump at 3 am in Poolesville. They asked for 24 hours then I think they asked for midnight or 11.

Mr. Wright: They wanted to be open so they could they thought it would cut down on teenagers hanging out and vandalizing the property and causing problems.

Mr. Stump: Were they going to have somebody there 24/7?

Mr. Wright: I think they were.

Mr. Coakley: That was one of their original requests.

Mr. Stump: A little cost ineffective but their issue not ours.

Mr. Coakley: I guess they figure if they are going to have a night watchman you might as well let him pump gas.

Mr. Sneed: So is the use approved now, what is it approved for now or is it nothing since it is not occupied?

Mr. Yost: Once it ceased operations for 6 months that is when they have to come in and apply for a Special Exception and start this process that is where we are.

Mr. Sneed: Ok so we are approving even that it is a gas station.

Mr. Yost: That is correct.

Mr. Wright: They made the Special Exception to operate as a gas station, it is permitted use is the convenience store and the car washing is not permitted although if they wash a car now and then but probably wouldn't come in...

Mr. Yost: Yeah I think the definition is different from what the property owner wants to do, if people are lining up washing their cars, we should make this clear that it is just for to wash down and detail a vehicle once its been worked on.

Mr. Wright: But there are 2 aspects to this at least. There are a lot of things that have not been addressed in this application, one is the whole wellhead protection aspect hasn't been addressed at all in the application. And then there is the fact that it is in the CBD which does require a U&O and Site Plan and all of these kinds of things would have to be addressed in Site Plan so it's a I think my own view of this would be that the Special Exception could go forward on a lot of the issues and then some of the issues would have to be addressed at Site Plan or it would more appropriately be addressed at Site Plan. And there is the parking which has not been shown in any of the documents that we've got so far and there are some details that I think could be, some of the aspects of the use that could be shown in greater detail than have been presented in the application. But obviously this runoff is a major concern and there are a lot of things in the Wellhead Protection requirements that are going to have to be met.

Mr. Yost: Well yeah the primary ones are the ones we just finished up with the new legislation that has not been adopted yet but definitely it is moving forward on the Commission level.

Mr. Stump: Where does that stand it is in front of the Commissioners right now?

Mr. Yost: It has a Public Hearing on March 22nd. But I think we should definitely implement it, there is also some MDE is working with the property owner also with some issues as far as the tanks and the piping and things like that they have to meet MDE's requirements also before they can open.

Mr. Coakley: Ok any more questions for John?

Mr. Sneed: You referred to, someone referred to a drain that drains toward one of the adjacent properties from inside the building, and another property owner I believe wrote that there was an external drain that drains directly north to the back of the property, I think we mentioned it last time...

Mr. Yost: Right and we didn't look at that drain but the drain actually runs towards the front of the property, everything drains toward Fisher Avenue that had to be drained and all the drains are piped toward Fisher Avenue.

Mr. Sneed: So there is a conflict the neighbors said that they witnessed they were an eyewitness to the drain being laid to the back of the property, how do we resolve that conflict?

Mr. Jamison: (Inaudible).

Mr. Yost: And that is one reason we have a Site Plan I mean a Site Plan would have everything in detail.

Mr. Strong: (Inaudible).

Mr. Jamison: There is a slab of concrete it comes running down right down through here.

Mr. Strong: Yeah that is from this property here and it comes down here.

Mr. Wright: John from your observation of the site are those drains situated so that the water is going to go into them?

Mr. Strong: This one over the concrete area is situated so it will, it also picks up some drainage from this direction and from that direction, water comes in from down between the buildings and is directed towards this drain here, it also falls towards the road there is some lead through over in front of the shop here this direction, this water comes down this way, you actually need to run a topo though in order to confirm the direction well that it flows in the correct directions and that is why even if it doesn't currently flow in

the correct direction, by using grading you can redirect it and repipe it and make sure it gets where it needs to go assuming that there is a ---.

Mr. Sneed: What about the big blue trailer that is there now and that is part of the State resolving the floating tanks.

Mr. Yost: Yes the State actually had a contractor come in and they emptied the tanks out but they were taking the water out of the vault that surround the tank and then they would run it through filters to make sure it was clean and then discharge that into the storm drainage system. The tanks are empty now that is why you see the risers coming completely out of the ground.

Mr. Sneed: Isn't that an indication that they are not dry?

Mr. Yost: No that they are empty.

Mr. Sneed: I meant the vaults are not dry.

Mr. Yost: Oh no groundwater is going to get into the vault no matter what.

Mr. Sneed: Ok and the, I met with another property owner there who thought that there were sump pumps in there to drain those vaults but that the power is off at the service stations.

Mr. Yost: There is a drainage system of some sort yes. But the State has a laundry list of the tanks have to be part of the tanks have to be replaced or piping has to be redone they have to be strapped down so they can't float anymore I mean a whole list of things the State has to their investigation.

Mr. Stump: I have a question. You mentioned a carwash a couple minutes ago, a carwash specifically is not allowed in the CBD, the type of carwash you are talking about here doesn't would be ok doesn't fit into that the carwash that is identified in the permitted use chart.

Mr. Wright: Well if they are just cleaning up the cars that they've worked on as a courtesy to their customers I think they might be ok.

Mr. Stump: That makes sense to me.

Mr. Wright: But as a primary use or an accessory use the carwash per se would not be permitted.

Mr. Sneed: A non-mechanical I mean a mechanical carwash could not be would not be permitted there.

Mr. Yost: Correct.

Mr. Wright: Right.

Mr. Stump: But if we are using our hand on a sponge it is ok.

Mr. Yost: Tad does the same thing when they service cars they wash them off before they send them out. It is pretty standard for an accessory use not a primary.

Mr. Coakley: Ok any other questions for John?

Mr. Stump: Thanks John.

Mr. Coakley: Thank you. Mr. Jamison would you like to...

Mr. Jamison: I would like to go after I hear what you have to say.

Mr. Coakley: Ok would anyone else like to make any comments?

Speaker: Will there be a public hearing?

Mr. Yost: There will be yes the Board of Appeals is having one I believe it is April 1st, it is posted on the sign out front.

Speaker: Ok I got the mailing about this one.

Mr. Sneed: But this isn't part of that is it?

Mr. Yost: These recommendations whatever we come up with tonight will go to the Board of Appeals to help them make their decision.

Mr. Coakley: Please state your name and address.

Mr. Owens: My name is Chris Owens I live at 8 Haller Court it is the house directly behind the gas station. I have lived there for 15 years, the first 9 years that we lived there I believe Dee Dee was the manager of the gas station and in 9 years they closed I am pretty sure they closed at 9 pm Monday through Friday and I think it was 6 pm on Saturdays and Sundays but I could be wrong, it was never later than 9 pm but in the 9 years never had one complaint the gas station not one. For the past 6 years I think they have had 2 different managers, management companies own it, I probably called the manager 30 to 50 times, I called the Police 10 to 20 times, talked to the regional manager plenty of times, walked over to the gas station many a times, things that I do know, one gas station attendant was arrested for selling drugs, I witnessed the selling of alcohol to minors, I called the Police they kept a lot of unlicensed cars in back, I had to call the Police because someone was sleeping in one of the cars, one time I had to call the Police because someone was actually drag racing in the parking lot, he was backing his car up to the back of the fence and then flooring it, revving the engine and peeling out and driving to the front of the property and slamming on the brakes and then backing up and doing it again and backing up and doing it again, I called the Police that time, unfortunately for him he blew his engine. The main complaint that we had for the noise was mostly the car stereo's and anybody in Poolesville knows there are a few people around Town who love to crank up their sub woofer in this Town and the problem that I noticed, the reason there wasn't any problems the first nine years is because they closed at 9:00. Once they opened --- they tried to go to 24 hours, Board of Appeals set that back till 11:00, they were open till 11:00 and most of the cases of the sub woofer were people hanging out with the guy working there, so if you want to have someone work there 24 hours that means I am going to have 24 hours of sub woofer. There was constant parties, 11:00 would come 5, 6, 7 cars would show up they'd all hang out and party so there were beer bottles in my yard it was ongoing. One of the issues is that I call the Gas Station the western edge of the Poolesville Cruise, some screw up I know where you grow up and a lot of places you cruise the town, people in this town, the kids in this town will cruise the town and come to the gas station as their western point, hang out there for a few minutes and leave and a party Saturday night they will be there 6 or 7 times a night and it is the same cars over, and over, and over again and I can hear the sub woofers from the high school all the way down to the gas station, they come in the gas station a lot of times they will pull across to the gas station, roll all the windows down, turn the stereo way up and then go inside and hang out, several times I would walk over and ask them to turn it down and they would tell me that they didn't have to. And another problem also on top of that with the cruising part is they would love to squeal and chirp their tires when they would pull out of the western side of the parking area, they would pull out squeal their tires go up to the corner and then squeal their tires everyday, and another thing is the air compressor there it was free air for 24 hours so you get the person driving up to put air in their car with the stereo cranked up at 3:00 in the morning so I would appreciate if there wasn't an air compressor that was unlocked after hours. Now the noise levels for the Central Business District are enforcement of the noise levels are taken care of by Montgomery County Department of Environmental Protection and according to their

website that is all mixed use zone including central business districts are considered residential zones, the measurements are made on the receiving property line and the more restrictive residential standards of 65 decibels daytime, 55 decibels nighttime almost always apply because I measured my property line. During quiet hours it is unlawful to create noises louder than 55 decibels and according to the website Montgomery County that would be 2 persons conducting a normal conversation at a distance of 10 feet, these are quiet hours, quiet hours in Montgomery County are from 9 pm until 7 am weekdays and from 9 pm until 9 am Saturdays, Sundays and holidays and according to the County's website any noise disturbance is defined by the Ordinance any sound that is unpleasant, annoying, loud, abnormal for the time or location, --- to health, comfort, property where they conduct the business. And under the Ordinance unlawful to create a noise disturbance anywhere during the quiet hours and a nuisance provision also prohibits some of these noises in any time of the day. And if you go to the website operating or allowing to be operated a radio, television, electronic sound producing devices on public or private property that exceeds 55 decibels during quiet hours is illegal, creating a noise disturbance during quiet hours in a residential zone, operating equipment that exceeds the levels at receiving property lines, loading or unloading of materials during quiet hours or creating a noise disturbance by operating power equipment mounted on motor vehicles for example refrigerated trucks or vacuum cleaners. So that is what the County has done and I complained to the County 2 times about the noise over there and Tom Ogle is in charge of the program for the County and has been very helpful, but again to complain you have to have a 2 party complaint filled out for the most part and if I hear something the chances are one of my neighbors hears it and I have to go contact them and they have to be a witness and say well a one person witness doesn't work so it can be quite frustrating to get any help and the Police response is very limited unless they are doing something to endanger somebody they are not really going to come out.

Mr. Sneed: Could you repeat those quiet hours?

Mr. Owens: 9 pm to 7 am Monday through Friday; and 9 pm to 9 am Saturdays, Sundays, and holidays. This is all under the noise control in Montgomery County Environmental Protection Department. Again Tom Ogle is the guy in charge and he takes it pretty seriously, and the County rules are rules that apply for Poolesville, because they are next to a residence they have to follow the residential. And then finally another thing concerning the Environmental Protection Agency or Department, the dumpster that was in the back of there that they removed because of illegal dumping, people would come in at midnight and dump all their paint supplies and mostly construction stuff and I caught one guy, you can turn these people in but you got to have the make of the car, the license plate number and it is not always easy to get, but I got one guy doing it and the next day the County came out and took the dumpster away. So I am not saying you can't have a dumpster there I would just like to see, I know they have ones that are locked, like the one time I went over there it was just full of paint cans.

Mr. Coakley: Well relative to what you are saying my personal experience has been that those problems that happened after Dee Dee no longer managed it, was a direct result of who was managing it, who they hired to oversee it and the instruction that they gave their employees.

Mr. Owens: They tried to be helpful, I tried to work with them and they admitted they cannot hire somebody for the rates that they want to pay and get them to do a responsible

job. He quit hiring kids from Poolesville, if you hire kids from Poolesville every kid in Poolesville is going to be hanging out there so he would start hiring kids from Gaithersburg, Germantown, and that would really diminish the problem but he would run through those guys so fast because they didn't want to drive all the way out for whatever he was paying them. But my experience is the later you open or the idea of keeping somebody there overnight for safety or someone watching out actually creates more of those problems because they will come in like their friends, so again when Dee Dee ran the place there was a responsible adults running the place, when women pulled into the gas station they pumped the gas for all women, when was the last time you went to a gas station and that happened, I mean it was just a night and day difference. And then for the last how long have they been closed, before they put up the sign that said "No Trespassing" and the skateboarders left so I mean you put the gas station there the noise will follow and my concern is I am not against having a gas station there I just don't want a gas station there at night where they can be there all hours and again selling alcohol to minors, drag racing, and again the manager of the gas station did not live in Town.

Mr. Wright: Well this is useful because previously they were operating as a non-conforming use, which did have any oversight basically, as a Special Exception they face modification or revocation of the Special Exception if they don't comply with all the conditions and I think there needs to be conditions obviously relating to noise and disturbances.

Mr. Coakley: Ok thank you very much.

Mr. Sneed: I have a question or a couple questions. So you are not opposed to a gas station going there or being operated as a gas station.

Mr. Owens: If I had my choice I think an ice cream shop would be a little nicer but I am not against businesses in Poolesville. I don't want to come across saying that I am you know I lived there for 9 years with a gas station and didn't have any problems.

Mr. Sneed: And are you opposed to it being a car repair maintenance shop?

Mr. Owens: It hasn't been that way so I don't know what would come along with that.

Mr. Coakley: Well there was some activity like that when Dee Dee was running it.

Mr. Owens: Very little and again if that is what you are talking about repairing a car here and there I never really noticed it when Dee Dee was there, it wasn't like the other shops in Town where we have a string of cars, the people that were there for the last 6 years especially they had a bunch of cars in the back but they never worked on them so it was the same car.

Mr. Sneed: And what hours would you advocate for?

Mr. Owens: The quiet hours or I mean I can see 6 am responsibly 6 am I never had a problem with the morning. Again it was after 9:00 it was between 9 and like I said they would close at 11 but that sometimes was when the party started.

Mr. Sneed: What about 5 am?

Mr. Owens: You know it depends on...

Speaker: (Inaudible) my bedroom is right there.

Mr. Sneed: You are opposed to 5 am but you are...

Mr. Owens: Well we had a problem with the trash dumpster being picked up by the Waste Management, has that been resolved I can't remember.

Mr. Yost: I called the County three different times and finally the County Code Enforcement came out, the guy was there waiting for him to show up and I don't know if he wrote him a ticket.

Mr. Wright: There are specific hours independent of the Special Exception for trash collection.

Mr. Owens: They cannot come before 7, they were coming in the 5:00 hour. And the dumpsters are right next to my fence so it is not like they are at the front of the property, they are as close to my house and our bedroom windows as they can possibly be and that truck would pull up at 5:00 in the morning and start bang, bang, bang so and again I have objections to that, but the gas station opening at 6:00 in the morning was never really a huge problem. Occasionally there would be a car with a modified muffler, that is another thing loud mufflers, they can be quite loud. And then the car washing too it depends on how much car washing is done and the drainage of the soapy water.

Mr. Sneed: All right thank you.

Mr. Coakley: You have any questions Chuck?

Mr. Stump: No.

Mr. Coakley: Ok thanks. Anyone else like to make any comments? Mr. Roberts.

Mr. Roberts: My name is William J. Roberts I own the property immediately in front of the property, which is the subject of this Special Exception application. The address of my property is 20000 Fisher Avenue as well as a separate building at 18725 West Willard Road. I maintain my office there since 1986 I have prepared correspondence for members of the Board I am not going to give that to you now because I would rather you just listen to my comments and then you can have an opportunity to read the response. I have a couple of observations first of all I would love to see this property devoted to some use because the way it is now is an eyesore and it certainly doesn't add anything to the value of my property and I think Wade can tell you I made multiple calls to the Town about kids over there spreading trash and skateboarding and breaking into the property and it was just a mess and it is not doing me any good, it is not doing the Town any good to have it vacant. Secondly I certainly believe that the Town needs desperately a second gasoline station I mean it just makes sense, there is nothing like a little healthy competition and I assume that anyone who buys gas in Poolesville noticed that once the Citgo/Getty closed, Chevron immediately upped there prices and they remained up because they are the only game in Town. I also think that that station is an excellent choice because Chevron doesn't offer kerosene or diesel fuel, which that station did and there is a desperate need for diesel fuel in this area. With that said, with that said if this property is going to be developed I should say redeveloped as a gasoline station because right now it has no authority to operate at all because it has been closed a year it has actually been a little over a year they closed March 1 of 2009. We have to start over from square one and if we are going to start over from square one my thought is lets do it right this time and the reason I say that is with good reason I don't know if you are aware of it but my property is served by a private well on my property and in May of 2009 it is confirmed by the Town of Poolesville and the Maryland Department of the Environment that my well had been contaminated with Methyl Tertiary Butyl Ethylene also known as MTBE which is a gasoline additive. I think the recent test for the Town came up 221 parts per billion, I was told at the time that the EPA standard was 100 parts per billion and I thought well that is not too bad but actually I just recently learned that the State of

Maryland standards are 10 parts per billion so my well is contaminated to the tune of 20 times of the allowable limit, which means that I am either going to have to put in a very expensive filtration system which will have substantial expense to maintain it or I am going to have to put out a very expensive hook up to the Town water supply neither of which I am real thrilled about, and that is why I have been talking to my insurance company. But with that said I want to go back to the point I made before, if we are going to do this now lets make sure we do it right. The fact of the matter is that the Town has some very specific standards that ought to be in place before any serious consideration is given to a Special Exception for a Service Station within the Town limits especially given the fact that the Town relies on its groundwater for its municipal water supply. Contamination of my well is not a big deal, contamination of a private well down the street is not a big deal, but it is going to be a big deal if the Town's municipal water system is ever contaminated in the future and that of course is why the Town has there municipal wellhead protection ordinance, which has very clear standards about containment, double plumbing, no offsite runoff none of which have been addressed in what has been filed in this case. As near as I can tell there has only bee a few things filed, there was an application for, there was a statement that said we are going to have 5 employees and these are our hours, there were some photographs, and there was a diagram of what the property looks like right now, well gentlemen I am going to submit to you I do not believe that is sufficient and I don't believe it is sufficient for you all to make a, I realize that the ultimate decision is the Board of Appeals, they pass on the Special Exception and particular conditions based upon your recommendations, which they are free to accept or reject your recommendation but I will submit that you cannot make an informed recommendation to the Board of Appeals until you have a complete application and the fact of the matter is this application is woefully incomplete. Now I heard some statements here made earlier that said oh well we will make or at least implied the Planning Commission will make its recommendations to the Board of Appeals, the Board of Appeals grants the Special Exception then we can talk about Site Plan, gentlemen that is not the way it works, look at the Code, look specifically at what is required to be filed with a Special Exception application and it says that you shall file a Site Plan with the application, there is no Site Plan here, there is no discussion of parking, according to my calculation for this property and the square footage even in the most generous calculations we could come to you are going to require somewhere between 17 and 18 off street parking spaces including 1 handicap space, where are you going to put them? In addition, under the Zoning Ordinance because the property is to the west is the Nessul's dwelling and the property to the north I believe is improved by this --- dwelling, all of those parking spaces will have to be set back 8 feet which currently takes a lot more space out. There is no parking plan here, there is no topo map which is one of the things I say in my letter, how can you determine the runoff of this property, this isn't something that gets provided later on it says right in the Code when you apply for a Special Exception you shall include a Site Plan and it shall include a topo map and it shall include a lighting plan, it shall include a parking plan, it shall include a signage plan, none of that is here, none of it. Maybe this is a trial balloon and that is fine and I am not saying, I am not suggesting under any circumstances that you recommend denial of this, what I am saying is you are not quite frankly in a position to recommend anything because you have no idea what exactly is being planned here. And what has been filed

simply doesn't comply with the Code. I am particularly concerned about the treatment of offsite stormwater and that has been addressed here but it is not to be addressed after the fact, it is to be addressed in the Site Plan filed with the application, look at the Code, all of that the secondary containment there is a if you look at the photographs that have been supplied there is a 275 gallon fuel oil tank which actually is right there, (inaudible), it provided heat for the garage, well if you look at your Wellhead Protection Ordinance it says that any outdoor tank like that must have a secondary containment system, must be vaulted, the application doesn't address that, there are just so many unknowns with this, and I would like to see it work, but somebody needs to go back to the drawing board and present a complete plan, complete Site Plan with all the documentation required at least for the Code and then the Planning Commission can make an informed recommendation to the Board of Appeals and similarly the Board of Appeals could act. Otherwise we are just hear spinning our wheels and on the subject of spinning our wheels I will also point this out, one of the requirements for any Special Exception for that matter any time you apply for anything whether it is a building permit or a Special Exception or a Site Plan, a Subdivision Application is if you don't own the property you've got to show what gives you the right to prosecute that and bind the property owner. But once you look carefully what was filed here is a 1 page document that says that Mr. & Mrs. Jamison have some contract, which we haven't seen, from the property owner and they are assigning it to an LLC, which Mr. & Mrs. Jamison own, well gentlemen I can give you an assignment of a contract from myself to my LLC to the Washington Monument, it doesn't mean that I have a contract to purchase the Washington Monument and by saying this I do not mean to --- the integrity of Mr. Jamison but before I spend any more time on this, before you spend any more time on this and the taxpayers money including mine because though I don't live in Town I pay taxes in Town including the expense of Mr. Wright and Mr. Yost, we better make darn sure that what is going on in here is actually going to have the effect of binding the property owner to all the conditions and what not that you are putting on his property, otherwise we are just, this discussion is academic so with that said I have a number of problems and what I have done with this correspondence is actually quoted sections of the Code and then just my observations as to how the documents that are filed may or may not comply. Again I would like to see this go through, I would love to see the property put to some use, we definitely need a second gas station in Town, particularly one that might handle gasoline as well as I mean might handle diesel fuel as well as kerosene but lets do it right ok? I have 5 copies of this I assume 2 members of the Board are not here.

Mr. Coakley: Ok thank you.

Mr. Roberts: Oh by the way if I could add just one thing. I really think somebody needs you need to put a camera in those drainage swales. I was there when the widening of 107 went in and they replaced that storm main going down 107 and I, don't take this as Gospel, but I do not think that those drains tie into the storm drain on 107, I think they drain to the back of the property because the improvements when Bill Dorsett the prior owner of that property but in those vaults and put in those drains that was after the widening of 107 and I know for a fact that he did not dig out 107, maybe there was something stuffed up there but I think somebody needs to look at that because I strongly suspect that all those drains drain to the back of the property and also with regards to whether or not the existing drains actually capture the surface water, they really don't, the

drain in the lower left picture that if you are standing between the service station and the garage that is right at the edge of the pad where the islands are for the service station, the garage is on your right, in front of the garage there is a swale and all the water comes from between the garage and the service station drains into that swale and goes directly onto the Nessul property and I can tell you how I know that because the water tank and the filter system that they have there now that was not provided by the State that was actually was provided by a contractor, the existing property owner who lives in Colorado and what they do is they pump out the vaults or they used to, they don't do that anymore, they pump out the vaults, run it into the blue tank then run it through those activated carbon filters and then they have a pipe that they would discharge right near that drain and all that water from those filters would run in front of the garage down into the Nessul property so this is another reason why obviously the Code says give us a Topo because you need a Topo ok, thank you gentlemen.

Mr. Sneed: Thank you. I can add something to that from a historical perspective I ran into Mr. Nessul there on the site and he explained and he gave me the years but I don't recall what they were but some time ago that 107 at one time was lower like 4 feet lower than what it is right now, the surface of 107 in front of the gas station and that years ago they raised the elevation of 107 and so before the grade went right off to 107 but then when they raised the highway and they raised the aprons to the gas station of course so there is some historical perspective if that is true I didn't live here then but others might have.

Mr. Coakley: Anybody else have any additional comments? Ok Mr. Jamison.

Mr. Jamison: For the record Robert Jamison representing Fisher Avenue, LLC, the applicant for Special Exception for the gas station at 20021 Fisher Avenue, Poolesville, Maryland. First I want to say under the penalty of perjury and for the record I do have the subject site under executed contract with Elizabeth Dawn Dorsey and I have proffered a deposit with Arnold Heckman at Corporate Investments, LLC in the amount of \$12,500.00 the deposit has been proffered and negotiated and it is in his escrow account today. I can perform and settle and own the subject site pursuant to that contract. The reason that I didn't submit my contract and the contract is in record able form with jurat's Mr. Roberts is because when we did the assignment it was sent to us by email and I came in and I spoke with Wade and I spoke with Mrs. Evans, I always want to call her Mrs. Cubitt that was her maiden name, I said do you want the contract and I said I really don't want people to know the consideration in the contract and she said well you could white that out because there was substantial language in the contract that was I thought privileged information for the seller and me and specifically the seller so this assignment I put it as I guess evidence of my ability to bind the site and to move forward with the Special Exception, which I do have a right to do under the terms of my contract and I am telling you all of this again under the penalty of perjury I am not some sham artist coming into Poolesville, as you know I own substantial real property here and outside of the corporate municipality and in Frederick County I own numerous office buildings, I am not a con artist here, I want to set that straight for the record. Now with the Special Exception came a fee of \$650.00 and I realize that I could potentially be trespassing on the Counselor's time and Mr. Yost's time and that there are certain taxpayers in the incorporated municipality who feel that my \$650.00 does not allow me the audience of you gentlemen, but I think it does and I also pay considerable taxes in the Town. Now is

the Special Exception woefully void of the proper documentation, yes, and is it a trial balloon, yes, and why is it a trial balloon because even the great Counselors at Law who stand much taller than I from the eyebrows up don't know and neither does MDE and neither does anyone in this room, but I can tell you this, if we will work together I can transform that site like nobody in this Town because I have done it, I did it at Budd Road on the Painter farm, I did it out there at --- out there on Martinsburg Road, I have done it at a number of sites and we can do it and do it right, but can you spend me out doing it, yes, and what is the impetus for me to get in here, I don't have some quick sided idea that I am going to go out and cure all the ills there and make Poolesville look like a million dollar deal, I am not that naïve, I am here to make a buck, and I am here to fix it and make it look right if I can make a buck, and if I can't make a buck you are going to be talking back to the owner, so we can all do everything and I appreciate Mr. Roberts template because it is a template for all of us to work and I know that Counselors don't work for free because I am married to one, I sleep with one every night, so I guess now I need to not only have Tom Maddox do a boundary survey, Maddox and Associate Engineers, I need to have him do Topo but what contours do we want, do we want 2 foot, do we want 1 foot, do we want 5 foot, I mean these are the things and these are the reasons why you float the trial balloons, and where are the storm drains going I don't have a clue, I don't know anymore about that site than anyone in this room and probably less because I never worked there I don't know anything about that place other than I have it under contract and I can perform on that and if I get my Special Exception and we can work through this with MDE and we have already gotten them working with us to drill test wells, to do soil borings and to try and make it comply with what they want. What we envisioned and when I say we, my wife and I envisioned, is to take the existing vaults, remove the lids, pull the tanks out, put the double wall piping in, put in-ground type tanks in in the vault, cover it with gravel, fix the place up and then hire an operator to run the gas station, that is what I want to do, and if we don't want to do it and if there is too much who struck John here believe me I can buy other deals, I don't have to have this deal and Bill I am willing to hire you to come on board with me to counsel me, you have already done half the work, it would be cheaper for me to give you 10 grand and let you run with it. So that is what I have got to say, where we go from here I need guidance from the Planning Board, I need you to tell me, think about what has been said tonight, discuss it with the other members when you get together with them and after they read these minutes and go wow that was wild, but I am not a crazy man, I am a businessman and I can empathize with you, I wouldn't want some bunch of schmucks running in on my backdoor all night I wouldn't stand it because I would be in jail that is just the way it is I am telling you. So that is my schpeel and lets go from here I don't know what else to say at this sitting, I want some more feedback after you digest what Bill has done because we can comply with everything provided it makes sense monetarily, you can't spend me out and then think I am going to do all that stuff as a do-gooder I am not cut that way, I've got to make a buck I have got 5 kids in their fancy colleges and private schools, I got to make a living too, that is my schpeel.

Mr. Coakley: You may not be able to afford Mr. Roberts then.

Mr. Jamison: Probably not. Thanks.

Mr. Sneed: Thank you.

Mr. Coakley: Well I think we have a lot to digest. We need to find out where the drains are going and I think we need to read Mr. Robert's letter totally, like I say we have probably some of the easier things to discuss are the how it is going to be managed, what hours, those sorts of things but it looks like the drainage both inside and out, what comes out, hours of operation, the noise from repair, air pump, any loitering those sorts of things, parking spaces we are going to have to look at because I am not sure, off the top of my head 17 parking spaces for this activity seems a little large, I need to check out the Code.

Mr. Roberts: I thought it seemed a lot too but I did the math.

Mr. Coakley: Ok but I know the other service station certainly doesn't have 17 parking spaces to my knowledge but...

Mr. Yost: The Code is not typically very strict as far as parking goes, you know every business that we have done in Town here, Selby's and the CVS whatnot have all had waivers.

Mr. Coakley: So we need to look at that the Town Engineer and the property owner need to find out where the drains are currently going and what needs to be done with that.

Mr. Yost: As far as the submission of a complete application he is right this is like a balloon going up, a lot of times Special Exceptions coming in are for brand new properties or for brand new uses so they do have the architectural drawings and the full construction drawings that we go to. With Variances and other Special Exceptions that are already in, I'm trying to think of a Special Exception that we've gone through, we have not required the full the makeup of the architectural drawings and everything of the building on the site so that is pretty difficult actually.

Mr. Sneed: If I heard him right he is saying we are required by the County to have these things by the Code, is that not consistent with our thinking.

Mr. Coakley: It wouldn't be the County it would be the Town.

Mr. Wright: It would be the Town it is our own requirements. In 10G of the Zoning Ordinance says items that are required to accompany the application for a Special Exception and he is missing some of them so it is clear that there needs to be some sort of documentation and as I mentioned, there is nothing in this Special Exception application about Wellhead Protection requirements and we are about to implement I am pretty sure some additional requirements for Wellhead Protection Programs.

Mr. Yost: His application does address the monitoring wells and things like that.

Mr. Coakley: We are aware of that I mean I see this as certainly not making a decision tonight or anything that it needs to be played out, more information needs to be gathered and more questions answered prior to going on. So I sort of view this as a first step in a long process.

Mr. Yost: The Board of Appeals is going to have a Public Hearing, it has been advertised and set up for April 1st.

Mr. Coakley: Maybe they will need to postpone that.

Mr. Yost: It's a lot of money.

Mr. Wright: Well it might be premature but I don't view this as being one of those Special Exceptions that they just have a hearing and meet a couple of weeks later and approve it, there is going to be possibly further meetings, the Board of Appeals has the authority to get input from other agencies, send it back to the Planning Commission for

further consultation and this is going to be a little more of a process than most Special Exceptions.

Mr. Coakley: It seems like if a little more is done in the upfront part of the process it might save time and money further down the road.

Mr. Wright: In the same vein this Commission doesn't need to make the final recommendation, the requirement is for it to be referred to you for comment and the things that are discussed here tonight are going to be on record in the minutes, that is what the Board of Appeals is going to get and they are going to see what the comments are and what kind of things need to be addressed and if you have some formal recommendations you can certainly make those at any point.

Mr. Yost: And all the applications that even though they may not be complete now those all, what it talks about in the Code, they all go directly to the Board of Appeals, he asked me to bring this to you but the Code does specify that is the document that has to go to the Board of Appeals.

Mr. Coakley: And when is their hearing set for?

Mr. Yost: April 1st.

Mr. Coakley: So we are not going to even have another meeting prior to that.

Mr. Yost: Unless you have another meeting, next week if you want. It is April 1st at 7:00 and the meeting room is open the next 2 Wednesdays in a row, or any other day you can pick another day if you want to. I am not trying to rush you but we have the sign posted out there and it has been advertised.

Mr. Coakley: Mr. Jamison.

Mr. Jamison: Could we have the hearing and then the Board put conditions on it and not act on it so that we can comply with the physical features of the site and do some things that are required by this ---. I think this is an ongoing process and I don't see why you wouldn't go ahead and have the Special Exception Hearing I don't expect to get through it and I don't expect to get approved with conditions, I just want to see what the --- of that Board as it has been advertised says and if we go back again they can defer it right down, they can defer it.

Mr. Yost: Well they wouldn't make a decision that night anyway.

Mr. Jamison: Right I get all the time at Park and Planning, I get deferred and I come back later, and come again and then we begin to get our arms around this thing to figure out what we are doing because I want it to be right, I want to be able to turn it on and run it for 30 years. So I am willing to spend some money up front I just don't know how much this is all going to cost I want to get my arms around that too.

Mr. Coakley: Would you mind coming up again I just thought of a question. Mr. Roberts mentioned about his well being contaminated.

Mr. Jamison: Yes Sir.

Mr. Coakley: Now with you having a contract ownership of the property, he said he contacted his insurance company, now wouldn't his insurance company say you have to go to Mrs. Dorsett that owns the property prior to...

Mr. Jamison: I don't practice law Mr. Coakley.

Mr. Coakley: I was just curious if that would be the liability of...

Mr. Yost: Well see MTBE's they stopped using them in 2006 they were outlawed but they do last a long time in the ground once they are there. They tested further contaminants, benzenes and other fuel contaminants in all kinds of wells around there and

nothing was found in them, so it was something that had happened 2006 or prior when that additive was actually in the gasoline tanks, whether it was a spill or they had done work before the tanks were redone I don't know what exactly caused it but we did quite extensive monitoring in several wells, did pump series test with the hydrologist Kathy Mihm and it is really hard to say, it was only that one well, well that one well across the street and then down a little bit further toward the pool the rectory church had a small amount also, but no other contaminants were found other than that so it was an old condition.

Mr. Coakley: Ok I didn't know if like a legal liability would carry over with...

Mr. Wright: If Mr. Robert's insurance policy covers this type of thing then they would have to pay him and they might be segregated against somebody else who caused the damage and would be able to make the claim back against them.

Mr. Stump: Back to logistics.

Mr. Coakley: Well logistics I guess my suggestion would be to well as far as I know we are in favor of a viable service station operation right so it is just a matter of meeting the requirements of the drainage, the hours of operation, the noise limitations, we need to check on parking spaces requirements and what else I thought there was one other item, oh make sure that they come under compliance of the Wellhead Protection legislation that will probably be passed and adopted within the next week or so, month or so whatever. So provided all of those items are adequately addressed then I believe we are in favor of the Special Exception.

Mr. Stump: That's fair.

Mr. Sneed: The only thing I don't understand is whether we are looking into the idea that Mr. Roberts observation that it is an incomplete application, whether that is consistent with us or do I hear us saying, we have a requirement, the Code requires these things to be submitted to us but that we have a general practice of not actually requiring it, is that...

Mr. Wright: We have certainly entertained Special Exception applications that have not had all the things in here and in some cases in my opinion depending on the type of Special Exception some of those things are not necessary and as we go along I think if the Board has need of things that are not in the record they can require them to be supplied. So I don't think we necessarily have to reject an application at the counter before until every last thing on the list is provided.

Mr. Sneed: But is it your opinion that we ought to have it in this instance, these things in this instance, particularly Site Plan?

Mr. Wright: Well the Site Plan is not one of the things that is required.

Mr. Sneed: Its not?

Mr. Yost: A survey.

Mr. Wright: A survey is and we have drawings and I think it has been mentioned here that a topographical survey is going to be necessary, there seems to be a general agreement on that so I think that is one thing that will be required. But Site Plan and in fact specifically if he is referring to an approved Planning Commission Site Plan it definitely is not that I can see in the requirements.

Mr. Yost: It says exactly survey plats or other accurate drawings showing boundaries, dimensions, area topography and fines of the property involved as well as the building,

which is exactly what that is, it doesn't have the topography and how the water flows, I think we need to require that before, how he would control the runoff and how it is all configured now, I think that is very important.

Mr. Sneed: But before we vote on the Special Exception or...

Mr. Yost: You guys aren't really voting.

Mr. Sneed: Recommending right?

Mr. Yost: Right.

Mr. Wright: And I think one of your recommendations would be we --- what we need, we need a topographical survey in order to determine how the --- is going to work.

Mr. Yost: Well everything on the site has to be contained that probably encompasses everything right there the plan has to show that, whatever he develops as a site plan for the construction, because that is what is going to happen, he is going to have all kinds of things coming forward, where the wells are going to go, the monitoring all that stuff has to come before you guys and the site plan. The use is one thing and then the site plan is a whole different animal.

Mr. Sneed: So we are down to hours or do we want to make a recommendation to operation hours to the Zoning Board.

Mr. Stump: I think so.

Mr. Coakley: Well evening hours I don't mind following the quiet time or whatever I know when I worked I normally caught the first train out of Barnesville and occasionally it was nice to have a service station open at 5 or 5:30 in the morning if we were running low on gas and had to get some before going over to the train station, so we may consider...

Speaker: The Chevron those pumps are operating 24 hours.

Mr. Sneed: Is that permitted there at the Chevron?

Mr. Coakley: I wasn't aware of that.

Mr. Yost: I wasn't either. I need to look into that. How would that be addressed...

Mr. Sneed: It would be...

Mr. Yost: Well the hours of operation but not really, they are closed but the pumps use your credit card to get fuel, it is actually considered in the hours of operation because it is open I am not for sure.

Mr. Coakley: Well with the banks do the hours of operation include the ATM?

Mr. Yost: Exactly.

Mr. Sneed: Different.

Mr. Coakley: Well it is different but similar.

Mr. Sneed: Open pumps would seem to be open not closed.

Mr. Coakley: And most service stations that I have been to that are closed for the evening they turn the electricity off on their pumps so it won't take the credit card anymore, or won't pump gas or whatever.

Mr. Yost: I just noticed a sign at Dickerson they just opened theirs up they are open 24 hours now with a credit card.

Mr. Coakley: Mr. Jamison.

Mr. Jamison: The liability of (inaudible). I don't want some kid coming in there running their (inaudible) and I don't know what their insurance carriers do but if I were the insurance carrier I don't know how I would handle it.

Mr. Coakley: Ok so to me morning hours are negotiable how late did you want to stay open in the evening?

Mr. Jamison: We put 5 to 11.

Mr. Coakley: I think most people by 9 or 10 in Poolesville if they need to get gas for their cars that is certainly adequate in the evening, so I would recommend like 6 to 10 on weekdays and...

Mr. Sneed: I thought you said you were in favor of the quiet time, you are ok with extending quiet...

Mr. Coakley: Or until 10.

Mr. Sneed: I was writing down 9 pm sticking with the Monday through Friday 9 pm with the quiet times at 5 am which would give him a 2 hour break and weekends later.

Mr. Coakley: That would be fine.

Mr. Sneed: What do you think?

Mr. Stump: My first thought is it should be 10 to keep it the same as the Chevron, the law says quiet times just state that the decibel level...

Mr. Coakley: Excuse me.

Mr. Stump: What the law says is that the decibel measured at the property line can't be exceeded so that doesn't necessarily mean that that imposes a certain set of hours on the gas stations, it imposes controls on the, some fines on them if they exceed the decibel levels after those hours so I just want to clarify it doesn't mean you can't operate in those hours it just means you have to watch out for your noise level.

Mr. Coakley: What is the Chevron right now Wade?

Mr. Yost: 10:00 they close at 10:00.

Mr. Coakley: Do you know what time they open in the morning officially?

Mr. Yost: Off the top of my head I don't know.

Mr. Coakley: Well my recommendation would be whatever was approved for the Chevron station they get the same hours.

Mr. Sneed: The difference being they don't back up to any residence.

Mr. Coakley: Well not as close that is certainly true. I would recommend 6 to 10 then on weekdays.

Mr. Sneed: 6 am?

Mr. Coakley: Yeah either 5 or 6, probably 6.

Mr. Sneed: And weekends the same?

Mr. Coakley: Or 6 to 9 on weekends.

Mr. Sneed: Earlier on weekends?

Mr. Stump: I think that is a compromise.

Mr. Coakley: And the noise levels were already, we follow the same County procedures that we did for Tad I know...

Mr. Yost: Yes and they do the enforcement.

Mr. Sneed: So we have a noise ordinance in town.

Mr. Wright: We follow the County Noise Ordinance to apply in Poolesville.

Mr. Sneed: When?

Mr. Wright: Well it is pursuant to State and County law it applies unless we exempt ourselves. It has been that way for a number of years.

Mr. Sneed: So we could have enforced our own noise...

Mr. Wright: We could exempt ourselves from the County Noise Ordinance if we chose to, if we wanted to have our own noise ordinance we could but then we would have to enforce it.

Mr. Yost: And have measuring equipment and special stuff.

Mr. Sneed: So in this instance when noise was going on what is our reaction or response, no response.

Mr. Yost: As a Town we can assist in the complaint of it but that is about it.

Mr. Stump: It's the County's responsibility.

Mr. Coakley: Then the County would enforce it.

Speaker: (Inaudible) there is certain Police Officers who have decibel meters in their cars.

Mr. Coakley: But the requirements that we held Tad to when he opened his business and everything are the ones that Mr. Owens stated earlier that they measure it from the property line of the residence.

Mr. Sneed: Do we have an ordinance that precludes the stationing of unregistered vehicles on the property, do we not have that, isn't it a 5 day...

Mr. Yost: Yes.

Mr. Sneed: So in this instance they also had those right?

Mr. Yost: And we have written several violations over there I am not for sure exactly what happened with them.

Mr. Sneed: Well in that connection the other thing I caught here on the one of the supplemental documents from the Board of Zoning Appeals from 2004 was that they had permitted the operation of an engine repair shop with a condition that they plant Leland Cypress trees around the parking lot, I didn't see any Leland Cypress trees when I was there the other night.

Speaker: That was (inaudible) the subcontractor wanted to (inaudible).

Mr. Coakley: But hours of operation we can suggest what is in there but I think as long as they are reasonable whatever the Board of Zoning Appeals agrees to is fine with me as far as I am concerned. Like I said noise is already covered under county ordinance and the Wellhead Protection Ordinances will cover the protection of the groundwater and like I said we need to check on the parking spaces and make sure we get a topo map for the water runoff and then we need to check on the drains so my suggested recommendation would be that we are in favor of a viable service station operation with a convenience store, limited auto repair and car wash detailing within reasonable business hours that they meet the noise and groundwater protection ordinances that either are currently in existence or soon will be and that there is still work to be done as far as the topo map and other...

Mr. Yost: The whole containment and site plan has to be submitted --- once the use is approved, how to deal with the water and treatment of it.

Mr. Stump: I have one question Mr. Jamison I just want to clarify the car wash aspect of what you are proposing.

Mr. Jamison: What we envisioned was with respect to automobile repair there will be some car washing and actual detailing of automobiles like waxing, buffing out, and that sort of thing, as far as having a automatic carwash or a huge line of cars coming in to be washed, that was not what was intended in the application.

Mr. Stump: Ok so not car washing as a business, it would just be as an add on to for repairs...

Mr. Jamison: Or not necessarily tied in to repairs, if someone came in with an automobile for example, if someone wanted to go down and play 18 holes at the club and said hey would you detail my car, fine, while you are at the club we will pick up the car, we will bring it up, we will wash it, we will wax it all up and clean the interior, that is the nature of it, it is not tied into we put valve covers and changed your oil and therefore we will wash your car, it was sort of a carwash detailing that would accompany the repair business and it may never even happen but we asked for it and something that was brought to my attention in this meeting was that there was a small engine repair shop and I didn't know that that was something that you had to make a Special Exception for, I thought a repair shop maybe included small engines, for example if Mr. Coakley had his riding mower and wanted to get the oil changed and the blades sharpened he could maybe bring it to the service center there and have the mechanic do it like Charlie Glass did, Charlie Kohlhoss did, and Tad does for years. I didn't know that that was a separate private enterprise until we got onto the Leland Cypress thing.

Mr. Yost: I do believe that the garage and you are probably right there could be an accessory use to that and we have seen that before, but I think that the use of the garage had not been in existence for 6 months and that it expired as a non-conforming use.

Mr. Jamison: And I understand that.

Mr. Coakley: And it was a separate business.

Mr. Yost: Yeah but it was definitely going on in that building for...

Speaker: (Inaudible).

Mr. Jamison: Ok I just thought repairs would include all of that kind of mechanized equipment, from your automobile to your small tractor kind of thing, that is what we envisioned.

Mr. Wright: I don't think as you describe it that bringing a car in to get cleaned, waxed and washed would be legal under the zoning ordinance.

Mr. Stump: Unfortunately.

Mr. Jamison: Is it permitted by Special Exception?

Mr. Stump: I wish it was but it is not.

Mr. Wright: --- unfortunately in your case because it is about as clear as it can be, a carwash is not permitted either as a permitted use or Special Exception or an accessory.

Mr. Stump: We had trouble with this general topic the whole time that Tad was trying to clarify. I mean it looks to me like it is not feasible unless we change the Use Chart the way I interpret it, I wish it was because I would like to have a carwash in Town.

Mr. Jamison: We currently have a Special Exception permitted for one but we haven't gotten around to building that yet.

Mr. Yost: In the Commercial zone.

Mr. Jamison: But we don't have to have the detailing thing there it was just something I stuck on the application.

Mr. Stump: I like the idea we have done the --- on that general topic before misinterpreting the Use Chart and then having it brought back in our face years later, I wanted to get some clarification.

Mr. Jamison: Well if someone did come in to get their automobile serviced and they did get their valve cover gaskets changed as a normal course of business garages generally wash the fenders.

Mr. Stump: And that seems quite reasonable.

Mr. Jamison: And as a throw in for extra business down the line they will wash the car and that has been done since business was started, but trying to make the application comply with what the Ordinance says.

Mr. Coakley: But its interesting though whether that refers to automated carwash type business or washing cars by hand on an individual basis.

Mr. Wright: It doesn't distinguish.

Mr. Coakley: But I guess if it is done commercially it is a carwash.

Mr. Wright: However you do it if that is the purpose of bringing the car in then I think that it doesn't make the cut.

Mr. Jamison: It was just an ancillary thing I'm asking best use of the site as it stands, gasoline filling station and an automobile repair, it's a tailor made suit for that.

Mr. Stump: Thank you.

Mr. Sneed: So should we remove that, should we recommend against that?

Mr. Coakley: Well I think that we should bring it to the Board of Zoning Appeals attention that it's not a recommended use in the business district.

Mr. Sneed: Ok I would be more comfortable if we did give them specific hours of operation as guidance.

Mr. Coakley: Ok.

Mr. Sneed: I would like to repeat what we talked about so in addition to your recommendations earlier, operation hours 6 am to 10 pm Monday through Friday, and 7 to 9 on weekends right.

Mr. Coakley: And holidays.

Mr. Sneed: And holidays. And I would are you also comfortable with language recommending that any operational activities not take place in the rear of the property.

Mr. Coakley: No because if it is a reasonable activity that is done properly than they should have full use of their property.

Mr. Wright: What kind of activity?

Mr. Coakley: I am not sure what they would be doing in the rear of the property.

Mr. Sneed: They could be washing cars at 10 pm with the boom box going.

Mr. Wright: So you are thinking just in terms of disturbing the neighbors.

Mr. Sneed: Right.

Mr. Coakley: Well car washing wouldn't be permitted so...

Mr. Stump: And hours of operation are recommended to 10 so they couldn't do anything outside those hours.

Mr. Sneed: Till 9 on weekends right ok.

Mr. Yost: Yeah because I don't think there was actually a legal activity that was going on back there that was disturbing the neighbors.

Mr. Jamison: (Inaudible – not at speaker).

Mr. Yost: We should actually address that on the course of the Special Exception with the automobile repair as we have with others that a vehicle can only be in repair for 2 weeks at a time or whatever it is, they still have a timeframe, and that all vehicles would

have to be registered, we need to put limits on that one auto shop that does sell a few of them, how many they can have there at one time and we are very strict on them.

Mr. Stump: Poolesville Tire and Auto?

Mr. Yost: Yeah.

Mr. Sneed: Unrelated to this when I was there and met with another property owner he pointed out that there is an unregistered vehicle on the adjacent property and it's been there more than 5 days, I think it was a Jeep Cherokee of some sort.

Mr. Yost: Ok I will let the Code Enforcement Officer know.

Mr. Coakley: Ok so Board of Zoning Appeals should have enough to go on.

Mr. Yost: To consider when they have their Public Hearing. They won't even have much discussion I don't think.

Mr. Wright: Not at the Public Hearing that is not the purpose of that meeting, it is just to receive input.

Mr. Sneed: Something that caught my ear here thought something George said earlier and was testified to about coming back and forth and the process going back and forth between Boards, are we doing it the most efficient way, would requiring more up front the first time they come here make it more efficient all around?

Mr. Yost: Well the Code is part of the problem because in the Code it says when an application comes in we have so long to post that property and to have a Public Hearing, it is very limiting on how much time we have been given for this process before Public Hearing when people know about what is going on. So if Alan says we need to change that we can change that but right now that is the way it is, we had to post the property, we have to we received an application by Code.

Mr. Stump: It is an automatic trigger.

Mr. Yost: Yeah and trying to get the BZA to line up and have their meeting and to get the advertising in, and the timeline is difficult plus your guys comments in, it hardly ever works out like it is supposed to but that is where we are now. You are right it is not the most efficient way.

Mr. Coakley: Ok anything else to discuss on that?

Mr. Stump: Not today anyway.

Mr. Coakley: Ok moving on to Master Plan Review. I started going through and my suggestion would be to go through and identify what is obsolete, like there is some references in there to suggesting that a Community and Economic Development Committee be formed, well that is already done and taken care of, there is suggestions in there to have legislation to cover wellhead protection, that has already been done. So I think we need to go through and identify that information that has already been taken care of and then make a list of identifying what needs, what we feel needs to be added and then we will go through and start figuring out where to put that in and who is going to do it, or everybody take a whack at it and we will start.

Mr. Stump: The subject --- that is open for discussion does that include the appendixes or just the body of the...

Mr. Coakley: Everything.

Mr. Stump: What is our timeframe on the overall review and update of the Master Plan I can't remember.

Mr. Coakley: Well was it 2005.

Mr. Stump: Yes.

Mr. Coakley: So 2011.

Mr. Stump: So 6 years ok.

Mr. Yost: So it has to go through the process here and then to the Commissioners, last time I think it came back from the Commissioners at least one time.

Mr. Coakley: At least one time.

Mr. Yost: So we will play that game.

Mr. Sneed: Well this is dated February 2005 is that our target February of 2011?

Mr. Yost: That should be yes.

Mr. Coakley: Well again from the emission to the Commissioners until approval by the Commissioners had to have been at least 6 months and it probably took us at least close to a year I think to write up what we were sending to the Commissioners for approval the first time.

Mr. Sneed: Were you on the Planning Commission back then?

Mr. Coakley: Uh huh. I had just come on board then.

Mr. Yost: Me too.

Mr. Coakley: Well actually yeah I came on the Planning Commission when we were just getting ready to start the allocation process and then shortly after that we started on the revision of the Master Plan. So that is my suggestion, like I said go through and make notes of what is obsolete and we either need to get rid of or reword into the present tense those things that currently exist and then...

Mr. Yost: Does everybody have an updated copy of Article 66B, if not we can get you one, but that tells you exactly what has to be in the plan step for step.

Mr. Stump: Is that part of the current plan that's not in conformance compliance?

Mr. Yost: No because he just adopted those 2 amendments, the Growth Element and the Water Resource so those will be incorporated into the whole thing and all.

Mr. Coakley: Yeah so the framework is going to stay the same.

Mr. Sneed: I did something similar to what you did George although I think I have one extra step or category so I have you had what should be removed and a list of what should be removed, a list of what should be added, and then did you say edit what is left?

Mr. Coakley: Well yeah.

Mr. Sneed: And then the other thing I had was which in there has been completed or needs updated, you know there is a long list of things that have been completed and that we can write about that so...

Mr. Yost: And that Parks Board is going to tackle the part of the Parks and --- you guys for that, which they did last time also, which will update where we are now with the parks system.

Mr. Coakley: And we will ask CEDC along with the Chamber of Commerce for input for the business section.

Mr. Sneed: So what do you want to do tonight then?

Mr. Coakley: I don't think there is much we can do tonight I mean it is just a matter of starting to put notes together and like I said go through and try to carve out an hour or so each week or something.

Mr. Sneed: Well have you raised the possibility of dividing these questions up between the Board here, is that something that has worked for you before or did you try that before where I take a question, you take a question, a category?

Mr. Coakley: I think initially we are probably better off just going through the entire.

Mr. Yost: Yeah I think that is what we did last year everybody had kind of redlined their versions up and we went through paragraph by paragraph.

Mr. Stump: After you had done some review and redlining.

Mr. Yost: Yep.

Mr. Stump: That is a normal review process, that works.

Mr. Coakley: And then normally what would happen whomever we felt had like the best draft then we would let them take the standard and take input from the other people and revise it so that everybody was happy with it.

Mr. Yost: And we will have our own public hearing on it also before it goes to them. We have the Focus Group information so we will have that also.

Mr. Sneed: Now was the Focus Group meeting meant to replace the survey that was done the last time?

Mr. Coakley: More or less yeah. I believe the survey cost us how much \$10,000.00 or \$8,000.00, I don't think we want to spend that kind of money in our stringent times.

Mr. Sneed: So it wasn't necessarily meant to be a benchmark to do it every time so that we can measure ourselves every 6 years.

Mr. Yost: Right and right now in the next 6 years everything that we have implemented in this plan that is starting to happen is going to be still happening for another 6 years, all the housing and construction, the growth number all that is going to be changing because its going to be in motion for 10 or 12 years. So basically it is more of a review than a rewrite in a lot of parts.

Mr. Stump: Who has the summary or the details that came out of the focus groups?

Mr. Yost: We have minutes, transcribed minutes.

Mr. Coakley: You should have had a copy in your binder.

Mr. Sneed: I have it with me you want a copy tonight?

Mr. Stump: I meant electronically, is it possible to get that.

Mr. Yost: Yes.

Mr. Coakley: Well why don't you send it out to all of them if you are going to do that.

Mr. Yost: Sure.

Old Business

Mr. Coakley: And then we have the Alternative Energy Ordinance. It sort of surprised me I will say a little bit with the...

Mr. Stump: Sort of?

Mr. Yost: Me too.

Mr. Stump: --- of 180, not that I am unhappy with that 180 personally but I was shocked by it, I mean it seems like it came very quickly too, last I remember it was pretty solid mind set against no wind.

Mr. Yost: We had our work session and Eddie said ok is everybody ready to vote to just kill the windmills in the whole town and they said no, no, he said ok what do you want and they just started and ok well we will allow this here, we will allow this here and here is the height, it just happened, just like that.

Mr. Stump: Ok that is one of the things I will definitely read.

Mr. Yost: There is no minutes on the work session.

Mr. Stump: Oh. Interesting very interesting.

Mr. Coakley: The only question I had was on page 5, item 13, it said RDT this is under ok RDT shall be allowed one wind system per 5 acres to a maximum of 3. My question is can they be clustered or do you have to have one wind system on each 5 acres.

Mr. Yost: No they can be clustered.

Mr. Coakley: That came up?

Mr. Yost: No but I wrote that so.

Mr. Wright: Actually you didn't (inaudible).

Mr. Yost: No the (inaudible) with the farmhouse out there and there is a barn right there maybe he wants to have a windmill for his barn and one for his house, that is exactly what was said.

Mr. Coakley: Ok.

Mr. Stump: There is one above Mt. Airy that is actually a farm, they have the one on the barn, there is one on the house and there is a 3rd one back on the other auxiliary building which is exactly that point.

Speaker: (Inaudible).

Mr. Yost: Really.

Mr. Coakley: And I will say there are 2 in just off of Interstate 81 in upstate New York that are almost identical I guess to what John was originally discussing on his monopole and even my wife commented that you know that is sort of cute that is not really offensive or anything.

Mr. Sneed: For everyone that says that there is another person that says its offensive.

Mr. Coakley: But to me it is going to be interesting to see with like the roof mounted in the residential areas what that is going to end up looking like and whether it is going to have any effect on property values or anything but...

Mr. Sneed: Research I have done on those which is limited but what I have learned so far is that much like the windmill seller that testified here who is promoting the product, the only people that are promoting those are the sellers and manufacturers and that the where I went to look for what it is going to produce its not it is so negligent that this is a device that will not pay for itself, this will never pay for itself so far I'm told unless the technology changes.

Mr. Coakley: But I think with both solar and wind power, actually all of the alternative energy sources, I think the cost right now is going to preclude the vast majority of residents from entertaining the idea really or they might entertain the idea but they may not put it into practice so it will end up being more or less a moot point I think in most instances.

Mr. Sneed: Well I have a more sensitive set of issues with respect to what has transpired and sensitive and I will do my best not to be abrasive but I would like to read into the records some things from prior minutes to kind of clarify the record in my mind and if you will bear with me kind of circle back around near the end of this to give you my perception of what has transpired over the last couple of months and why and I will use the record to support that if you will bear with me. And I think I will start on the minutes of the February 16, 2010 Commissioners Meeting, page 22 and I will quote Mr. Kuhlman first, he says and this is in a discussion that turned to the wind energy systems and in the course of that discussion Mr. Kuhlman says "So the Planning Commission is asking us to decide?" Mr. Hoewing says "There was no consensus at all, there were some Commissioners who were totally opposed to any wind generators at all and others who

wanted to come up with some and there was just no way to get a compromise". Turning to page 25 Mr. Brown says, and he is still talking about wind energy here, he says "Since we are not getting a clear signal from the Planning Commission how about this for a compromise" and then he goes on to discuss the compromise but he is referring to us and that he is not getting a clear signal from us. And on page 26 of those minutes Mr. Kuhlman says "In trying to find a way to pass the buck the Planning Commission basically surrendered or are they still looking at this coming back with another recommendation", Mr. Hoewing replies "There were two implacably opposed Commissioners, I think it is fair to say that did not want any windmills at all and I think one of the Commissioners was of the view that we could try some kind of middle ground approach where you maybe have it for a year, but if we can't you aren't allowed to do that so I don't think they can make a decision bottom line". And then page 27 of those minutes Mr. Brown says, "Well let me finish one thing just to address it and make sure we are clear cut on this, the majority of objections that I think we have heard have dealt with the aesthetics" Mr. Hoewing says "right not safety, it really just comes down to aesthetics" and later Mr. Brown says "The aesthetic issue is what we keep hopping around, it is probably the main reason why the Planning Commission couldn't come up with something on it", I will stop there.

Mr. Yost: Can I speak to that a little bit?

Mr. Sneed: Yes.

Mr. Yost: After the meeting because George and I had talked about it with Eddie, I was like what are you talking about they sent forth the recommendation to have windmills in RDT only, that was the decision it was not wishy washy that was what the vote was and we talked about that after the meeting so I don't know why he was saying that, because I was like what is he talking about, you were in the audience I kept looking at you like so yeah I understand what you are saying.

Mr. Sneed: I was frustrated the first time I read it, I have been unhappy since then.

Mr. Stump: It is a mischaracterization of what went on in the process but at the end of the day we came up with very clear recommendations so I agree.

Mr. Sneed: I'm not done.

Mr. Stump: I'm sorry.

Mr. Sneed: It might be --- but if you will bear with me. And I wanted to read that into the record to clarify what is already on the record and I agree with you that certainly it is at a minimum misleading and it gives the appearance that the Planning Commission was unable to complete a task it was assigned and that is just not true. In fact I would go further to say that in the matrix that we voted on virtually every cell that we voted on here was done in a unanimous fashion, even though there was disagreement through the process, in the end the Use Chart they received from us was virtually unanimously approved but the importance of that is what happens next and I would take you to the Planning Commission minutes of December 16, 2009 on page 36, Mr. Stump says "We've given a set of pretty strict guidelines for wind energy to the Commissioners and they are leaning towards not doing any wind", Mr. Hoewing replies "Right I think that might be what happens", Mr. Stump replies "I'm almost certain it is going to be what happens, barring an act of God, that is probably what is going to happen".

Mr. Stump: I still don't understand what happened.

Mr. Sneed: And the importance of that and you already referenced that of course but that is how we got to I think where we are and where the Commissioners are, I mean that is a summary of the substance of what happened and for the record the PC I don't think we have surrendered anything of our responsibilities and I don't think we were deadlocked in any fashion, and I already mentioned that I think the Use Chart was reached unanimously. What troubles me about this is that the facts that support the Ordinance are sitting here but the facts that were used to create the Use Chart by the Commissioners on a Saturday session after that meeting were not there right so to me there ought to be some consistency of the factual reasons for the Commissioners Ordinance and I think there is a significant inconsistency and a real danger to the Town by virtue of the Commissioners Ordinance that they created and they are now having a Public Hearing about, I hope I am making that clear, the facts that we talked about and they range and I don't want to bore you with all the things that we talked about because you were here for that, but we did talk about noise and we did talk about safety, we did talk about throwing blades, we talked about throwing ice from blades, we talked about dangers to animals including birds, we talked about other dangers to people, we talked about we may have talked about this windmills syndrome of some due to vibration and so on, so the idea that for the record all those things sits in our record but the things I read to you tonight it does not reflect that the Commissioners have that in their record and that they used it for the Ordinance, you understand what I am saying, so if they are recommending an Ordinance that is could later be deemed to be insufficient or incomplete do we have any obligation to reenter the fold with respect to the wind energy, that is to say ask the Commissioners for an opportunity to send it back and maybe produce a product and I would recommend if we were in that role do it in writing maybe because remember that we have had a joint meeting with them as well and as I recall they were all there and I believe we summarized all the things that I just referenced to them in a joint meeting and they still didn't remember it so with that in mind I would wonder if we could capture it back, not spend a lot of time on it, but merely use the time to put together a written summary of the things that we covered over a 10 month period, don't get me wrong I am not talking about a comprehensive debate, I am talking about a fact summary, the things that we talked about that were based on fact and then return it to them so that they could then create an Ordinance that is based on a better record. That is sort of where my thinking got to over several days of unhappiness so I will turn it over to you guys.

Mr. Coakley: Well my suggestion on that would be to let it play out, see what comes before us and like any of the other Subdivision Regulations if we find out that a problem does exist then periodically or if a real problem does arise we can certainly make recommendations to change the Subdivision Regulation, so that is what I would suggest because like I said I have a feeling that not too many people are going to avail themselves of any of the energy applications at this time, but if we find out that people are coming in with things that we feel aren't appropriate but the way the Subdivision Regulations currently exist looks like they would be approved then like I said make suggested changes and send them to the Commissioners to say we believe for these reasons that the Subdivision Regulation should be changed, its something similar to like pipestem driveways or something like that.

Mr. Sneed: If I understand what you are saying why would we wait till some were approved before we would make the changes. I mean that still may happen I'm not

suggesting that even if we did produce a report they may decide to vote to prove exactly the same decisions but aren't you saying that we would build a record of approvals that are not what we would want and then try to change midstream is that what you are I am hearing?

Mr. Coakley: Well I thought you were saying that you are suggesting that they would remand what they've passed back to us for additional review and comment to then send back to them which seems to just be perpetuating something that has been dragging on for over a year already and stuff. Like I said I have a feeling it is going to end up being much ado about nothing anyway, technology is changing so quickly that we will probably be back revisiting this over the next year or two and just wait until it plays out and then we have something factual to say well we recommend that this gets changed because this problem came up, this problem came up, and that these changes will address that.

Mr. Yost: Cal as we went through the process with the Commissioners I used everything that the Planning Commission used over the full year that we were going through this. All they said was that they want to permit this type here, here, here, I used all the things and for the public hearing we had all the decibel levels and the County's Regs, which are in here now in the definition section, so I used everything that we had gone through already as far as the height and all that so they didn't reinvent it they just said ok here, here, here and then I had to work out what just add all the language in that we had already worked on over the year. But I know you would like it to come back to you I doubt if it would come back here also, we can definitely request it if this Body wanted to. And I went through like a timeline of where we have been the whole time also and I went to Eddie because he asked me about it and I said look August 12 is when you guys actually finished the first draft Ordinance and sent it forth to the Commissioners and it didn't change much since then, Commissioners met on August 21 set a public hearing, had a public hearing on the 21st they got waylaid by quite a few people for all kinds of things. On October 14 we had a joint work session, on October 19 the Commissioners had their own work session. They didn't like the solar farm issue, sent it back to the Planning Commission. November 18 you guys met again and said no you were fine with the solar farms and didn't want to change it and you sent it back to the Commissioners unchanged. December 7 the Commissioners said ok well lets vote on these things, they voted that geothermal was ok as approved by the Planning Commission, the solar they didn't want a Special Exception so again that went back to the Planning Commission and then they decided they didn't agree that the Planning Commission would allow wind energy only in the RDT and they said we will work on that ourselves in the future and they kind of just scratched that and went out and sent it back to you guys and then like you said by January 13 you guys developed all the solar guidelines sent it back to them and that came to February where we had the proposal by Mr. Brown and here we are today. I'd be surprised if it came back also.

Mr. Coakley: Actually the only change was really with the small wind energy.

Mr. Sneed: No they changed solar systems to permitted in Commercial and CBD as well, we had put a Special Exception right?

Mr. Yost: Right.

Mr. Sneed: Those are the 2 things we sent to them, we sent and both areas they changed I mean frankly it raises the question why am I here. They decide it appears and we all know that this is not the case but the appearance is that they did in 2 meetings what they

apparently wanted to do a year ago, why did we have to spend a year, I am not throwing it out there for debate, I am saying look at the appearance of it, so the 2 critical areas that we decided and spent a lot of hours we are talking about, they simply overruled us and I mean I really have to ask myself why am I here and this is an important issue. A lot of things we do here are important, not as important as this I don't think, but I don't appear to have a consensus here to request that it come back, that would be my proposal but if I don't have support I am not going to make that request. So apart from that the idea that they are permitting monopoles in residential levels apparently for the sole purpose to accommodate everybody or nobody, Mr. Kuhlman said you can't have it in RDT only, the answer to that is have it everywhere, to me it doesn't seem right to me and so that is why I thought well maybe and since Mr. Kuhlman was of the impression that aesthetics was if not the primary reason the sole reason for this decision than I thought maybe we could help him think more about that, that is my thinking on it and I am not going to talk anymore about it but that is where I am at on this. You follow that right?

Mr. Coakley: Yes and there appear to be some incongruities where a solar farm in RDT would appear unsightly that and also I guess that it would be zoned RDT and taxed RDT but used for a commercial purpose, however it doesn't really reduce your tax base it may you might look at that and say well maybe we could rezone that to get greater taxes but there is no tax loss as a result of that, but that was part of the thought process so that was the slight incongruity and the other thing was that having monopole windmills in the RDT if you are driving into town would look aesthetically unsound, however that got changed also but remember we are appointed officials and they are elected officials and I guess with elected offices carry certain privileges but also certain negatives where if people don't like it than they can certainly not be reelected.

Mr. Sneed: And I hope I made it clear that what I am asking is to help them make a proven decision, bottom line.

Mr. Coakley: But like I said I have a feeling its going to be much ado about nothing because there are very few pieces of property in the residential section that can put a 50 foot monopole on their property and have a fallout radius equal to the height without hitting their neighbors property line or anything so when you look through this it sounds like gee every house in every subdivision is going to have a 50 foot monopole in their yard or something where in essence there is probably not more than 3 or 4 lots that could possibly accommodate this.

Mr. Sneed: Right I am a lot less concerned about that, what I am really concerned about is when push comes to shove and a central business hardware owner approaches the Commission and says 50 feet is not going to get me any wind that they will then yield again to 150 feet and that is what I am really concerned about frankly, you know they have changed their mind already to be accommodating so my biggest fear is 150 feet tower right in the middle of the CBD which is an issue but I will move on.

Mr. Yost: They may get blasted at this next Commissioners meeting or the public hearing for this on the 22nd. They are holding a second public hearing just because of the changes to it and the last time the room was packed with folks coming in to testify against that Ordinance as it was written so we will see what happens.

Mr. Stump: When is that one, on the 22nd you said?

Mr. Yost: 22nd. There is one thing in the Ordinance though that I do need to change and I need to match the submission requirements that it go before the Planning Commission

and everything, the wind system if it does with the same language we use for the solar in the CBD and the Commercial.

Mr. Sneed: Which part was that?

Mr. Yost: I think it was either Bob or you who crafted some language for the submission of the plans for to go before the whole Planning Commission, I need to make sure that is for the wind energy also, I don't think I added that in there.

Mr. Sneed: Yeah that would be good.

Mr. Coakley: Yeah that was a compromise on not having Special Exception and the Public Hearing and \$650.00.

Mr. Yost: Right that was good language so I just need to apply it there also.

Mr. Coakley: Well with the outcome my views on that Cal are you can lead a horse to water but you can't make him drink type thing. The only thing that rankled me a little bit was that the Planning Commission let them down and didn't make a decision where we had sent them 2 or 3 recommendations.

Mr. Stump: Yeah exactly I agree.

Mr. Sneed: Well you could actually read Mr. Kuhlman's statement the surrender line, you can read that statement to suggest that he was looking to return it to us again, if you read that what he appears to be asking is can we send this back again, those are my words but so is it worth asking him if that is what he meant and does he want to do it, I mean even if we don't request maybe Staff can just say do you have any interest in sending it back for any reason just so he knows he has the opportunity and I hope you make it clear to him that we are all unhappy and I can speak for Bob Bachman when I say he was unhappy as well.

Mr. Coakley: Now bear in mind based on the Public Hearing it may be remanded to us again.

Mr. Yost: This is true.

Mr. Stump: If I remember correctly from reading through the minutes of the last Public Hearing most of the and I believe it was the vast majority correct me if I am wrong the thought being to have looser controls on for example wind and other things.

Mr. Yost: Right the Public Hearing was basically on exactly what was submitted and how they say it was wishy washy I am not for sure if they had a Public Hearing on it and the recommendations but...

Mr. Coakley: I personally think if a few citizens see and hear that 50 foot monopoles are going to be allowed in the residential areas and some of the roof mounted fans or whatever you want to call them on their residences, neighbors and stuff and everything, that some people are going to come in and be possibly a little bit upset that they don't want their neighbor to have a 50 foot pole with a windmill 75 feet from their yard or house or whatever or something and that there is going to be some explaining I guess that well you have your fall radius and odds are your neighbor probably couldn't have one anyway but you never know who is going to show up at the Public Hearings or what is going to be said.

Mr. Yost: Whoever shows up is just there to beat up the Commissioners is what happens. If they are happy with it they don't show up but if they have an issue then they all show up.

Mr. Sneed: Thank you for letting me clear the record.

Mr. Coakley: Ok any other comments?

Adjournment

Mr. Coakley: Do I hear a motion?

Mr. Stump: Sure I move we adjourn.

Mr. Sneed: Second.

Mr. Coakley: All in favor?

All: Aye.