

**POOLESVILLE PLANNING COMMISSION
MEETING OF AUGUST 12, 2009**

PRESENT: CAL SNEED, BOB BACHMAN, LINK HOEWING, CHUCK STUMP AND GEORGE COAKLEY. ALSO PRESENT WAS TOWN MANAGER, WADE YOST.

Call to Order

Mr. Sneed: The Planning Commission Meeting of August 12, 2009 is called to order. Present are all Commissioners except for Mr. Coakley. The Town Manager is here. On the agenda tonight are announcements, citizens comments on agenda items, approval of minutes, new business we have the Brightwell Crossing Phase II County Road Dedication Plat approval, for old business we have the Meadow Park Longshore preliminary site plan as well as the alternative energy ordinance and miscellaneous ordinance changes.

Announcements

Mr. Sneed: Are there any announcements tonight?

Citizen Comments on Agenda Items

Mr. Sneed: Citizens comments on agenda items?

Mr. Kettler: Tom Kettler, 18201 McKernon Way. I just want to comment on I was here last month listening to testimony on the energy ordinance issue you are wrestling with and I guess I just wanted to as a private citizen give my comments on the and also as the ex president of the Chamber of Commerce and wearing several hats but I think it is important and I know you all are wrestling with the maintaining the historic integrity of downtown and I think that is important but I also think it is important to give --- the flexibility as it relates to solar energy and the technology we all talk about it keeps changing year to year to year to year so I know there was some discussion about possibly allowing solar type under special exception in the CBD and commercial and I would support that understanding that there are applications where it would make sense because it would not be visibly intrusive from Fisher Avenue and there are other applications which would not and I think you all recognize that so I just wanted to --- and I meant to write something up.

Mr. Sneed: Can you repeat that part again about the CBD and the commercial.

Mr. Kettler: There are 2 commercial districts that you all are looking at for the zoning having to do with solar, there is 2 issues, 1 is solar and 1 is wind, on the solar side I would support the special exception use of special exception for solar panels with the understanding that the special exception would be to deal with issues having to do with visual integrity in the historic part of downtown and certainly I wouldn't just want to blanket say you could put solar panels wherever you want and it is also an issue we wrestle with of course with our housing communities because we want to give people flexibility but we also understand there are individual issues. I think the wind, I don't think there is a way to really allow for wind turbine devices in the commercial district without creating visual problems and it seems like you all were leaning that way last

month but again that is just my own personal opinion as a Town resident so if you have any questions I would be happy to give them to you otherwise I'll go back to my seat.

Mr. Sneed: You support not permitting wind energy systems in the commercial district.

Mr. Kettler: Right yeah because I just think those wind unless there is some technology that I am not aware of but it is very hard I think to put up any kind of tower or any kind of tall device and I know it has been a subject of some discussion with the Hardware Store and I understand John's desire to do that but I think it is just hard to visualize downtown Poolesville with wind turbines without it would become a major I think it would become a major focal point so I don't think that is a good idea.

Mr. Sneed: For solar panels in commercial district you support them with special exception and as long as visual integrity is upheld in the CBD and commercial.

Mr. Kettler: Right and I kind of lumped them together I mean obviously the historic part but I think you also need to be sensitive about you know there is not I mean obviously there is a zoning line but I'd sort of treat the CBD and then general commercial as kind of the downtown area.

Mr. Sneed: So in terms of visual and solar panels in the commercial district I mean is it ok that we see them or are you abdicating that we maybe place...

Mr. Kettler: Well I think the --- technology is changing I think 5 years from now there may be technology where you can put them up and obviously you all can revisit the ordinance in 5 years but I think my intent at this point would be they would have to be not visually right there from Fisher Avenue not to say you couldn't put them on the back side of the building or you have a false roof built up on that for instance you might be able to put them back behind the wall up there somewhere were the air conditioning compressors are you know they wouldn't be sticking up on top but again obviously again the special exception gives some latitude based on site plan and you look at it and be a case by case decision based on what the circumstances are at that time.

Mr. Sneed: So as a builder I get a sense from you from knowing a little bit that you take a lot of pride in the Town of Poolesville.

Mr. Kettler: Absolutely.

Mr. Sneed: Not only building here but you live here and I think a lot of people in the Town would agree with you that it's a unique little village that we have here and it is important that we do maintain certain characteristics of the Town because largely in a large part it is all we have, I mean it is a comfortable, affordable place to live close to a major metropolitan center. Now people coming into Town for the first time or to visit us or to look at new homes that are being built in Town what is your sense of people coming in and seeing the downtown area that we have both the historic and non-historic area of the commercial district, what message does that send to people coming in for the first time and the weighing of the appearance of the Town of whether or not it has some impact as they come to visit us for the first time maybe looking for a home to buy.

Mr. Kettler: Well I think its, yeah and I think whether I am a resident or someone who is selling new homes which I will be doing and have done in the past I think certainly anything we can do to improve the visual look and feel of downtown I know that's a discussion that has gone on for some time and there has been all kinds of discussions about streetscape and ways to improve it and I know the Town has worked very hard I think the addition of Whalen Commons is fantastic and has given a focal point to the downtown area in Town and given an area where the Town folks can go and watch

movies there is lots of things but yeah to answer your question I think certainly traditional individual now again having said that you've got an eclectic variety of buildings in Town you've got some problem with characterization, some things are 5 years old, some things are 100 years old.

Mr. Sneed: So more specifically I guess I should be asking this question do solar panels enhance the visual aspect of the Town?

Mr. Kettler: Do solar panels enhance the visual, well no I think if you stick a solar panel on the front of the old Town Hall building, you know stick it right up there and it is the first thing that you see when you come in from Whites Ferry, I don't know that that would be, maybe there is a way to put it on the sloped side of the roof on the back side that faces north although that wouldn't be a good direction for a solar panel so that is why I think you have to be sensitive and I just don't think you can I mean my personal opinion is I don't think you should allow panels to go anywhere you want without any consideration and that is part of what the Zoning Board and the Planning Commission wrestled with all the time you know these kinds of issues, again I am just speaking as a private citizen now.

Mr. Hoewing: One aspect of the wind generators that I was able to finally check out a little easier and there is actually one (inaudible) and it doesn't make a lot of noise, it was running the day I went by Saturday and it was pretty quiet but there wasn't much wind that day either, they said it would generate power and it would spin pretty fast at 12 miles an hour I think the wind might have been going 8 miles an hour that day it was going pretty fast, but it is very tall and I don't see how you can put it in the center of town and do it without it being visible.

Mr. Kettler: I have seen small applications of wind almost like a --- but I think that is more of an experimental thing I don't think it generates power but where do you draw the line and how big is too big and how tall is too tall and that does get difficult, appreciate your time.

Mr. Sneed: Any other citizens comments?

Approval of Minutes

Mr. Sneed: Do I hear a motion for approval of the minutes of July 15, 2009 meeting or are there any changes or amendments to those minutes.

Mr. Hoewing: I move to approve them.

Mr. Stump: Second.

Mr. Sneed: All in favor?

All: Aye.

Mr. Sneed: So the minutes have been approved for the July 15, 2009 meeting.

New Business

Mr. Sneed: New business Brightwell Crossing Phase II.

Mr. Yost: John will take care of that.

Mr. Strong: We had a series of plans submitted to the Planning Commission for review and adoption. These are dealing with Jerusalem Road and that road is (inaudible) there is 5 --- of right away...

Mr. Kettler: Yeah we are platting the right-of-ways for what the County requests normally they are looking for a minimum width right-of-way it looks like it is ultimate 70 feet so we will dedicate 35 from the center but at some point Jerusalem Road is completely, if you read through the plat most of it can go completely off the Brightwell

Crossing --- so obviously --- road. The property line actually goes all the way across the road so we are dedicating in some cases the entire road surface plus the property on the Brightwell Crossing side enough to meet requirements. The intent to bring these to you before tonight is so that John can get them (inaudible) plans are done.

Mr. Strong: The usual --- for down --- the right of way for the county...

Mr. Yost: It reads the same thing on page 1.

Static coming thru recorder

Mr. Kettler: So there is not a lot of improvements but they classify it as a rural rustic road (inaudible) any questions?

Mr. Bachman: Has anything changed with regard to the access to your subdivision off Jerusalem Road?

Mr. Kettler: No it is all per the plan that you all receive and I know there were some discussions about how we were working the connection up at the northern part of the property and all of that has (inaudible).

Mr. Bachman: So does that mean there still is a slow down lane for lane turning into the subdivision.

Mr. Kettler: No the issue was they did not want the slow down lane, I had originally requested one and the County did not want that and we went back and forth and I think you all...

Mr. Yost: We sent the letter.

Mr. Kettler: And then eventually we said if that is what they want that is what they want, we attempted to, their approach is they don't want you do to anything more than you have to, they don't want sidewalks, they don't want curb and gutter.

Mr. Hoewing: So right now on the existing --- what would you call that a pullover lane it is not a...

Mr. Kettler: Oh you mean at the Woods of Tama, yeah I would call that a deceleration lane, other than there is a slight acceleration lane and that is what I am attempting to do at the north end although they won't do that.

Mr. Hoewing: Oh they won't do that.

Mr. Kettler: No they really didn't like it and as it turns out they really I heard them complain about what is out there now after we built it several years, they should have thought that even though it is approved that they would have preferred it not having deceleration lanes, I mean I drive it everyday so it is appropriate.

Mr. Strong: The County is the --- guardian of the rustic road --- therefore they do not want (inaudible).

Mr. Hoewing: Well another compromise is put a windmill out there, take care of them.

Mr. Kettler: Our $\frac{3}{4}$ lots will allow that there.

Mr. Stump: Well there it is fairly mostly on your property anyway, I won't go there.

Mr. Hoewing: But it is funny because on the rustic roads they don't want to make any improvements yet they want these easements, weird for utilities or what purpose you don't know.

Mr. Yost: They cut into the park actually.

Mr. Kettler: Right they want it 35 foot from centerline, the right of way there its if you are standing with the road the (inaudible).

Mr. Strong: The rural rustic road --- transportation (inaudible).

Mr. Hoewing: And the rustic road --- widen the road.

Mr. Sneed: So the Town is supports all this and everything looks to be in order.

Mr. Yost: Yes (inaudible).

Mr. Sneed: Ok do I hear a motion to approve the plats?

Mr. Stump: I move we approve the plats as presented.

Mr. Bachman: Second.

Mr. Sneed: All those in favor.

All: Aye.

Mr. Sneed: Ok the plats are approved thank you.

Mr. Bachman: What is in these cookies Tom?

Mr. Kettler: (Inaudible) they are oatmeal actually.

Mr. Bachman: This unanimity has to be caused by something.

Mr. Hoewing: You need to try those on the County then you might have got what you wanted.

Old Business

Mr. Sneed: Ok Meadow Park Longshore Preliminary Site Plan.

Mr. Yost: Mr. Longshore is not here but I know that there are some folks here who wanted to see this plan and they've come the last couple times and Mr. Longshore has promised that he would be here to present his plan so it may be worth John just going over it, we have some publications on it and have the opportunity for the folks that are hear to comment on it.

Mr. Strong: All right...

Mr. Hoewing: Are we reading between the lines you don't like it.

Mr. Strong: I will run over --- comments and will run through them and talk about the plan. First of all the issue of open space is addressed and requesting a waiver for that. Forrest conservation they are requesting (inaudible). **Static coming thru John Strong's microphone.** The road right of ways are not in compliance with --- cul-de-sac right here requires a 60 foot right of way (inaudible). The circular sections (inaudible). Maryland State Highway (inaudible). Lots 4 and 5...

Mr. Sneed: Can I ask you a question about that. We anticipate that that would be acceptable to that.

Mr. Strong: (Inaudible) I do not know what other --- State Highway has.

Mr. Yost: What about site distance for the main entrance where the cul-de-sac is.

Mr. Strong: We provided that also and both show the site distance being ok, it was signed by them. Typically what happens is State Highway comes back and verifies this.

Mr. Sneed: How close to the property line can the driveway go is there a limitation on that.

Mr. Hoewing: If he increased the circumference...

Mr. Strong: Let me back up there wasn't a minimum distance --- State Highway but the driveway that serves this property in other words (inaudible).

Mr. Hoewing: But if he satisfied .5 according to our code what would happen to his plan would it blow it up basically. If he does come into compliance what would happen it would blow this plan up right. So why are we even talking about it. I mean you got a 28 foot wide road here I don't know, continue.

Mr. Strong: Lots 4 and 5 they are served by a and 5 has a cutoff (inaudible). It is served by a joint driveway (inaudible).

Mr. Bachman: Is a joint driveway the same as a pipestem?

Mr. Hoewing: Yeah.

Mr. Strong: **Static coming thru microphone. Transcriber can only pick up pieces of presentation.** We are waiting for (inaudible). Probably should be looked at a little bit more. And it still flows this way over here. Sewer line section, it has the sewer line running down Fisher Avenue which also (inaudible). There is a manhole --- on Westerly right here, down this way there is a manhole and the --- falls that way so it will run the pipe directly across from it that way you couldn't --- on here you would have to (inaudible). I will just run over a few of these what is asking for waivers. On site open space (inaudible) providing tertiary streets that is what that right of way --- and the waiver for on site parking (inaudible).

Mr. Sneed: That is half acre that area.

Mr. Strong: Total size of the property is 3.4 acres dedicating 3.05 acres to lots and street dedication of .346 acres.

Mr. Sneed: This is the second plan, this is the second plan we have seen?

Mr. Yost: It really didn't change much.

Mr. Strong: What happened was the stormwater concept (inaudible). Once they got stormwater concept it changed the way we were handling the stormwater. Also they got comments back from the State Highway and...

Mr. Sneed: So this zoning is probably we probably talked about this at some time when we saw the drawing, but this zoning has been in place for a long time is that it?

Mr. Yost: Pretty much that is the concept.

Mr. Sneed: And the size of the lots, so it could be that whenever this was zoned the median house size was 1800 square feet or something like that right just throwing a number out there, but assuming there were no changes, waivers, or changes or exceptions given it would seem to me he needs to either reduce the size of the houses significantly or reduce the...

Mr. Yost: Well houses have nothing to do with the size of the lot, you have 3.5 acres he said well ok I can put 6 houses in ½ acre zone, so that is what he applied for in the water allocation. And as he starts presenting the plan like this --- streets and stuff, the other part eat up too much of the property he may not be able to get 6 lots on there.

Mr. Sneed: That is what I mean in order to get that many on there.

Mr. Bachman: The house sizes only matter if...

Mr. Hoewing: ½ acre is not going to change, he has a ½ acre for each of those.

Mr. Bachman: Is he proposing 5 houses?

Mr. Hoewing: Is he applying for a waiver for the 6.5 the cul-de-sac size and the minimum size of a...

Mr. Yost: No and we had given modified tertiary (inaudible) he had a different design, we didn't like that so --- the rest still wide open and I think the road was funny, it had like 35 foot right of ways beside the sidewalk (inaudible) and the cul-de-sac itself isn't that set the diameter by the Fire Safety Code.

Mr. Strong: The Fire Department said (inaudible).

Mr. Hoewing: But he is also not putting any sidewalks in.

Mr. Strong: These 3 will have sidewalks along here and there will be (inaudible).

Mr. Hoewing: Oh ok so he does have sidewalk.

Mr. Bachman: And a total of 6 homes, 2 of them on a shared driveway.

Mr. Sneed: How far are the sidewalks from the street side?

Mr. Strong: (Inaudible).

Mr. Sneed: Including Fisher Avenue?

Mr. Strong: It is --- there because the roadway bends a little bit (inaudible).

Mr. Bachman: You made 16 comments about this subdivision plan in your letter but some of them are addressable, some are statements if he meets Maryland requirements, what are the major problems on this plan from your first inspection?

Mr. Strong: (Inaudible) the other problems that I did see is --- out of this subdivision and that is a --- addressing Maryland State Highway and ask them why, because State Highway still hasn't gotten back (inaudible). I don't have the piece of paper that says what was the result of (inaudible) and also this subdivision. As you all know this road ends right in this area if you are going 30 miles an hour it won't create a problem, if you are going 45 it may. The other issues that State Highway has put back on us is we close down to here (inaudible). The other major issue is the cul-de-sac issue --- the smaller cul-de-sac and (inaudible) some kind of process for addressing that. Then the other issue although the (inaudible) is the pipestem issue. Lighting still needs to be looked at, that may present some issues because (inaudible) the Carl Baker property over there, I don't know how it will play out I haven't looked at it. We also have water getting to the rear here (inaudible). He does have a stormwater concept plan approved and (inaudible). We did not check the size of the houses, that is not part of our (inaudible).

Mr. Bachman: Is this correct that the driveway is right on the curb.

Mr. Strong: If you follow my finger where the road deadends (inaudible).

Mr. Bachman: So it turns right at the driveway.

Mr. Stump: The size of the houses being compliant what do you mean by that.

Mr. Strong: I think by Code you are allowed a specific lot area, whatever that number is, we didn't check (inaudible).

Mr. Yost: Gary said the width of the lots so they can build the houses in a row.

Mr. Strong: We can check those.

Mr. Yost: Has to leave 100 foot I think it is.

Mr. Strong: (Inaudible) we had a laundry list of things. At that point once we get through your comments and the developer --- we will look at lot sizes and see if (inaudible).

Mr. Bachman: The new driveway entrance from the curb is that permissible.

Mr. Strong: If the Maryland State Highway says its permissible, it is permissible. The Town doesn't have jurisdiction over that this is coming from State Highway.

Mr. Bachman: But does it have jurisdiction about whether it wants to allow a potentially unsafe driveway entrance in a new subdivision.

Mr. Strong: The Town would have the authority to voice its opinion to State Highway.

Mr. Yost: Just like we did on Elgin Road with the Kettler property.

Mr. Bachman: Well who approves the subdivision?

Speaker: We do.

Mr. Yost: State Highway signs off on it also.

Mr. Bachman: You make it sound so --- if we don't approve the subdivision.

Mr. Strong: Well if you don't approve the subdivision...

Mr. Bachman: So we have absolute decision making about whether we would approve that design.

Mr. Yost: Sure right.

Mr. Strong: I am taking it from the jurisdiction of who controls the intersection.

Mr. Bachman: Right I am looking at it more about the majority of the homes or all of the homes except that one are accessed by 1 entrance in the cul-de-sac and I don't know how safe that is but it looks especially more safe than the 1 right down there. I mean I would like to put on the lots --- on land I own why not but that doesn't mean it is going to happen that way. And if he came in and tried to access Lot 1 via a driveway off the cul-de-sac he would lose a house.

Mr. Strong: That is correct.

Mr. Bachman: So it is truly about wanting another house. I mean that is one way to look at it, that is not the only way.

Mr. Strong: (Inaudible).

Mr. Bachman: And why didn't the gentleman show up tonight? Is this the 2nd time he hasn't shown?

Mr. Yost: Third.

Mr. Hoewing: At this point Wade we are essentially going back to him and saying this is not an official response but here is our reactions to this or what are we supposed to be doing with this at this stage?

Mr. Yost: There should be some official reaction because it is not really a --- plan and we are doing the work with them like some developers usually submit a site plan so I would think it would have to be a recommendation.

Mr. Bachman: So I am confused we are now looking at an official preliminary site plan.

Mr. Strong: This is the --- official preliminary site plan.

Mr. Sneed: We could recommend this letter that you have written to us has that been copied to them or have they been notified all these things. So we have some choices we could do nothing and wait until they respond, we could reject the site plan, we could accept or reject with comments, that is pretty much our options.

Mr. Yost: Yep.

Mr. Hoewing: If we do nothing he is going to come back with a site plan that basically repeats this so I think you better do something. I mean some of these are pretty obvious I don't see how unless somebody can --- some there is no impact on safety you know the cul-de-sac size and the size of the road it doesn't make any sense to approve them like that, they have got to come into compliance that is all.

Mr. Yost: The length of the cul-de-sac is --- stacking up emergency equipment I would imagine.

Mr. Sneed: It makes sense to reject the plan.

Mr. Hoewing: With specific comments.

Mr. Sneed: And not having information from the State Highway Administration so do we have to vote on this a motion or do we just...

Mr. Yost: I think so yes it could be denied a waiver which they'd take them right back to the Zoning Board with no idea what it is for.

Mr. Hoewing: He is asking for a waiver for what specific, he didn't ask for a waiver for...

Mr. Yost: For the length of the cul-de-sac and the length of the stem of it also.

Mr. Hoewing: He did ask for a waiver for that.

Mr. Sneed: And forestation too.

Mr. Hoewing: This is one where it is not an issue.

Mr. Bachman: But Wade denying the waivers would suggest that we are serious about the subdivision plan but we are just not sure about the waivers but rejecting it would say that we have serious doubts about the entire preliminary plan.

Mr. Yost: That is exactly what it would say.

Mr. Bachman: So I am not in favor of denying the waivers I think that invites the same plan to come back in at some point with minor tweaks so I you agree with that?

Mr. Yost: No I don't I think that you just cannot have it extend their driveway, you have to put the cul-de-sac appropriate size, that right there would make the other lots diminished in size where he wouldn't make his ½ acre lot, he would have to change the...

Mr. Bachman: Ok so that is the clarification I am looking for, you believe that denying the waiver is a more powerful motion because it basically means the design proposed can't be presented again.

Mr. Yost: Or it could be part of the motion.

Mr. Bachman: Could be both ok.

Mr. Strong: --- not in favor of waivers or pipstem lot configuration.

Mr. Bachman: Nor the separate driveway entrance on Fisher Avenue.

Mr. Yost: Exactly (inaudible).

Mr. Stump: What are your thoughts in particular on an accel, decel lane that is not even worth mentioning in your comments was it.

Mr. Strong: Maryland State Highway (inaudible) what they say we don't know that (inaudible) that Maryland State Highway wouldn't say ok you are fine, you are ok, if that were to happen, once you know the response (inaudible).

Mr. Yost: Hey Cal some want to hear from folks in the audience if anybody wants to comment on it.

Mr. Sneed: Anyone in the audience have any comments they would like to make please approach and give us your name and address.

Mr. Brown: Thank you Jim Brown 19421 Fisher Avenue a couple houses down. The only comment I have after all the very good discussion tonight is that I am a little bit concerned that we would make a statement as part of the denial or rejection against the pipestem driveways when they are indeed allowed in our Code, if that is a decision that you guys decide to make I can understand that but at the same time too I don't know if that's, you have a host of other issues to address with this property, I am not sure where rejection on the basis of a pipestem driveway is if that should be part of the mix. That is all I have to say.

Mr. Sneed: Thank you.

Mr. Barnes: My name is Don Barnes I live at 19735 Selby Avenue, as we know that is a pipestem and we all know there are huge issues associated with pipestems and I am vehemently opposed to any pipestems being approved on any plan in Poolesville. And I guess I would also like to know what is the definition of a shared driveway.

Mr. Hoewing: 2 lots on a private driveway or a private right of way.

Mr. Barnes: Who owns the property?

Mr. Hoewing: It says that they are shared.

Mr. Barnes: Well I think that opens up some of the issues is that to me shared driveways both people sharing the driveway could be co-owner, equal partners of this property or they each own a half of one and they share an ingress, egress easement, now when in this case you may issue a special exception that may very well constitute a taking of the other

persons property which we know is --- and there are issues associated with that. Taking does not have to be physical so I think there is, you know what is going on, I would be very careful (inaudible) in my mind and what you know also listening to you guys here and the Commissioners our suggestion protects amendments which we were told none would be made until the Master Plan was rewritten.

Mr. Hoewing: We never said that.

Mr. Barnes: The (inaudible).

Mr. Hoewing: Who said that?

Mr. Barnes: Excuse me --- was said.

Mr. Yost: I don't ever recall that...

Mr. Hoewing: The Commission can't do that unless we vote on that and nobody voted on that.

Mr. Barnes: Go back and look at the minutes of the meeting.

Mr. Hoewing: I will that is not true. We cannot --- the present based on future potential because I don't know what the Commission is going to do, we cannot say I'm not going to do something because the Commission might do something, I don't know what they are going to do so we can't do that. Right now it says there is no special exception required, it does say pipestems can be approved, it says that in the regulations.

Mr. Barnes: It was our recommendations for a text amendment we were told they are not going to accept any until the Master Plan is rewritten that is what I am saying (inaudible) our recommendations...

Mr. Hoewing: Well what are you saying that has an affect on this than I don't get what your point is.

Mr. Barnes: Well some of it had to do with dealing with pipestem driveways I think you were at that meeting.

Mr. Yost: We do have a draft ordinance about the pipestem driveways.

Mr. Hoewing: I know but that doesn't bind this, it has nothing to do with this. We can do a lot of changes in the future but those don't --- today's decision at all and it does say pipestems are approvable and there is no special exception required it does not say that. I am not arguing for it or against it I am just saying the Town has it in the regulations right now you can approve actually the stuff you can approve it says that in the plan that it is allowed.

Mr. Barnes: Well you also have to consider all the peculiarities of the property as well and those are the legal contracts as well as all the zoning as well.

Mr. Hoewing: All it says is you can do this provided that the proper showings made that such access is adequate to serve the lots for emergency vehicles and for installation of public utilities, is accessible for other public services and is not detrimental to future subdivision of adjacent land, that is what it says, those are the guidelines for when we approve this or disapprove it, if it has any impact on any of those and we can make a showing then we could say that we can't approve them. Right now based on the way he has laid this out I think it is very clear that emergency vehicles would have a hard time so this can't be approved the way it is, there is no question about that. But that is not a pipestem issue that is the cul-de-sac issue.

Mr. Sneed: But it could be referenced if we wanted to, we could reference the pipestem as well as we reference other things like the site plan in general or other things that we make a recommendation or rejection right.

Mr. Hoewing: Reference them in what sense?

Mr. Sneed: Well I heard someone say earlier we could reject the plan with serious reservations about whatever we had reservations about and include the pipestem as a reference, I mean I am not suggesting we do or don't I'm saying we could.

Mr. Hoewing: Unless it has some impact on those issues I don't think you can use that as a reference point.

Mr. Sneed: I'm sorry we could use it.

Mr. Hoewing: You can't use it I mean it has specific guidelines as to when you can say this is a problem and those are the 3 things nothing else.

Mr. Bachman: But I think Mr. Barnes is appropriate in bringing to the Commission his personal experience with the pipestem, I think that is perfectly appropriate. And to give us in a way a heads up that future pipestems could just increase the probability or the possibility of these kinds of problems.

Mr. Hoewing: It could but you know how many other pipestems we got in town quite a few.

Mr. Bachman: But what I am saying I didn't interpret his comments as saying that we should make a statement against pipestems they are in the Code.

Mr. Hoewing: I think he is trying to influence whether we approve this or not.

Mr. Bachman: I don't agree with that.

Mr. Hoewing: What his experience is has nothing to do with this pipestem issue right now.

Mr. Bachman: I view this as him taking the opportunity to reiterate the experience he has had with pipestems.

Mr. Hoewing: And that is fine but it has no affect on this at all.

Mr. Barnes: I'm informing not influencing you.

Mr. Bachman: It is a subdivision plan that contains a pipestem so he has a right to comment on it.

Mr. Hoewing: I didn't disagree with that I am just telling you that there are 3 requirements, he talked about special exceptions there is no special exception here.

Mr. Bachman: I understand that and I appreciate that clarification.

Mr. Barnes: But there could be.

Mr. Hoewing: There could be but there isn't right now.

Mr. Barnes: And you've proven the fact that you will issue them on pipestem driveways that are contrary to...

Mr. Hoewing: That is not approving the site plan, we are talking about 2 different issues, you are talking about something happening after the site plan is approved and the development...

Mr. Barnes: And I think you are supposed to think about the harmony of the neighborhood, peaceful, co-existing, to do that you have to think forward. Maybe that is part of the problem.

Mr. Sneed: Thank you. So we are back to we can deny any of the waivers or specific waivers that he is requested and we can reject the site plan with serious reservations about the overall site plan or specific items we may have reservations about.

Mr. Stump: I lean towards denying the waivers and sending it back to him on that ground.

Mr. Sneed: Is that a motion?

Mr. Yost: Did you want to add the driveway off of Fisher Avenue too I mean there was concerns about that.

Mr. Sneed: Well we have reservations about the road width, the diameter of the circle, the driveway access at least those things right.

Mr. Strong: Those are what we have as far as the waivers go (inaudible) forest conservation (inaudible) onsite parking.

Mr. Yost: So he didn't even request a waiver for the length of the stem of the cul-de-sac so that is it doesn't meet Code period.

Mr. Stump: So it doesn't need a waiver that just doesn't pass.

Mr. Yost: Right and the size of the cul-de-sac itself.

Mr. Bachman: On site open space, forest conservation, number 3 was...

Mr. Strong: (Inaudible).

Mr. Bachman: And 4 on site park facilities.

Mr. Yost: But that is a typical waiver right there also, the pay a fee in lieu of the park.

Mr. Bachman: Is that the same kind of waiver that Mr. Jamison asked for for the condominiums down by the Elementary School.

Mr. Yost: Yes.

Mr. Bachman: Ok. Well I will make a motion that we reject this preliminary site plan due to the unacceptability of the waivers for the on-site open space, the forest conservation and the providing a reduced width tertiary street, in addition to rejecting it on concerns about the safety of the separate driveway to access lot 1 and additionally reject it based on concerns about the circumferential width or dimensions of the cul-de-sac regarding public safety and access by emergency vehicles. I will never be able to repeat that.

Mr. Sneed: Do I have a second?

Mr. Stump: Second.

Mr. Sneed: All those in favor.

All: Aye.

Mr. Sneed: Thank you John.

Mr. Hoewing: Cal I do want to clarify that I don't support pipestems but we have a responsibility to live with the regulations we have right now and we have to follow the Code the way it is not the way we wish it would be so that is all I am trying to say, I don't like pipestems either and I hope we can approve a text amendment that gets rid of them but it is in there today so we can't do much unless there is 1 of those 3 requirements is violated and maybe we could find something here that does violate those 3 standards but so far I haven't seen anything.

Mr. Bachman: In light of that Link does the Master Plan process provide for creating a list of codes that we think need to be reexamined.

Mr. Hoewing: Well normally we don't do anything with the zoning code and that kind of thing with the Master Plan that is a separate process. The Master Plan is developed first and then if there are things that come out of that and there may be people are --- the Master Plan we had a hearing on it, we have citizen input, we are going to have some focus groups we may actually encounter some things during that process that lead us to say the Master Plan is adopted but there are 3 things we want to change as a result, that is possible, but it is not --- nothing is necessarily changes in the Code because of the Master Plan.

Mr. Bachman: Is it possible at the end of a certain period of time for example a 12 month cycle on the Commission that we ask the Town Engineer and Town Manager to suggest Codes that we think ought to be examine based on the experience.

Mr. Hoewing: Well the Barnes have proposed a text amendment.

Mr. Yost: Right and we have proposed our own that is similar, doesn't do quite what they want it to do but its an investigation at this point.

Mr. Hoewing: So the issue is going to be...

Mr. Bachman: Then we had John come and suggest a revision for what the Code for road construction.

Mr. Yost: We do I mean as we go through it every year we revise different portions of it.

Mr. Bachman: Ok.

Mr. Hoewing: And there is also no reason if the Planning Commission looks at things and gets input from the citizens that they couldn't make a recommendation to look at something like that so if you guys think we ought to look at something like that then sure make a recommendation to the Commission.

Mr. Sneed: Can you make recommendations to folks who bring site plans to us that we don't like?

Mr. Yost: Well you have to tie it...

Mr. Sneed: No I mean I can say it is allowable in there and they are perfectly allowed to do it by Code but can you make a recommendation as we do in a lot of other areas that Town experience has negative experiences with them and we prefer not to see them where possible or whatever the recommendation might be. I mean is that prohibited?

Mr. Yost: I guess you could make a recommendation and they could just decide not to follow it.

Mr. Sneed: Right I mean that happens all the time with you, people come to you rightfully so to get guidance about what is and isn't preferred and acceptable right?

Mr. Yost: True but I use the Code as the guideline.

Mr. Sneed: Anything else on that? Alternative Energy Ordinance.

Mr. Yost: Ok I cleaned up and I seem to have captured what we left off at the last meeting. Everybody has a sample use chart revised and is everybody's recollection that the use chart on the very top is correct or there were 2 issues that were outstanding, solar systems on the commercial and CBD.

Mr. Sneed: All right lets start with well I could just start with does anybody have any comments about the chart as it is filled in so far, in other words the permissible that have been placed in the blocks is based on last months meeting, the special exception block for solar systems off site for RDT and 2 questions marks, does anybody have any discussion about that before we move to empty blocks?

Mr. Bachman: I do have a comment. Since the last meeting I took a look at the Department of Energy, the United States Wind Resource Map that shows the yearly electricity production estimated for small wind turbines and they grade wind power classes in various parts of the country from 1 to 7, 1 being the lowest consistent level of wind to support a wind turbine. We are centrally located in a number 1 zone which makes me wonder why we are spending any of our time talking about permitting wind turbines when they would be more of an amusement than a efficient and productive generator of electricity so I would recommend that we consider pulling the P the permissible for RDT on the wind turbine, we don't have any wind.

Mr. Stump: In general I would like to see the P stay in RDT in SE for wind in CBD and commercial. The fact we have wind or not is not being really pertinent to the decision we make, it is pertinent to the person who wants to make use, most likely those are at a macro level, there are plenty of wind turbines doing good use up the road off of 27, you can go look at it because I got pictures back on the 28th so whether its going to generate sufficient energy or not I don't think is really applicable to our decision, if the person wants to waste the money on it its up to them. Again I like the special exemption so they can get treated on a case by case basis on their own merits in the CBD and the commercial district. On solar I like the idea of special exemption in the commercial and CBD.

Mr. Hoewing: So you got to --- the question marks out of the SE?

Mr. Stump: As opposed to just (inaudible) SE as well for small wind those are my preferences.

Mr. Sneed: Small wind special exception where?

Mr. Stump: Commercial and CBD.

Mr. Bachman: Wade what is the correct terms is it special exemption or special exception?

Mr. Yost: Exception.

Mr. Bachman: Ok.

Mr. Stump: So assuming on both of those items the wind for the solar, the use of special exemption, exception seems to fit into most of the, many of the other already identified special exception that we already have in the use chart, for example antennas for cellular communications, cable television systems, power transmission, --- strips and airports, that is probably a little outside the norm, radio television cable broadcasting stations and towers, all of those things are allowed to go through the special exemption process they are not explicitly denied so we are at least giving the property owner the ability to make their case on a case by case basis on its own merits. I don't see where the wind or the solar are particularly different than all those other allowed or already identified special exemption cases in the use charts.

Mr. Sneed: I guess the thing I would say about special exceptions in your comments would be that looking at the ordinances as they are, using historical aspect, I guess I would point out that through the recent times more over the last year or two in this particular Board there has been an evolving sense of special exception and use of the category and acceptance of it in our as a guide and I would just point out that that has been an evolving appreciation for the special exception category not to diminish your comments we appreciate those. Would you rather go to the blocks that Chuck was just referring to, you want to move ahead and do the large wind energy system, they are all blank, large wind energy system is blank all across is that because we decided to leave them blank already?

Mr. Yost: That is correct.

Mr. Sneed: Ok that is right, right, Link?

Mr. Hoewing: This is a struggle because I went and looked at that thing I was prepared to because it is quiet but then I looked at how striking and tall it is and it is just hard to avoid it, you know it is just too big so in the center of Town it would be pretty hard to not notice it, that doesn't mean over time that people would just get used to it because it would happen probably if we approved it. But if we do a special exception it really

means that it will be approved that is what we are telling our family hardware store owner so the issue with the special exception to me is that it does say preponderance of the evidence but it says that all it says in the guidance is that it should not affect diversity of the general plan for the physical development of the Town...

Mr. Bachman: What page are you on Link?

Mr. Hoewing: On 4 of the zoning code, which is tab 4 in your binder and preponderance of the evidence means they have to really have hearings and really put as much evidence as they can to support that it still is a fairly loose standard so it probably means you are going to have a hard time saying no if somebody applies for it. The other part of it says that the proposed use will not adversely affect the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties in the general neighborhood, well where he is I don't think any approval there is going to claim because they are not that close and the gas station is not going to care so it pretty much means that we've approved John's windmill but I just want to make sure we are aware that that is what is going to happen as a result of this. I guess I am still having a hard time figuring out, I agree with your comments about whether or not there is wind here that is really somebody's decision to spend money and waste it if they want to, same thing on solar by the way there is probably the same kind of calculation but to be honest with you I just don't see how in the center of Town in that area that it makes sense to have it so I don't think I could even support a special exception on those 2 cases.

Mr. Sneed: You are talking about the...

Mr. Hoewing: Where our recommendation was on small wind energy systems I don't think I can actually even approve an SE for those 2 because it just means its approved and again after looking at it and I sat there and watched it, it is quiet, its not a problem from that standpoint, but the fins are 12 feet so it is too hard to miss I mean you are going to see it in the middle of Town and like I said over time people would probably get used to it just like they get used to anything but it doesn't really seem to fit in the middle of town and on large wind energy systems those things are even bigger I can't see any place I mean RDT possibly but we don't have much RDT land and it is mainly out on Cattail Road.

Mr. Sneed: That line has already been dealt with sufficiently we don't have to discuss that right.

Mr. Hoewing: Well if everybody agrees I'm not sure has everybody agreed that we are not going to have anything there?

Mr. Sneed: I thought that was my question to you previously, last month we...

Mr. Hoewing: That is what we said ok then. So in solar systems I agree that it should be special exception I think those are different, I think you could make them, for example there is already shingles that are solar capable they can generate electricity and they would not be noticeable at all if they put those up so you don't have to put even panels up you can actually put shingles there is also steel plates that are also capable of generating solar power so there are a lot of ways to do this is a non obtrusive way or put it on the back of the building so I think that is different I think I would support an SE for both of those.

Mr. Sneed: Did you have a comment or maybe I missed it on the small wind energy systems in commercial?

Mr. Hoewing: That is what I was saying I don't think I could support that.

Mr. Sneed: Either commercial or CBD?

Mr. Hoewing: Yeah either one.

Mr. Sneed: And I said that at the last meeting and I still say that and I agree with that so Chuck you still have a strong sense of the special exception for small wind energy systems in the commercial district and the CBD or was it just the commercial?

Mr. Stump: Commercial and CBD.

Mr. Sneed: So we do not have a consensus, go ahead Bob.

Mr. Bachman: We are really moving from one technology to another can we have a motion on each of these lines of the matrix.

Mr. Stump: I think that is a very good idea.

Mr. Sneed: Sure.

Mr. Stump: Want to go with the easier one first.

Mr. Bachman: Yeah I would like to make a motion that we accept the absence of any allowance for large wind energy systems produced for off site use in the current sample use chart.

Mr. Stump: I second.

Mr. Bachman: Second well I made the motion I can't...

Mr. Stump: Just to clarify for the record we might want to indicate exactly what the basically we are saying that no large energy in any of the zones.

Mr. Bachman: Ok no large wind energy systems produced for off site use in R1/3, R1/2, R3/4, RMUL, RDT, Commercial or CBD.

Mr. Stump: Second.

Mr. Sneed: All those in favor?

All: Aye.

Mr. Bachman: I would like to make a motion that we that for small wind energy systems for on site use that we have no permissible or special exception for R1/3, R1/2, R3/4, RMUL, Com and CBD but that we have a P for RDT.

Mr. Hoewing: Second.

Mr. Sneed: All those in favor?

Mr. Hoewing, Mr. Sneed, Mr. Bachman: Aye.

Mr. Sneed: Any nays?

Mr. Stump: Nay.

Mr. Bachman: I would like to make a motion that on solar systems on site use that we have the following designations of "P" in the R1/3 oh wait a minute I don't want to make that motion, I withdraw the motion.

Mr. Hoewing: On that one I would approve all of the my motion would be we take all the P's that are in there as they exist and put SE in commercial and CBD.

Mr. Sneed: Do I have a second?

Mr. Stump: I will second.

Mr. Sneed: All those in favor?

All: Aye.

Mr. Sneed: Discussion go ahead you want to start.

Mr. Bachman: Yeah I would like to discuss this. I think Link made the most pertinent point of the evening and that is that not necessarily by design but by experience and affect the special exception designation is a green light in every category not just in this, this is what is happening to codes in communities of every size across the country. I'm

opposed to a special exception for solar systems on site use in the commercial district and the CBD for 2 reasons, one I believe our responsibility as this Commission is to support and maintain the integrity of the historic character of the downtown, we only have 3 exits in Poolesville, maybe we have 4, we are in the country number one we have good schools...

Mr. Sneed: I'm sorry what?

Mr. Bachman: We are in the country, we are a rural community, we have good schools, we have good real estate and we have a potentially quaint downtown and those 3 things since the country is not a variable we can impact, how the downtown looks, the quality of our schools and the quality of our real estate are all in a symbiotic relationship, we detract from one we could detract from the amount our ability to sell our property at good prices, and to draw the people out here who keep students populating our schools and giving us the programs we need for this Magnet designation so unless my preference would be to leave it without any designation and if someone knocks on the door than that defines the special exception. You let reality define the opportunity for a special exception not the possibility that there may be one, I don't believe there will be any but if there are I think then they ought to come and knock on the door and ask for it to spite the fact it is not permitted and then maybe the Planning Commission will decide to revise the Code.

Mr. Hoewing: Or the way you could handle it I don't know how feasible this is but the standards for special exception right now are part of the problem I think they are just too loose so it could be that we should take a look at the special exception and change that so it actually is a little more tight.

Mr. Yost: The Town could have specific regulations for special exception on solar panels, make aesthetics a part of it, anything of historical nature, all this needs to be tied into a special area for that special exception.

Mr. Hoewing: Because the other thing I would add Bob to what you said I agree with all of the assets of the Town but I think there is a 4th and that is the health of the businesses in the Town because we are so far out, having viable businesses is critical so anything we can do if we can make their business more efficient by letting them try things like this that don't interfere with these other 3 characteristics that you mentioned then I think we should try to do it because how costly it is to maintain a business out here a lot of these guys are on fingernails right now its not easy, it is just not a big population to support the business. Now the issue is if we do approve this without SE what I worry about is essentially you would have to go through a revision process when somebody comes in and wants to because it is not allowed, they have to get us to approve a special exception which could take many months so it might be better and I know this is not going to satisfy John but essentially I think we are all at least 3 out of the 4 of us don't want to approve the windmill anyway, I think we might be better off asking the attorney to come up with a better way to define special exception so it is tighter, so then we would maybe feel more comfortable with a special exception than you do right now. If that doesn't help than I think we ought to vote on it because I think we should have at least on the solar system have a special exception.

Mr. Sneed: Well doesn't that suggest that we should leave them the commercial and CBD districts without the permissible, with the idea that sometime in the future we will be tightening up the special exception guidelines.

Mr. Stump: No I disagree (inaudible) the basic outlook on special exemption because if I say it is not permissible in that area you are explicitly taking away people's ability to use their property, explicitly taking away their property rights. It is black and white the point of the special exemption and I think certain --- should be gray and give us leeway so we can deal with these things on a case by case basis on their own merits, that is the whole point of special exemption. Now do we want to put some initial words in to clarify the specifics for the energy uses I'm in favor of that, I would be surprised if it ends up being a whole lot more specific frankly but the look and feel and nature of it is already covered by the current wording but in general I feel we need to give property owners the ability to do what they want with their land. We should not be taking away their rights what we are doing is proposing certain small restrictions on our ability to do basic --- site planning or additional qualifications on how they would use solar in specific areas and I don't believe that solar or the wind power, if done poorly they could take away from the character of the Town, but in general I don't think they would and for any of these going through the special exemption process we can make sure that it does meet the special characteristics and needs of the Town and the current wording of the zoning code I think is sufficient but I wouldn't be opposed to trying to do some more --- there but there should be a special exemption for those or (inaudible) than I don't know how much site planning and oversight we would actually have especially when it gets into aesthetics I guess it would probably be even stickier if we went that route.

Mr. Sneed: Well I guess my sense is to piggybacking on what Bob's comments were I do have a fear of the real estate value issue and I am not going to argue it because we just have a difference of opinion on it but I do have a fear of what we have and the changes that we make to the downtown area and how that affects the housing prices in Town. What I did between the last meeting and this meeting tonight was go to a website that you provided us last meeting Wade and I took the opportunity to view the photo show that was in there of the solar panels and I know there is an opinion that they don't look that badly but I don't have that opinion. My opinion is they look horrible I think they look nasty I think the solar panels on the streets if enough businesses and residences in either the CBD or the commercial district constructed solar panels on their roofs I think it would be an eyesore and I think it gets directly back to Bob's point of diminishing the Town character the Town quaintness the comfortableness of the Town and all those things without being nauseating I guess about it but I think frankly looking at the photos that I felt they were a detriment and to your point Chuck on prohibiting individual rights I mean I think part of the reason this panel exists as other government panels is to protect the common good. I am certainly in favor of individual rights up to a point but I don't support individual rights absolutely, you know I am one of those people that don't believe you have the right to go into a crowded movie theater and yell fire I think that is why we have laws and restrictions and boards like this one to take measures to protect us from ourselves sometimes and from others. I still feel like special exception in the commercial and CBD districts on solar systems is a green light and if we allow that to happen then that is what we are going to get in the future and I am opposed to that.

Mr. Hoewing: So following that logic though Cal I guess we should not do P's on anything else than for solar systems either. If they are ugly on commercial buildings they are ugly on residential buildings. And by the way there are plenty of solar panels already out there in Town.

Mr. Sneed: Yeah at the last meeting I think if I remember right there was part of the discussion was actually we didn't get to the discussion about whether they should be front mounted, we did discuss that they should be facing south but I don't think we made a decision we didn't get to the part about that and my thinking of that was why do we take the position whether or not you are on the south facing home my position would be to allow them in the residences but only not on the street facing...

Mr. Yost: But if you (inaudible) because the backyards back up to each other so somebody would be looking at somebody else's solar panel in the back of their house.

Mr. Sneed: That is a consideration and maybe we would limit it to ground mounts only and I am perfectly willing to go in that direction for residences as a support for the P there but...

Mr. Hoewing: I don't think that would work I think we would probably get stuck --- pretty quick on that. It just seems to me the technology in this area is different, it is not intrusive like I said there are shingles today they are built in systems that actually do generate solar power they are not panels, they would be totally invisible. There are steel plates now that actually have solar generating capabilities built in with particles on them so those are pretty much invisible too, so we are kind of saying as the technology evolves even though it is not really intrusive anymore we are still going to say no.

Mr. Sneed: I really like that point a lot Link and that takes us back to the last meeting where it was suggested I don't remember by who but then why the necessity tonight to fill the block at all, why not wait for the technology to develop so that we know what it is going to look like sometime in the future and why are we forcing the block plan when it is not absolutely necessary tonight.

Mr. Stump: What is wrong with the technology today?

Mr. Hoewing: I don't see anything wrong with the panels by the way.

Mr. Sneed: No the technology works right it is just largely a visible...

Mr. Stump: No I am arguing there is nothing wrong with some of the visual today you can put things up that are quite unobtrusive or unattractive, if you want to pay the extra money to do it or if you want you can even put something I'll use Bassett's as a great example they already have the ugly chillers up on the roof right now that are probably more of an eyesore than other things, you could put raised solar panels up on that roof and put some kind of ventilation or something else up that would prohibit you from even seeing them from the street quite possibly fairly inexpensive I would imagine and also block out those chillers and that would be a quite simple way for them to install solar using today's technology fairly easy as an example.

Mr. Hoewing: Perhaps if people don't agree that global warming is an issue there is another issue here which is that we are trying to do some things, see that is why we are doing this looking ahead on ways the Town can offer ways for people to actually help contribute to reducing the greenhouse gasses that cause global warming and one of them is using power. This power plant up here we don't get our power from there Allegheny is where we get our power and they do cold so by telling people they can't do this we are actually hurting the green that we like so much around here at least in the global sense we are we are saying there is no way you can help reduce greenhouse gas that is a leadership issue too so if we can do it without being intrusive in the way the Town looks and I think you can and at least with solar panels I am willing to try that. That is what this is trying to do is to take a leadership position on this technology because it is emerging now

people are going to start using it so we can't just put our heads in the sand and say we aren't going to do anything until somebody comes to us.

Mr. Bachman: Is there any reason why we haven't added as an alternative energy system the business about painting our roofs white, why isn't that in this matrix?

Mr. Yost: Because there is no prohibition of it. There is nothing prohibiting solar panels right now also.

Mr. Bachman: But we are here we are adding into the Code potentially either permitting or not permitting or providing special exceptions for categories of alternative energy so I think we ought to add that to the list too then and decide whether you want to have white roofs all over Poolesville or not.

Mr. Hoewing: Yeah we cut our power use a lot in our building with white roofs but that is paint and that is another interesting issue because we could not stop McDonalds from being painted because you can't tell people what color to paint their house it is just not part of the Code we can't do that. If they want to paint their roofs white they are going to be able to do it and they are going to cut their use by 80% in anything they do.

Mr. Sneed: Well that is a really interesting point I spoke to an engineer between this meeting and the last meeting who had some knowledge of this and argued that the reflection of heat from the white roofs will be absorbed into the atmosphere and actually aggravate the global warming aspect which we haven't heard but your point of we don't know and technology evolving might be that a year down the road that white roofs turn out not to be the solution, I don't know I am not an engineer.

Mr. Hoewing: Possible the only reason I raised it though is there are certain aspects of this issue that are the Planning Commission really can't get to and one of them is paint for example, we tried everything we could to try to get McDonalds to keep their colors and we couldn't in the end stop it, there are certain things you can't tell people to do in their house and that is one of them. They can paint it pink today and we can't do a damn thing about it.

Mr. Sneed: So we don't have the power to protect ourselves from them but we do have the power to protect ourselves here from some other things. From people coming in and getting the approvals even though we may not approve, I don't know...

Mr. Stump: Being because these things are, I wish Alan were here, physical additions, out buildings, additional uses for property as opposed to just changing an --- factor of the building like paint, its window shape things like that I think that is the main reason why we have got these types of zoning uses. But it is a good point right now anyone with solar in the CBD or commercial they can do what they want.

Mr. Hoewing: It seems to me we are split 2 to 2 on this so we will probably have to wait for George because otherwise the vote means nothing. At least I support SE in commercial and business I believe you do too and I don't think the other 2 Commissioners do so we probably can't decide it tonight.

Mr. Yost: The one problem with that is this is the last meeting (inaudible) you promised you would have an answer back to them so the Commissioners can have a public hearing and actually have an ordinance passed.

Mr. Bachman: So lets truncate the matrix on wind energy systems and the geothermal loop which we have no controversy on...

Mr. Yost: You could do a couple things 1) you could send it to the Commissioners undecided and let them have a public hearing and make that decision or we could truncate it.

Mr. Bachman: Why not just give them what we have worked out.

Mr. Hoewing: Yeah.

Mr. Bachman: Because that is the only question we have been asked is about wind, we have reached a conclusion about that.

Mr. Hoewing: Yeah you could send it with an overview of what happened and you couldn't reach a conclusion on it...

Mr. Yost: Just for the sake of having a public hearing and people that are coming for...

Mr. Hoewing: You could still also request if you wanted to, to testify as a Commission saying here is our view we couldn't reach a conclusion but you can even testify personally there is no reason you can't as a Commissioner so that might be one way to handle it.

Mr. Sneed: So we could truncate it and include only small wind energy systems or we could truncate it and just eliminate solar systems on site use.

Mr. Hoewing: If you took them out that means anybody can do what they want to as they can today.

Mr. Bachman: Leaving that one line out doesn't change anything. Leaving solar systems on site use out of what we...

Mr. Hoewing: The status quo would remain that is right.

Mr. Stump: I think we should address the geothermal.

Mr. Bachman: We have to vote, we can skip this, we can table the solar systems on site use and just move on to another and see if we reach a consensus.

Mr. Sneed: Well do we want to vote on the solar systems off site use.

Mr. Hoewing: Is off site use Wade the same as commercial is that what we are saying?

Mr. Yost: Yeah I kind of changed that we had a confusion about commercial last time so off site use would be a solar farm.

Mr. Hoewing: Ok so in the definition section it should be solar system off site is that what you are saying.

Mr. Yost: For off site use.

Mr. Hoewing: So that is basically a bunch of solar panels in the middle of a field.

Mr. Bachman: So it is not commercial it is now off site.

Mr. Yost: Right for off site use they are going to sell it.

Mr. Bachman: Solar system commercial now becomes solar system off site or is there a new line.

Mr. Hoewing: No the definition you look in the definition section it says commercial he means the same thing there as he does when it says off site.

Mr. Sneed: As part of the discussion on the special exception under RDT for solar systems off site use or have we beat that to death

Mr. Stump: I am kind of indifferent on that one myself.

Mr. Hoewing: Yeah I don't think it is going to happen but...

Mr. Sneed: What do you mean?

Mr. Hoewing: I don't think anybody has ever proposed anything like this but I would be shocked.

Mr. Bachman: Well I will make a motion that we approve solar system, under solar system produced for off site use that the only category that has a designation is RDT and it has SE for special exception.

Mr. Stump: Second that.

Mr. Sneed: All those in favor?

All: Aye.

Mr. Sneed: Any nays? Ok well before we go to the truncated chart if that is the direction we are going do we have to address the special exception with conditional use or conditions or things of that nature or can that wait.

Mr. Stump: We haven't done geothermal.

Mr. Sneed: Do you want to vote on that line.

Mr. Stump: For consistency.

Mr. Sneed: Any discussion on that line.

Mr. Stump: I move that we approve geothermal loop systems only in all categories.

Mr. Hoewing: Second.

Mr. Sneed: All in favor?

All: Aye.

Mr. Sneed: Any nays. So do we need to build special exception in any way or address...

Mr. Hoewing: I think the only thing we can do at this stage since we can't rewrite it ourselves we are going to need Alan to do that, if we want to send this to the Commission and say that we think to make this effective we should revise the special exception definition to make it more descriptive or tight we should say we can do that but that is not going to change the fact that they have to use the existing special exception process until they approve the change in it, but we can make that recommendation, in order to make it effective we think it ought to be tighter or more definitive.

Mr. Yost: Yeah if it went that way that would be the thing to do.

Mr. Bachman: Would you want to revise the motion then.

Mr. Hoewing: Well we approved the entire thing I think we ought to with that is an understanding that we would send them this whatever we decide to approve tonight and say that even though we have approved some special exceptions here we think special exception needs to be revised we ask that the Commission have the attorney work on some things.

Mr. Yost: Or special language specific to this Board.

Mr. Bachman: Mr. Chairman I have a further motion that we remove solar systems on site use from this sample use chart for alternative energy at this point because it needs further discussion by the Planning Commission therefore bringing the sample use chart down to 4 alternative energy systems upon which we have reached a consensus.

Mr. Sneed: Can you approve it in the same motion, approve the rest in the same motion or rather have 2 motions.

Mr. Hoewing: Yeah sure.

Mr. Sneed: Is that it ok second, discussion, did I hear a second?

Mr. Hoewing: Second.

Mr. Sneed: All in favor?

All: Aye.

Mr. Sneed: Any nays? Do I hear a motion to approve the truncated chart?

Mr. Hoewing: And this assumes the recommendation that would go along with it would be part of the special exception.

Mr. Yost: Well no because you are leaving that section out of it.

Mr. Hoewing: But still solar systems for off site use and also Wade well it depends on if we decide to do this, if we decide to do this and if we decide to recommend they should tighten it it could apply to all special exceptions or we could say just for this particular use isn't that what he was saying.

Mr. Yost: That is what he is saying we could do, I think we are looking at it wasn't the RDT we were concerned with and that the special exception is probably what we have...

Mr. Hoewing: Right.

Mr. Yost: I think it would be more specific to the commercial and downtown areas the aesthetics the visibility from Fisher Avenue those kinds of things.

Mr. Stump: If you narrowed it to just those things as it relates to solar it would probably be a lot easier for Alan to narrow it down.

Mr. Sneed: Well do we need to work on the development standards then?

Mr. Yost: We should run through those and just see I mean a lot of them are taken out because community systems, height, yeah setback has to be at least equal to the height, and must not exceed 30 foot above the...

Mr. Stump: Say that again.

Mr. Yost: It must not exceed 30 foot above the surrounding tree canopy.

Mr. Sneed: Any discussion on the equal to height and that height would be from the ground to the tip of the highest blade.

Mr. Yost: Correct.

Mr. Sneed: Any discussion on that because as I remember I think there were differences in the ordinances we saw there was the height times 1 or height times 1.2 or height times 1.5 things of that nature.

Mr. Yost: But they were measuring height from not from the top of the generator and the tip of the blades also on some of those.

Mr. Sneed: So ground to the top of the tower for example 1.5 times the height of the tower to the top of the tower, any discussion needed on that. Everyone is comfortable with equal to height for RDT that column for the 4 categories listed.

Mr. Stump: I am comfortable with all the development standards.

Mr. Sneed: Everyone is comfortable with the solar system setback?

Mr. Yost: Well there is one that we need to discuss, the sideline is another miscellaneous ordinance we will be discussing tonight, so that one kind of (inaudible).

Mr. Sneed: We could do the miscellaneous ordinances first.

Mr. Yost: And actually we can hold off on the (inaudible) we are not worried about getting to the Commission at this point is going to be the small wind energy systems where it is permitted but I prefer just because it needs to come back so we make a decision and reject the site plan. The rest of this can be taken to the Commissioners, have discussions a public hearing all at one time that is much easier, so what I am going to present to the Commissioners we made decisions on most of the things, the only thing I am going to take to them is small energy systems and whatever --- ordinances that we go through, I am not going to bother trying to adopt all these into legislation until we work through that solar issue because it doesn't make sense to. (Inaudible) on Monday night and set a public hearing.

Mr. Sneed: Is that acceptable to everybody?

Mr. Stump: The majority of this except for the one case for wind energy doesn't apply anymore since we have taken away the small solar, small solar comes back this stuff has to come back on the table so do it.

Mr. Yost: We don't have to decide that tonight.

Mr. Sneed: So then we can move to the ordinance changes, everyone done with that discussion then? Any highlighted changes you want to bring to our attention on this from last month to this month.

Mr. Yost: All we did was clean up the changes that we did make, the first one is cited in the regs it speaks to the covenants, we are going to remove that section out of the Code. Christmas tree sales we did change that so it is allowable for non-profits, spelled it out at least 20 on site paved parking spaces, development standards is one we need to discuss tonight, current sideline setback input, Staff is recommending a 5 foot change and the rear is actually 3 foot. The procedure for special exception or variance it goes to the Planning Commission, we talked about this last time too that recommendation will go forward.

Mr. Sneed: Discussion?

Mr. Hoewing: Wade on E procedure Section 3 is in zoning types right so we make a recommendation saying here is what we think you should consider and they are supposed to look at zone...

Mr. Yost: There is something left out.

Mr. Hoewing: Yeah it looks like it, because 10 is basically just referencing their Board of Zoning Appeals membership, rules and procedure and all that so it must be referring to something else. Meets the requirements of sections 3 and 10 well they got to meet 10 because that is what the rules are...

Mr. Yost: Right there is not a procedure for you guys to actually review, they do an application...

Mr. Hoewing: So this is for us and recommending to them process.

Mr. Yost: This --- you guys actually having a position for reviewing special exceptions and variances which you have to reject it either way for them to (inaudible) so this provides recommendation...

Mr. Hoewing: So we are supposed to look at section 10 not all of it because a lot of it applies to the membership and that kind of thing but more to the requirements that they are supposed to have for considering which is under where is it now there is a section that talks about...

Mr. Yost: It also adds in that it requires a notification of contingent property owners...

Mr. Hoewing: Yeah so we are supposed to satisfy ourselves that they followed these administrative procedures basically because they are supposed to follow, that is what we...

Mr. Yost: Yes.

Mr. Hoewing: And then 3 is just making sure that we also understand what zoning variances ask for so is a special exception allowed here no it isn't so therefore we tell them basically we can't approve this ok. I guess I am kind of confused because we should have done that anyway, this is just to make sure of that.

Mr. Yost: You are right.

Mr. Hoewing: I mean I think we are supposed to do that anyway but this just says ok we are caught up.

Mr. Yost: (Inaudible) we made a recommendation without proper --- well there was not a procedure for --- now there is.

Mr. Hoewing: But for the specific issue of shared driveways that we were just talking about whether or not that the Commission will be looking at a change in that, one of those changes obviously is to say that going forward there will be no pipestems, this one basically just allows them but says that it shouldn't increase materially any special exception the number of vehicles that use the shared driveway. So in the case of lets say another business applies, there is another pipestem and instead of doing what the Board of Zoning Appeals did what they could do is say there is no parking allowed in the driveway there is only parking allowed out on the street even a 250 foot walk that is too bad, they could do that and take care of the issue of shared parking.

Mr. Yost: They could.

Mr. Hoewing: I don't see why I mean the street parking should be perfectly as long as it is not 15 cars parking at one time or something, they would have to verify that they wouldn't have 15 cars at once. So if this gets recommended to the Commission we also have a text amendment that has to be considered by the Commission.

Mr. Sneed: Is that coming from us.

Mr. Hoewing: No the Barnes.

Mr. Yost: No not really. They did submit it, they did not officially submit it (inaudible) you guys have already looked at what they presented the Commissioners did also, we developed something to address the issue in the manner that we thought was appropriate, not the manner that they wanted, we advised our Attorney not to (inaudible) to officially submit it.

Mr. Hoewing: So this is essentially a response to their text amendment then.

Mr. Yost: Well because we had talked about it...

Mr. Hoewing: We have heard it before but it is all partially in response to that.

Mr. Yost: I mean we knew we didn't want to use the covenants.

Mr. Hoewing: Yeah I remember that discussion. So if this goes to the Commission on this issue of whether or not pipestems should be allowed in the future we are basically saying yes but if they do here is a standard for it.

Mr. Yost: Right they just won't get a special exception.

Mr. Hoewing: So if you guys don't agree with that and you want to recommend to the Commission that pipestems should be allowed you have got to decide that tonight.

Mr. Bachman: For the (inaudible) instead of recommending there is no special exception for a shared driveway.

Mr. Yost: Yes I think we talked about it a little bit.

Mr. Stump: True but that is 2 separate but related issues.

Mr. Yost: Right.

Mr. Stump: Let me see if I got this right. One is if you have a pipestem how do you address special exemptions with using the pipestem which is what this deals with, what we haven't addressed is should we have pipestems or not right now the Code says yes they are permissible so a builder can do whatever he wants the question is should we be making recommendations specifically about pipestems or not.

Mr. Hoewing: Right we still have the authority to tell them we don't think pipestems should be allowed. Because all this does is says they are still allowed but when there is a shared use special exception you have to consider this as a key requirement that is all it says.

Mr. Bachman: But it could be rewritten to say there are no special exceptions for shared driveways because I don't know how you are going to define a material increase I mean we can just go back and forth over that till the end of time, it is to vague for me to have any interest in this statement.

Mr. Hoewing: Yeah we could do that too.

Mr. Bachman: So I guess I would recommend that on any residentially zoned property having a shared driveway no special exceptions will be approved.

Multiple Conversations Taking Place

Mr. Sneed: Commissioner Coakley has just arrived it is 9:26 welcome to you Mr. Coakley.

Mr. Hoewing: And the meeting is closed. Actually George we are looking at the draft amendments that we would recommend to the Commission and the issue I don't think we have decided anything on the rest of it, we just kind of discussed it, but the issue we focused on was the shared driveway issue. And the discussion was around we have the authority to recommend to them that we not approve any going forward any further pipestems or we can just do this which says they are fine because they are already allowed we are not changing that but we are saying no special exceptions for this purpose here or the third alternative is that no special exceptions are allowed at all for pipestems. Those are the 3 options we are discussing.

Mr. Coakley: And you are wondering where I stand on that?

Mr. Bachman: On this particular issue since we have identified 3 options as I understand it, no pipestems permitted in the future but that still requires you make some statement about pipestems you already have, no pipestems ever built again, then the 2nd is what are we going to say about the pipestems we have now, one idea is no special exceptions for the pipestem, clean surgical but who knows, the other is make a measured statement like George recommended on materially increases traffic, whatever we line up as the possibilities I would want to have our attorney examine them and tell us where our legal thicket is on this and maybe no one else agrees but I am concerned that we will be setting ourselves up for something we don't see coming maybe in one of these.

Mr. Hoewing: Well on the first one saying going forward there should be no pipestems there is no legal requirement that we have to have those so we can certainly say that. On the 2nd one no special exceptions that could be an interesting issue because those are the only homes that would have that restriction, anybody else could apply for a special exception for a business for example, so that might be a little more legally tricky I don't know.

Mr. Yost: Well no more than this right here the shared driveway is specifically targeting them.

Mr. Stump: I am not so sure about that, think of it this way too, Alan has already weighed in on the legality of what we have here, and this is much more standard from a contract law standpoint, we are talking about a material violation, material change, whereas if you say no exceptions period suddenly now you are again taking away up front a persons ability to do what could be reasonable with their property, that one I think

is much more legally questionable and I think that is why I lean toward the material increase and material change because there are --- of law that you want to be gray in contracts and this is not at all I deal with contract law everyday and this is materially is slightly vague but again open to interpretation and it can change from time to time and I don't think there is anything particularly wrong with that especially when it is more of a guidance to us or more so to the us of the future who have gone through this painful process over the last 2 years as a reminder that we need to treat these things very differently very carefully so.

Mr. Sneed: Do I yield to George now?

Mr. Coakley: So I guess my views are on this that I am always hesitant to say no more pipestems but it is going to be a cold day in you know what when a plan comes through if I am sitting on this Body that...

Mr. Sneed: Well we had that tonight and the fact is you can't say you have a pipestem and we don't approve it was the sort of interpretation here of the panel tonight just because it is a pipestem on the site plan does not give us reason to reject it so if you feel that way then you may want to place yourself on the side of no pipestems in the future.

Mr. Coakley: Well I think we can request changes on site plans.

Mr. Hoewing: They don't have to accept it.

Mr. Sneed: And if they don't accept it.

Mr. Hoewing: Nothing we can't disapprove it unless there is 3 requirements George in the statute right now that allow us to --- public safety, no affect on the existing property values or something like that which is pretty (inaudible).

Mr. Sneed: So I have a question so if this was amended to say no pipestems in the future is that site plan right there affected by that decision?

Mr. Yost: Yes.

Mr. Hoewing: Yeah it is still in the process of being looked at so yeah.

Mr. Sneed: I mean there are really 2 sides to this in terms of where we sit with respect to future housing. In large parts of Town it has been pretty much drawn, right the map has pretty much been drawn with the exception of, with few exceptions, but you could argue that what the heck you have special exceptions in pipestems because it may or may not be that many in the future, the other side is there may be only a couple occasions where it comes before us why not just eliminate the possibility, I kind of lean in that direction why not just drop the idea all together it is not going to really be that much of an issue in the future anyway.

Mr. Stump: I'm sorry one more time Cal.

Mr. Sneed: I lean in the direction of if we have the ability to say no pipestems or pipestems are not permitted in Town that seems very clean to me.

Mr. Hoewing: But as Bob says it doesn't take care of the problem what to do with the existing pipestems.

Mr. Strong: John Strong, if you have an existing plan that has (inaudible).

Mr. Hoewing: I think we are talking about a different issue though John because what we are talking about is once you have the development and people living there they can come in for a special exception for different uses, that is what happened in the case of the Barnes situation, those people came in and said I want to run a business here and it does allow home businesses with a special exception.

Mr. Strong: (Inaudible).

Mr. Hoewing: Yeah it affects this guy you are right.

Mr. Sneed: And I wouldn't abdicate changing site plans that have already been approved and all.

Mr. Yost: Yeah I don't think you can do that.

Mr. Hoewing: No but in terms of uses it does affect future uses.

Mr. Coakley: Well to my knowledge neither Brightwell Crossing or Stoney Springs have any pipestem lots.

Mr. Yost: Yeah as a matter of fact there was a waiver on Phase I of Brightwell for 3 homes on a pipestem.

Mr. Coakley: In a cul-de-sac or 3 on a pipestem.

Mr. Yost: On a pipestem.

Mr. Coakley: But the other possibility I could see with a couple of the 4 and under lots that if you have like a family or something like that that wants to build 2 homes and the only way they can feasibly use the lot would be to use a pipestem or something like that I would hate to throw that out the window with changing it to absolutely no pipestems. I mean it is nice to have a certain amount of leeway in given situations.

Mr. Stump: Even though --- you say --- never approved that use.

Mr. Coakley: Well unless there is extenuating circumstances that would overwhelm the potential problems that can arise with a pipestem.

Mr. Stump: I would be very curious of what kind of special circumstances would really consider that I am having trouble thinking right off the top of my head but to be fair I can't think of everything so it is an interesting point.

Mr. Yost: You guys need to get a legal opinion on whether we can just say no special exceptions whatsoever on shared driveways.

Mr. Hoewing: Yeah I think that's probably too extreme.

Mr. Stump: Well actually we could still recommend it to the Commissioners and Alan would still have to give his legal opinion. We are not saying that is the law, that is the recommendation that we are making to the Commissioners it doesn't have to go through a public hearing right since it is a --- it is just a recommendation.

Mr. Yost: Yeah but if you look at the use chart on what is allowed special exception in our residential areas you know its Daycares up to 25, several things like that that you probably don't want to have one.

Mr. Stump: That is kind of why I was leaning towards not banning them because Daycare is the one that jumps out at me and its...

Mr. Yost: I think that is a reason why you would probably want to ban it, you wouldn't want that on a shared driveway.

Mr. Hoewing: Yeah looking at these I can't see too many that when you have a shared driveway that would be possibly (inaudible).

Mr. Stump: I'm missing my should we allow one in the future versus the (inaudible) I retract what I just said.

Mr. Hoewing: Because we have a Daycare Center on the house on the corner from us and it is actually fine there but its an open driveway and it is basically in a cul-de-sac and its not that bad but there are a lot of cars there at 4:00 and at 8:00.

Mr. Coakley: But I would think we would have the legal authority to ban them if we wanted to, I mean we can certainly in the site plan review tell developers we don't want x

numbers of cul-de-sacs because of the extra problems with snow plows and that sort of thing, we can limit the distance on a roadway or a cul-de-sac so...

Mr. Hoewing: But those are for public safety reasons. One of the reasons in Virginia now that they are actually changing their zoning requirements is because they have so many cul-de-sacs now they are actually finding out it is a serious problem with traffic and so many people just can't get onto the roads anymore so that is a public safety and public health issue and that is legitimate.

Mr. Bachman: Too late.

Mr. Hoewing: Yeah it is too late although they are still developing there like crazy so. I am trying to find George where that was there was 3 requirements for a special exception one had to do with health and safety and I forgot the other two, but you don't have a lot of wiggle room if you are going to disapprove it. But as you point out we have always done this in any kind of site approval process you have got a lot of pressure you put on these guys because they want to get your approval so the CVS would never look like that except that we refused to give in.

Mr. Coakley: And there is normally enough other items that we have to approve that normally a developer is willing to concede on certain issues. So I guess I would lean toward special exception for any future driveways and then a limitation on existing ones similar to what Alan came up with it increases traffic.

Mr. Bachman: Special exception requirements are kind of defined according to that a shared driveway can be built anywhere in Town. A hardnosed developer could just say well we gave you --- that you prefer the house --- that the Code requires...

Mr. Yost: Right he is going to take a chance on losing 3 or 4 lots.

Mr. Bachman: The pipestem (inaudible) does not really necessarily protect us not protect us but help us achieve results that is my concern.

Mr. Stump: Going back to the same argument that we used on wind turbines and effectively green lights we could use pipestems if you subscribe to that which I don't but I already lost that one. I don't see a problem with recommending to the Commissioners that we remove the wording that permits the pipestems.

Mr. Coakley: I could lean that way.

Mr. Hoewing: In 1998 when we reviewed this we actually did spend a lot of time on this and I remember we had more than 2 houses allowed initially and we went down to 2.

Mr. Yost: Yeah I think there was 6 on 1.

Mr. Hoewing: It was actually no restriction you could have pipestems with as many houses as you wanted at that point.

Mr. Sneed: It was actually for houses back then.

Mr. Hoewing: Pardon me.

Mr. Sneed: We were desperate for houses back then right.

Mr. Hoewing: Yeah I just think it was one of those things that was an oversight frankly.

Mr. Bachman: That addresses whether future site plans are allowed pipestems, it still doesn't address the issue of what we want to do to protect the property owners that are currently on pipestems.

Mr. Stump: So on that particular topic I lean towards Alan's proposed wording.

Mr. Yost: Which just means everybody parks on the street and walk up and down the driveway.

Mr. Coakley: Well again that could come under a public safety issue. We raised that on the Barnes case that we wanted enough parking and turn around space so that cars wouldn't have to back out or people had to walk up a driveway that didn't have sidewalks or anything so that is a safety issue I believe coming back.

Mr. Sneed: Right before you arrived there was a discussion going on about changing (inaudible) so that it brings no special exceptions that materially increases the number of vehicles in driveways shall be permitted.

Mr. Bachman: I was offering that as an alternative I wasn't advocating that necessarily but I wanted to look at the variations we could consider.

Mr. Hoewing: I mean actually from a legal standard standpoint materially increases the number of vehicles is pretty stringent, there would have to be almost no change in the number of vehicles to be able to do anything.

Mr. Sneed: So we change materials to what measurable or...

Mr. Hoewing: No I think materially is a very --- legal standard. We have to really prove beyond a shadow of a doubt that it is not a significant increase of any kind it is just marginal which means 1 car going in maybe or 2 cars I mean it is not 10.

Mr. Bachman: We protected the property owners on a pipestem from an increase in traffic but we haven't done anything about the drawing the traffic onto the main artery that the pipestem is off of.

Mr. Stump: Wouldn't that be addressed by the general health and safety provisions that the special exemption have to meet?

Mr. Bachman: You mean that using a driveway is not, increases the number of vehicles using the driveway and or accessing the special exemption property because they are parking in front of it is going to create as much of a problem I think.

Mr. Hoewing: Except that every other house can do this, like I said we have a special exception and it works fine for a Daycare so why shouldn't they be able to do that.

Mr. Bachman: Ok so I understand so the idea is that we restrict the amount of traffic on the pipestem driveway we really address the significant problem we experienced as a Commission with this and quit worrying about trying to solve all the problems of the universe.

Mr. Coakley: Well to make it absolute would mean that if someone worked at home on a computer and didn't have any interaction with customers or anything like that or didn't have a substantial increase in UPS traffic or anything like that they would be forbidden to have a home office if they were on a shared driveway.

Mr. Bachman: I understand I appreciate it.

Mr. Hoewing: So is the consensus this is enough I really don't think we ought to ban all special exceptions I think this is actually materially increases is a pretty stringent and you could just say only allow them to park on the curb like everybody else, you could do that, but I think this is pretty stringent frankly. On the other hand the one approval we have I think she is only allowed to have, it does have in her home care business for kids, cars will only be there in the morning and afternoon and not parking or staying there is what it says I think in her special exception – drop off only, 5 minutes and they have to leave and generally there has never been a problem.

Mr. Stump: Quick question we could put that today.

Mr. Hoewing: Yeah you could do that that is why materially increases probably works because that is what they have to think about, can I do it so it doesn't really increase the car traffic.

Mr. Stump: Exactly without depriving the owner of the right to use the property.

Mr. Coakley: Ok so it sounds like we are going with no pipestems in the future and the wording that we have with materially increases traffic.

Mr. Yost: How bout the other one you guys good with those, we definitely need to talk about the side setback one, Christmas tree sales.

Mr. Coakley: I don't think there is any problem on that.

Mr. Yost: I didn't think so either.

Mr. Coakley: You were supposed to provide an example or two of...

Mr. Yost: I know and I didn't because the --- went up.

Mr. Coakley: Lots with side setbacks and back setbacks.

Mr. Yost: I didn't do it. Link had me busy those Commissioners have me writing all kinds of stuff all the time.

Mr. Hoewing: It's not me its Commissioner Brown who is doing it he is a nightmare.

Mr. Coakley: Well Bob you were the one that I think had the most reservations about the 5-foot setback going from 10 to 5 feet, do the reservations still exist. I didn't know if on your own you looked at a google map.

Mr. Bachman: No I was waiting for the --- to help me clarify whether I had a real concern or not, if the current setback was 10 I thought why don't we leave well enough alone.

Mr. Yost: This is just something I've heard a lot of people request even play equipment and stuff has to be 10 foot off the sideline, if they have trees in their yard it doesn't make for the best use of the property in any case.

Mr. Stump: It is probably very frequently ignored.

Mr. Yost: And it is that also and I think the neighbors...

Mr. Stump: I can think of 3 off the top of my head.

Mr. Yost: Complaints on a --- this is happening.

Mr. Sneed: So when it is an issue people come here, come to you or come here and say we want a variance from it.

Mr. Yost: Yeah but no one wants to pay \$650.00 bucks to put a \$500.00 shed on their property.

Mr. Hoewing: That is what a variance costs.

Mr. Bachman: If we had a vote how many people would be in favor of changing it to 5 feet.

Mr. Hoewing: I would.

Mr. Bachman: I withdraw my concern.

Mr. Yost: Do we dare go back to the one line that we couldn't decide.

Mr. Coakley: Would I be a swing vote or anything.

Mr. Sneed: So when we split we have to have a motion on the --- amendments then.

Mr. Yost: Definitely just (inaudible) all together to be presented to them.

Mr. Sneed: I'm sorry say it again.

Mr. Yost: Just one is presented.

Mr. Sneed: Well with the new entry of recommended no pipestems so if we so desire to include right.

Mr. Hoewing: Yeah I think we do, I think this is in there right.

Mr. Coakley: Do I hear a motion?

Mr. Sneed: I make a motion to approve the draft proposed amendments as written and propose to add language that we recommend that no pipestems be permitted in the future or after the date of establishment of the new Code.

Mr. Stump: Second.

Mr. Coakley: All in favor?

All: Aye.

Mr. Coakley: I guess it is unanimous then. Ok anything else?

Mr. Stump: Did we want to go back to as Wade mentioned.

Mr. Yost: All right.

Mr. Coakley: You already voted on it so.

Mr. Yost: Well no you guys didn't vote on it.

Mr. Hoewing: That is true we couldn't reach an agreement so now that George is here we should discuss it again it is only fair.

Mr. Stump: Let me see if I can summarize. We ended up saying yes, yes, yes, and yes, we were all against a special exemption here and here. There was a lot of debate about solar in these 2 areas and we decided to just drop that whole line and go up on the other variances we were deadlocked on what to do with solar (inaudible) so as permitted today, a fair summary.

Mr. Sneed: The idea was that it answers the questions of the timeliness of our report to the Commission it answers the wind energy systems which is the thing we are on the hook for and then it goes forward to the Commission in that form for now. So if you agree with that action.

Mr. Coakley: Or what is wrong with solar as long as its not visible from the street?

Mr. Hoewing: Well we debated that.

Mr. Sneed: And Wade will be happy to read the transcript record.

Mr. Hoewing: So because we couldn't reach agreement and you weren't here we thought lets just take it out and then the Commission can decide the issue.

Mr. Yost: Yeah there was a motion on the table and the motion was tabled. And the motion was that solar systems on site use will be permissible in R3, R1/2, R3/4, RMUL, RDT and with special exception in commercial and CBD.

Mr. Coakley: Well for solar why don't we take a vote then on whether to allow it with special exception with the caveat that it not be visible from Fisher Avenue and Elgin Road.

Mr. Yost: From the main frontage.

Mr. Coakley: Yeah from the main frontage and we will go ahead and vote on it.

Mr. Sneed: --- this Board (inaudible).

Mr. Coakley: John do you recall how it is currently written for like equipment on the roof and stuff, like CVS had to put a few extra bricks up there or something so the AC wasn't...

Mr. Strong: I think it is more of a, I don't recall if there is a code that says anything about addressing...

Mr. Yost: I don't think there is.

Mr. Coakley: We just require that.

Mr. Yost: I think using the architectural guidelines is how we did that.

Mr. Hoewing: So you were talking about a (inaudible).

Mr. Coakley: So we are not visible from front advantage points and would be fronting which could be from the side also I believe if you word it properly.

Mr. Strong: (Inaudible).

Mr. Coakley: Ok any further discussion on this. Bob did you have any?

Mr. Bachman: I will just make one comment that last week I didn't bother to argue about the P in all the residential subdivision categories for solar system on site use, I felt strongly about the commercial and the CBD I thought if I can carve that out I will feel good about it that was my main goal but I have great concerns about what it will do to the appearance of our residential neighborhoods far more than I do about the CBD and the commercial to be honest with you because that is going to affect peoples decisions to buy homes here and I am not convinced that the current systems that are in place do anything to add to the attractive to the homes and I think it will affect our property values so that is really the truth is I sort of let the CBD in the first --- on, strongly but the thing is I don't believe any of this, I believe the residential is much more of a problem than the commercial and the CBD so I am opposed to the P's across the board in residential, I just think...

Mr. Hoewing: The challenge is like I said they can paint the house pink we can't stop that, they can bring in a shed that looks like a space saucer we don't have any approval on that either.

Mr. Bachman: But we can stop them from putting solar panels on the roof.

Mr. Hoewing: Yeah I know but these other things are much more intrusive than that and people could do that, my view is that they are not going to do anything that will lower their property value which is putting solar panels that look like crap, only a few people do that and the ones that do that are probably letting their property go downhill anyway so I think we could rely on property owners to be pretty smart about how it looks frankly.

Mr. Coakley: I have seen some solar arrays on roofs and everything you hardly notice and I have seen others that do stand out like a sore thumb.

Mr. Hoewing: Well this would now allow you to review it with a P.

Mr. Yost: And residential has to be flat mounted it can't be the ones that are...

Mr. Hoewing: Right I mean we have some standards in here.

Mr. Coakley: Well then do we want to hold off on this or go ahead and vote on it.

Mr. Stump: I'm in favor of voting on it.

Mr. Coakley: Well my proposal is we vote on it with P's in residential and RDT and then special exception for the commercial and central business district with some... so lets take a vote on that.

Mr. Stump: Do you want me to second or you got a motion.

Mr. Coakley: Well we are just taking a vote now. So who is in favor of P's across except for commercial and CBD would be special exception. We have 2, Link.

Mr. Hoewing: Yes.

Mr. Coakley: Ok we will go with that and we can approve that in the motion for the recommendation. Ok anything else? Ok do we have any comments from the audience.

Ms. Barnes: Yes just a clarification. Linda Barnes 19735 Selby Avenue and I got to read all of the meetings of the minutes for every --- meeting since...

Mr. Coakley: I'm sorry every what meeting?

Ms. Barnes: The Board of Zoning Appeals.

Mr. Coakley: Oh ok.

Ms. Barnes: And it was my understanding that special exception contained (inaudible).

Mr. Yost: They convey with the property. Sure the gas station in town is a good example special exception they have a fuel station in there, if they sell the property the special exception will stay with the property, a new owner comes in he can open a new --- special exception and operate the same business.

Mr. Coakley: But there is a time limitation on that.

Mr. Yost: Or lets say the business has stopped for 6 months at the end of that 6 months the new owner or the owner that still owns it must reapply for a special exception.

Ms. Barnes: Ok thank you. And then another thing you mentioned in the zoning code on page 85, 84 that defines the type paragraph 6 that says that you can have a business in your home and work from home and have a home office the only question I've got with special exception (inaudible) with customers coming in and out. So anyone can work from home and...

Mr. Stump: As long as it meets the specific criteria under 6.

Ms. Barnes: And then on page 62 --- the Board of Zoning Appeals and one thing that I noticed that is not in here after reading the minutes is that there is no training for the Board Members now in 1997 there was training and a huge packet that showed what that training was and the only member of that Board who was trained at the time is Pilar so I was just wondering if you had thought about having training.

Mr. Coakley: Not in our purview, you can take that up with the Town Manager and the Town Commissioners.

Mr. Yost: That is a great idea.

Ms. Barnes: (Inaudible).

Mr. Yost: A requirement for training.

Ms. Barnes: Well I don't know what it is.

Mr. Hoewing: Yeah for the membership that is probably a good idea.

Mr. Coakley: It is an ongoing process. I learn a lot every meeting.

Mr. Hoewing: We should have training for the Planning Commission Chair too. No it is a good idea. Actually all of the Commissions we have it would probably help them too because they are just kind of thrown into it.

Mr. Barnes: Some communities actually do that. (Inaudible).

Mr. Yost: We have a hard time getting volunteers.

Mr. Coakley: But you get to go to Ocean City once a year for a week.

Mr. Hoewing: No but a half day of training or something is not going to be intrusive.

Mr. Yost: No I agree.

Mr. Hoewing: That is a good idea.

Mr. Coakley: Ok anything else.

Mr. Stump: Yeah one thing unfortunately. So Wade what about the development standards given that we have the solar system back in the table. And we decided we were not going to deal with any of the development standards as relating to solar because we had taken solar off the table but now solar is back on the table and back in our recommendation to the Commissioners but without any guidance behind it. Sorry.

Mr. Coakley: I thought we had something here about...

Mr. Yost: Well no we did, we hashed these out and it changed a little bit but this is kind of where we left off last time. It is not an official recommendation.

Mr. Stump: So we have got the proposed uses hanging out there recommended without any guidance on them. We are on a deadline.

Mr. Bachman: But we are not on a deadline for solar.

Mr. Stump: That is fair.

Mr. Bachman: No necessity to ram this thing through.

Mr. Hoewing: We didn't ram it through.

Mr. Yost: You been reading the paper? Really I think that everything that is in these charts is appropriate, the only thing I would that was just discussed see note 3 for the roof mounted solar panels for the commercial and CBD it says must be located on the rear of the building or side mount facing just change that must be screened from surrounding roadways is what the motion was, that would be the only 1 thing I would recommend changing as far as that goes. Everything else is fairly standard.

Mr. Bachman: Is the Maryland sideline setback for the ground mount 5 feet or 10 feet.

Mr. Coakley: It would be 5 feet.

Mr. Yost: It would be 5.

Mr. Stump: That would be consistent with the...

Mr. Yost: Accessory building structure right. Actually yeah it would be because the height is also related to the in the code with the accessory structure, maximum building height accessory structure of 14 foot and we should keep it the same so it should be a 14 foot height limit for the ground mounted that requires setbacks so everything accessory structure setbacks everything is the same.

Mr. Coakley: And we say like screen for ground level view for, I think we covered just about anything, and that would be in the commercial and CBD.

Adjournment

Mr. Coakley: Is that everything. Ok do I hear a motion to adjourn?

Mr. Hoewing: No we want to stay another half an hour. So moved.

Mr. Coakley: Second.

Mr. Stump: Second.

Mr. Coakley: All in favor?

All: Aye.