

The regular meeting of the Thurmont Planning and Zoning Commission was held on Thursday, April 22, 2004 at 7:30 p.m. Present were: John Ford, Chairman; Commissioner Muth; John Kinnaird, Randy Cubbedge; John Woelfel; Sandra Hunter; Jim Gugel; Rick May; Jim Brown; see attached sign in sheet.

Mr. Ford welcomed everyone to the April Meeting of the Thurmont Planning and Zoning Commission. Mr. Ford welcomed Sandra Hunter as a new member, she will be a second alternate. Randy Cubbedge will now be a permanent member and John Woelfel will be a voting member tonight since Jim Larochelle was not present. Mr. Ford stated the first item on the agenda is the approval of the March meeting minutes. Mr. Kinnaird made a motion for the minutes to be approved as presented. Mr. Woelfel seconded the motion. Vote – all for. Motion carried. The next item on the agenda was the Zoning Inspectors report Mr. Ford turned the meeting over to Mr. Brown.

Mr. Jim Brown stated, “There were thirty eight (38) Zoning Certificates issued from March 24th to April 21st, 2004 for two (2) Single Family Dwelling Units, five (5) Residential Additions, twenty nine (29) Residential Accessory Uses and two (2) Commercial Accessory Uses. The total number of Zoning Certificates issued to April 21st, 2004 is eighty eight (88) which compares to eighty (80) for the same period in 2003. Zoning Certificates have been issued thus far for six (6) Single Family Dwelling Units in 2004 and this compares to fifty six (56) Single Family Dwelling Units for the same period in 2003. Any questions?”

Mr. Ford stated, “I had a couple of questions. Altamont Gardens looks like its almost finished up do you know when they are going to put facilities in the tot lot there?”

Mr. Brown stated, “I don’t know that there were any facilities actually required in the tot lot. They had to have a tot lot fenced off but I don’t believe there was any requirements for play ground equipment at the time of the development.”

Mr. May stated, “That’s a Homeowners...it’s not municipaly owned.”

Mr. Ford stated, “Okay. It looks like they put in most if not all the trees and shrubs.”

Mr. Brown stated, “I’d say they’re about a third done there is an awful lot of trees that have to go in out there on that total site. I’d say they’ve got about a third of them in so far.”

Mr. Ford stated, “And on NVR East do you know what NVR’s plans are? Did they plan to proceed ahead at all on that?”

Mr. Brown stated, “I believe they got their grading permit out there for the next phase. They haven’t applied for the building yet here.”

Mr. Ford stated, “Okay, so it’ll be quite sometime before they do anything on the corner of Woodland and Church Street as far as that is concerned.”

Mr. Brown stated, "On Woodside and Church Street. Well I believe the Gateway Business Complex is proceeding ahead, they're expected to start this spring. They'll be putting that change there at that intersection."

Mr. May stated, "One or the other will be accommodating that modification or they could go together. That's entirely up to them."

Mr. Ford stated, "Okay, thank you. The next item on the agenda is Addition Plat for Q-C Thurmont, LLC. Which was continued actually from several meetings." He turned the meeting over to Mr. Gugel for staff comment (see attached).

Mr. Ford stated, "Any questions for Mr. Gugel?"

Commissioner Muth stated, "I have one. Mr. Gugel if we approve the plat as it's submitted with the 30' setback then they have to meet that?"

Mr. Gugel stated, "Yes, so since I don't believe the applicants here..."

Commissioner Muth stated, "We can only assume that that's what they wanted."

Mr. Gugel stated, "They got a copy of the staff report so yes if you approve it with that then it would be basically as it's shown there."

Mr. Kinnaird stated, "So they would have to come back to basically change it again if they wanted it down to zero?"

Mr. Gugel stated, "Yes if they wanted for whatever reason to go back to the zero then they would come back with what's called a correction plat that would just adjust that front yard setback but again as it stands now with the site plan the 30' is okay if it wants to remain on the plat."

Commissioner Muth stated, "We wouldn't be obligated to approve this changed plan if they..."

Mr. Gugel stated, "What was that?"

Commissioner Muth stated, "We wouldn't be obligated to approve the change?"

Mr. Gugel stated, "Like for a correction plat if they wanted to go to zero? No I don't think there would be an obligation there and if for whatever reason the Commission wanted to maintain a more restricted setback then obviously if you state reasons to do that yes, you can vote that way if that were to come up."

Mr. Ford stated, "Mr. May, staff report."

Mr. May stated, "Local staff had no comments."

Mr. Ford stated, "And the applicant, there is no applicant present. Any public comment?"

No response.

Mr. Ford stated, "I'll entertain a motion on the Q-C Thurmont, LLC. Addition Plat."

Mr. Kinnaird made a motion to accept the Q-C Thurmont, LLC. Addition Plat File #THM-98-2 as shown. Mr. Cubbedge seconded the motion. Vote – all for. Motion carried.

Mr. Ford stated, "The next item on the agenda is the Site Plan for Jermae Estates, Phase II, Townhouses." He turned the meeting over to Mr. Gugel to present the staff report (see attached).

Mr. Ford stated, "Any questions for Mr. Gugel?"

Mr. Kinnaird stated, "I have one so the only actual place that again that they could park is on the lower section of it and the upper right hand corner."

Mr. Gugel stated, "Well there're basically I think about three free areas that have curbing. The one would be along this area here, this area here which would be the longest stretch and then a little bit on this corner so it is fairly equally distributed around so everybody in every row should have some areas to park and this is just including kind of the inside curb. Obviously the other opposite sides of the streets which will have wider gaps between their driveway would also be able to accommodate additional parking as well. Particular for example all the lots here along the Golf Course Lane actually front on a side street so that will have pretty clear areas on each side."

Mr. Ford stated, "They have a note on here there's no parking on Golf Course Lane."

Mr. May stated, "And local staff comments address that, that there will be. It needs to be removed that there will be parking on Golf Course Lane."

Mr. Ford stated, "I was going to say if there was no parking on Golf Course Lane there would still be enough spaces."

Mr. Gugel stated, "Yeah, the two other area on the side streets I think would still provide more than enough to provide five spaces. Which you'd be looking at roughly about 100' of road frontage to accommodate that."

Mr. Ford stated, "Any other questions for Mr. Gugel?"

Mr. Cubbedge stated, "In the areas we would have these vehicles parked will there be sufficient site line? Were looking at two intersections Main Street and Geoley Court I guess and then up at the Golf Course would there be sufficient space to put those parking there and then give ample space away from the intersection so we have a site line when we're tuning these cars in and out of this location."

Mr. Gugel stated, "I guess one possibility to address that and I don't know if the town does this else where as far as painting the curbs off the corners so that would prohibit parking a little further back from the intersection itself there."

Mr. May stated, "I'm not sure where the fire hydrants are located either but it's quite possible that...in any event."

Mr. Ford stated, "Do you know how far back you need from an intersection?"

Mr. May stated, "I really don't, Mr. Brown do you know?"

Mr. Brown stated, "Not right off hand I'd have to get the manual out."

Mr. May stated, "I'm sorry I just don't know."

Mr. Gugel stated, "I know down in the city it probably varies I guess but you might be looking at least 25 – 30' from the...I guess if you kind of extended the curbs out to one point it buffers from that point."

Mrs. Hunter stated, "How wide are these streets?"

Mr. Gugel stated, "32' curb face to curb face."

Mrs. Hunter stated, "So if you had 2 cars parked either side of the street you'd still have room for 2 cars to pass?"

Mr. Gugel stated, "Yes."

Mr. Ford stated, "Any other questions for Mr. Gugel?"

No response.

Mr. Ford stated, "Mr. May."

Mr. May presented the local staff comments (see attached). He stated, "This is from the Department of Public Works regarding stormwater. I think most of this has been addressed the applicant may need to check with them to label the easement with liber folio numbers on the site plan prior to final approval of the site plan improvement a recorded copy of the deeds of easements and maintenance agreements would be required. I believe that's already been done. Clearly label what is existing and what is proposed."

Most importantly in the area of the proposed stormwater management facility. I'm assuming that those two go together. This thing is a little different than what we normally get from D.P.W. and it's a little unclear."

Mr. Gugel stated, "And this is all through the Hansen thing now."

Mr. May stated, "Yeah it's the new permitting system. This is part of it so we're all on a learning curve."

Mr. Gugel stated, "Basically they have kind of prepared comment or somewhat standardized and coded into the system so you may have occasions where what they want to say is really not exactly what the little code description says so they're probably going to be a little bit of differences with those kind of things."

Mr. May stated, "There are other comments there as well as I said I believe the Improvement Plans were approved and the County reviewed everything. I believe most of this will be...has already been taken care of but again the applicant would be required to double check with them to make sure. Soil Conservation commented that it's okay, no comments at this time. They will review when the full sediment and erosion plan is submitted. That's all the comments we received."

Mr. Ford stated, "Any questions for Mr. May?"

No response.

Mr. Ford stated, "Is the applicant represented at the meeting?"

Mr. Louis Bernstein stated, "Yes, I'm Louis Bernstein with Antietam Design. I'm the engineer for the project. Also here is from Dan Ryan Builders Jim Dorsey and Albert VanOvereem."

Mr. Ford stated, "Is there any statement you'd like to make?"

Mr. Bernstein stated, "Yes, thank you. A few things we can add. First would be to address that last set of comments that came back from Frederick County Development Review today and as a result of that I emailed down to them and discussed that with them by email today. I have a few copies of that I can share with you if you want. Basically I wrote Betsy Smith and said the townhouse site plan is not meant for stormwater management, grading or construction. These were already approved by the Frederick County on the construction drawings in July of 2003 with the accompanying Stormwater Management. No changes have been made from those drawings and no changes to impervious areas. This townhouse site plan is an excerpt from these drawings for the purpose of showing building footprints and parking. To that she sent back, wrote back to me Louis, this was absolutely not clear on the site plan. It maybe through...or different line type shading on the site plan these concerns can be addressed. I suggest basically submitting adequate detail to show that and with a letter explaining that, that's what was

meant. That this not a new site and this is not a new plan for stormwater or any of her other concerns it's just basically a site plan as we said for buildings and parking.”

Mr. Ford stated, “Okay, so Betsy is asking for you to resubmit the...”

Mr. Bernstein stated, “Basically she said she suggest we resubmit the site plan with the note saying, explaining that this is not new stormwater and not new grading that was already addressed in July approval. So basically send back a note in a letter to her to that effect. I'm actually surprised they even reviewed this since they already approved it. I guess it wasn't really something they thought she was going to review.”

Mr. Ford stated, “Are you comfortable with the comments that have been made by staff?”

Mr. Bernstein stated, “Yes, I think...”

Mr. Ford stated, “The parking on Golf Course Lane.”

Mr. Bernstein stated, “Yeah, yeah I think that would work. We can certainly have parking there. Originally at their request we said we'll have no parking there. Certainly the streets are wide enough as we said to put parking. The other thing I'd like to add is that we do have drawings of architectural of the townhouses, which we could submit if you'd like to see those. As you can see they're mostly going to look like a I guess you'd call it a high one story with dormer windows it could be with the dormer windows or as you see on the second page without the dormer windows it's basically variations of one story with a loft.”

Mr. Charles Lane stated, “So these are basically just one story?”

Mr. Bernstein stated, “If you look through the details there you can where those two dormer windows are shown you can add two bedrooms in the top of it, one bedroom in the back. I call that pretty substantial second story.”

Mr. Ford stated, “So in each case you have a front entrance and a rear entrance is that correct?”

Mr. Lane stated, “Can I ask this gentleman a question?”

Mr. Ford stated, “Why don't we wait until public comment then...Any questions from the commission?”

Mr. Cubbedge stated, “Are these basemented?”

Mr. Bernstein stated, “Some will have basements and some will not. I think if you look on the site plan...yes, this set along Golf Course Lane is called out to definitely have a basement and a back entrance at the basement level. There are a couple of houses I

forget now whether it's row or this row but the ones here will definitely not have a basement because of the elevation relative to the stream and there is a flowing stream that goes through the middle of the open space there and these its really up to the homebuilder or the owner whether they put a basement in on the ones on Jermae Street."

Mr. Ford stated, "Any other questions? Sir why don't you go ahead since he's at the mic if you do have a question."

Mr. Lane stated, "Originally when Jermae was developed and plotted it called for chalets like just two story duplexes I guess is what they were call and why are they changing the plan to townhouses now instead of chalets like they originally planned?"

Mr. Bernstein stated, "That happen before I got involved in the project."

Mr. Gugel stated, "Actually the original proposal was for multifamily condominium buildings."

Mr. Lane stated, "Well yeah but then that was changed to chalets according to Russell Moser. I talked to him several times over this."

Mr. Gugel stated, "Well that might have been something that they we're considering themselves but that was never submitted as part of any of their plans."

Mr. Lane stated, "When I originally bought in there I ask the sales person are there going to be townhouses, no their going to be chalets in there. What they're calling duplexes side by side. There was no mention of townhouses whatsoever."

Mr. Gugel stated, "No, I don't think the duplexes had ever been part of their previous submissions. It might have been something that the Moser's may have just been thinking about at the time when they decided not to do the condo's but as far as what has ever been reviewed by the town it always just went from the condo's to townhouse units which aren't that much different than a duplex other than you have 5 or 6 of them attached instead of just 2. Obviously the architecture is very much like a single family not your standard..."

Mr. Lane stated, "Is it the same amount of houses that were originally planned for?"

Mr. Gugel stated, "No, the condominiums they were looking at 38 units at that time so they've actually reduced it ..."

Mr. Lane stated, "I'd like to make one other comment I think you all addressed the parking on Golf Course Lane to maybe you could have it just on one side of the street instead of both sides where for the traffic coming in and out of the Golf Course. I mean I realize you're saying the streets are 32' wide but you've got cars parked on both sides somebody is going to have to cut in other wise somebody may loose a mirror.(tape change).

Mr. May stated, "At your discretion, Mr. Brown would you have any thoughts on that?"

Mr. Brown stated, "In all the new developments we've had with 32' curb to curb parking has been allowed on both sides of the streets in all of these developments."

Mr. Gugel stated, "I think it would just have to be a wait and see how much traffic goes in and out of there with problems. I would say that the most effective traffic calming thing you can do is have the on street parking. You eliminate or minimize on street parking your speeds are going to go up so that's another consideration if you not allow on street parking."

Mr. May stated, "I would point out to if I remember correctly I believe the Chief of Police has the authority to install traffic devices at any time as the situation would warrant."

Mr. Kinnaird stated, "Would there be the chance that anyone that would be going to the Golf Course would park on this street?"

Mr. Gugel stated, "I think they have a fairly sizeable parking lot down there I guess. I couldn't imagine they get that busy frankly to park way up..."

Mr. Kinnaird stated, "That would be pretty far away from the Golf Course anyway."

Mr. May stated, "My experience with golfers is that if they're going to walk the course they're not going to walk the extra...."

Mr. Kinnaird stated, "Good point."

Mr. Gugel stated, "But I think that could be an issue once everything is basically built out and if there is a problem then the town and the Police Department can look at it to see if they need to do something."

Mr. Kinnaird stated, "I would think that the additional parking would only come into play probably in the evenings and the weekend anyhow."

Mr. Gugel stated, "Or if somebody is having a party or something like that."

Mr. Kinnaird stated, "They basically have three if they have a garage and space for two in the front that's basically room for three cars in each unit."

Mr. Gugel stated, "Well the townhouse units I would say each driveway is pretty much just one car."

Mr. Kinnaird stated, "So you're counting the two cars as being one in the garage and one in the driveway."

Mr. Gugel stated, "Right one in the garage and one in the driveway."

Mr. Bernstein stated, "I'd like to add that there is really not a lot of space to park on Golf Course Lane anyway on the townhouse side. It would be about three parking spaces on the Golf Course it's not going to be a big addition or subtraction and right where those three spaces are right across the street Sylvia Circle comes in so there's a intersection on the other side that would right at that point have parking on both sides."

Commissioner Muth stated, "...yeah but is that really something that we should be dealing with or is that more of a public safety issue with the chief?"

Mr. Cubbedge stated, "If we look at it one of the issues is trying to determine where to put the parking spaces and that's what we're looking at..."

Mr. Kinnaird stated, "What about the 20' well access right a way is that going to have driveable access into that?"

Mr. May stated, "It will have a driveway apron..."

Mr. Kinnaird stated, "So you couldn't park there anyhow could you."

Mr. May stated, "No, that's going to be restricted...I say that it does not belong to the town at this point so I guess my comments are a little premature."

Mr. Kinnaird stated, "(Discussion)...the determination of whether you could park cars there is that something the chief would do? On the Golf Course side?"

Mr. May stated, "Golf Course Lane?"

Mr. Kinnaird stated, "Uh huh."

Mr. May stated, "Certainly he would have the authority to determine both sides."

Mr. Kinnaird stated, "So who actually would be responsible for marking no parking areas on the curb? Is that the town's responsibility?"

Mr. May stated, "After it's finished, yes. If that determination is made then, yes it would be our responsibility."

Mr. Cubbedge stated, "The existing owner at 19 and 28, 17 and 18 are they on Golf Course Lane?"

Mr. Gugel stated, "No, they all front on Sylvia Circle. So they're aren't any driveways..."

Mr. Cubbedge stated, "So they're wouldn't be a need for those houses to say we need that as our..."

Mr. Gugel stated, "Unless they have a party or something."

Mr. May stated, "It would be public parking."

Mr. Ford stated, "Any other questions for the applicant?"

Mr. Robert Allen stated, "The units themselves are they going to be off set from one another or is it just going to be a flat face on the building?"

Mr. Bernstein stated, "There will be and this is really a big part of why we're submitting a site plan now is to show you they'll be two faced together and then a 2' off set to the next block of two as you can see."

Ms. ...stated, "The other thing is when you're building these are you building them so that the garages are...there would be a garage right next to each other so there would be parking in front of them because ideally even though you're saying you can park 2 vehicles in there we lived in our sons townhouse while we were building our house and people don't pull in there because it creates a problem trying to get out, your car out if the cars in the garage and that's the one you want to take out it goes onto the street so...you're talking about the ideal situation and that doesn't happen."

Mr. Lane stated, "Right, it doesn't happen."

Ms. ...stated, "No, I know that."

Mr. Lane stated, "Unless you actually mark the places where these cars are suppose to park."

Mr. Bernstein stated, "You are right but because the two townhouse garages and driveway are next to each other..."

Ms. ...stated, "That would allow some parking in the front there, yes."

Mr. Bernstein stated, "Then there's pretty much a 20' space to the next driveway."

Mr. Ford stated, "So the two driveways are adjacent?"

Mr. Berstein stated, "Yes."

Mr. Cubbedge stated, "So utilizing what this lady just stated if she pulls her car out to get the one out of the garage she would then have space in front of her to the left or right of that driveway..."

Mr. Bernstein stated, "Correct."

Mr. Cubbedge stated, "...to park that vehicle without her having to go around the block to park her car."

Ms. ...stated, "And that would be one space per two townhouses."

Mr. Cubbedge stated, "Well it should be if you got two driveways this person parks over here and this person parks here."

Ms. ...stated, "No, it won't work that way."

Mr. Kinnaird stated, "You're going to lose them because..."

Ms. ...stated, "Because there's five adjoined that won't happen."

Mr. Kinnaird stated, "Right and you've only got five adjoined, you've only got three available parking spaces."

Mr. Lane stated, "Why isn't that considered public parking in front of they're townhouses?"

Commissioner Muth stated, "It is."

Mr. Cubbedge stated, "There isn't a good place like she just stated if she wants to pull her car out and the public parking is full she has to drive around the block to find a place or pull her car out the other car comes out."

Mr. Bernstein stated, "Or she parks directly across the street because on two of the streets on Jermae Street and Geoley Court there is parking on both sides of the street you could just go up the street or if you're across the street or if you're the end townhouse you can go down the street past your townhouse."

Ms. ...stated, "Isn't that where the single family homes are going to be, some of those streets. The reason we're here is because we're talking about buying a single family home in there and we have concerns about what's going to be happening with the townhouses."

Mr. Lane stated, "Is this still a 55 and older?"

Ms. ...stated, "Yes."

Mr. Lane stated, "And it's still limited to three people per house?...your saying the covenants then stayed the same? So you're talking 56 cars basically right? If the average home has two cars per family."

Mr. Bernstein stated, "Yes, that's right."

Mr. Lane stated, "Do you got space for 56 cars."

Mr. Berstein stated, "A lot of them are in driveways, a lot of them are in garages."

Mr. Lane stated, "You're assuming but a lot of garages have a lot of junk in them where they can't park a car in a garage. I think we all have seen that."

Mr. Berstein stated, "They've also got basements."

Commissioner Muth stated, "That's a problem with townhouse communities there is never enough parking but in this one this is an exception to me it looks like there's lots of parking if you use the on street parking."

Mr. Ford stated, "The requirement is two per unit plus one for every five right?"

Commissioner Muth stated, "Yeah two....or something."

Mr. Berstein stated, "I think we're at least ten to twenty spaces in excess of that."

Mr. Ford stated, "I know some jurisdictions have increased their parking but it's a trade off between open space and having large paved over areas versus trying to just accommodate what's absolutely required."

Mr. Lane stated, "Another question is why are we doing away with the no parking on Golf Course Lane? What's the reason behind that? To get spaces for the townhouses, for phase II rather?"

Mr. Ford stated, "Well the street is wide enough to accommodate parking and we normally don't restrict it unless there's a reason."

Mr. Lane stated, "I grant you that in a development I can understand that but now you're going to do a development with a business and the Golf Course is a business and it does get a lot of traffic during the day on certain days. Not during the winter don't get me wrong but a Friday, Saturday, Sunday and Monday they roll through there. That's why I'm suggesting that maybe you could just park on one side of the street and leave that other side open so the traffic would flow better."

Mr. Gugel stated, "Well and that would be the issue is the speed of that flow because I guarantee you that if you have a wide open street they're going to be flying down that street and the people are going to be complaining about how fast they're driving and if

you allow the on street parking that will slow people down. It's extremely effective in slowing people down and 32' even if had a line a cars parked on each side you would still have space for people to pass going in opposite directions I mean you'll have to slow down to maybe 10 – 15 miles an hour but there's nothing wrong with that versus going 25-30 or more miles an hour so that's the other trade off."

Ms. ...stated, "But then you have the aesthetic value where if you got cars parked all up and down the..."

Mr. Gugel stated, "Well I don't think that's going to be like that all the time again I think your going to see that if somebody is having a party or something but I don't really see where your going to have a line of cars parked along that whole block for any length of time at any given day."

Mr. May stated, "Unless everyone ops not use their garage and fill it full of stuff and park on the street."

Ms. ...stated, "Or if they have a boat or a camper."

Mr. Lane stated, "They're not allowed."

Ms. ...stated, "They're not allowed?"

Mr. Lane stated, "Campers aren't allowed, I don't know about boats but I know campers aren't allowed."

Mr. May stated, "I don't believe those things are allowed to be parked on the street. You're allowed to have..."

Ms. ...stated, "But if they park it in their driveway then their car is going to be parked on the street."

Mr. May stated, "Correct, that is correct."

Mr. Cubbedge stated, "But the reality of the issue is the occupant has been given two parking places and it's up to the occupant to decide how...if they want to remove that parking space by putting a semipermanant structure there a boat or whatever then they will have to deal with the unfortunate find a place to put your car."

Mr. Kinnaird stated, "Yeah, but then what happens is their going to encroach on someone else because they're not going to be able to park...they're going to park somewhere else where somebody probably doesn't want them to park."

Mr. Gugel stated, "Well but it's a public street."

Mr. Kinnaird stated, "That's right and that's the unfortunate answer to that is it is a public street."

Mr. Ford stated, "Would it be in appropriate...I mean it would seem to me that the best people to determine the safety of parking on Golf Course Lane would be the Police Chief."

Mr. Cubbedge stated, "And the only regard to that is in previous town commission we had a situation where the placement of a stop sign to slow down if you can avoid it in the beginning instead of trying down the road...fix it now...after, if you know this is what's going to happen in the beginning this is how you know it from the start you put something in later on half are going to be happy, half are not going to be happy."

Mr. Lane stated, "Right solve the problem now before you move forward."

Mr. Cubbedge stated, "That's right so from the beginning the occupants know that the roads going to have traffic or it's going to be parked."

Mr. May stated, "And I would argue Mr. Cubbedge that if they don't like it with your decision tonight then they'll be in front of someone later on to have it changed and then it will be changed and then the other half won't like it and we'll spend 6 months on stop signs."

Mr. Bernstein stated, "Or they'll buy a townhouse in another location where it has the amount of parking that they want, amount of parking or no parking that they preferred."

Mr. Ford stated, "If we approve this with the comment and it appears that the parking will be allowed on Golf Course Lane does the Chief of Police or even the Commissioners, Town Commissioners have the legal authority to change that?"

Mr. May stated, "I think they do."

Mr. Ford stated, "They do?"

Mr. May stated, "Based on the other ordinance which allows him the authority to install traffic devices."

Mr. Ford stated, "Okay so that would over rule the..."

Mr. May stated, "I would think so."

Commissioner Muth stated, "So even if we approve it like this it could be meaningless."

Mr. May stated, "It could change, yes. That was my point."

Mr. Ford stated, "Okay, I miss understood. Okay any other questions for the applicant?"

Mr. Lane stated, "Are we still dead set against parking on one side only? I'm getting this from this gentlemen over here."

Commissioner Muth stated, "It's my opinion that we don't put parking restrictions on and refer the plat to the chief and let him make the decision."

Mr. Ford stated, "I personally think he's...to do that."

Mr. Kinnaird stated, "I don't think he could actually make a really educated decision on it until he sees how the traffic pattern goes."

Mr. Gugel stated, "I think everything pretty much has to be built out before you really see if there is a traffic problem. You just can't judge that looking at a site plan and making kinds of assumptions as to what's going to happen so that's why I think you just have to see what goes on when it's built."

Mr. Kinnaird stated, "And I would say to you that you're question about whether they're should be parking on both sides of the street if it is allowed and there is a legitimate problem with it you certainly have a recourse to come and talk to the police, to the chief and have a hearing on your concerns and have him look into it if problems do arise."

Mr. Lane stated, "I understand that."

Mr. Cubbedge stated, "The other thing I have now is the...agreement with the planting of the trees and the other staff comments you are going to landscape this..."

Mr. Bernstein stated, "Yes, we are in fact we have actually the day after we got the comments back from Mr. Gugel we submitted a landscape plan I don't think it made it as far as you but I would like to show it to you so you can see what we have. We have one shade tree a Bradford Pear in each front yard."

Mr. ... stated, "They break easy."

Mr. Bernstein stated, "That could be open for discussion."

Mr. Gugel stated, "As soon as I saw that it was like scratch that one out."

Commissioner Muth stated, "Isn't this supposed to be part of the site plan approval?"

Mr. Bernstein stated, "Yeah this is."

Commissioner Muth stated, "Okay, but when's the cut off date for site plans?"

Mr. May stated, “Well that was my comment. Normally you would look at these things and refer it to staff.”

Commissioner Muth stated, “Yeah, exactly, I’m not....”

Mr. May stated, “That has been that you would go ahead and approve it conditionally based upon staff review amongst other things. That has been the normal process. I don’t think staff is suggesting that you approve that particular landscaping plan because I don’t think it’s really gone through a final review yet.”

Mr. Gugel stated, “If you have suggestions or anything you can certainly offer those at this time.”

Commissioner Muth stated, “I’d like to beat up the parking thing just one more minute because I had another thought about it. I think what I would like to see is...what my concern is now is that if we take the no parking signs off this plat people that buy lots 93–98 have an expectation of parking on the street when they buy those townhouses.”

Mr. Lane stated, “That’s going to be their back door?”

Commissioner Muth stated, “No, that’s their front door. The people on Golf Course Lane would have an expectation they could park on the street there.”

Mr. Lane stated, “Oh, I thought that was their back door. I thought everything was facing towards in.”

Mr. May stated, “I think the point that Mr. Bernstein made though was that there would be minimum parking on the fronts of the homes it would be on the opposites sides of the street because of the driveways.”

Commissioner Muth stated, “But what I’m getting to is that those people if we take that off the plot those people would have an expectation their allowed to park in front of their houses and if the town came through and posted it later on because of problem they would come in and complain where is if it’s on the plat you have every...it was on the plat that you were given when you bought your house. You have the option of not posting it but if we decide to...”

Mr. Lane stated, “I’m at a loss here I thought everything was pointed in towards the area. You’re telling me that the townhouses now on Golf Course Lane are facing towards Golf Course Lane in front of the house.”

Commissioner Muth stated, “Yeah, that’s what I thought.”

Mr. Ford stated, “The front of the houses I think all face the street.”

Mr. Lane stated, "I was unaware I thought everything was facing in towards each other."

Mr. Kinnaird stated, "I think all the living rooms face in towards each other but the certainly the entrance off the road is what I consider the entrance to the house that faces the roadway."

Mr. Lane stated, "I wasn't aware of that. I thought everything was facing each other."

Mr. Ford stated, "You can see the garage door on each one."

Mr. Lane stated, "The way he's got it laid out up there I don't understand the house here. I don't understand the way it was facing Golf Course Lane. I thought that was the back of the house that was facing Golf Course Lane. So actually they got to break that curb all up to make driveways?"

Mr. May stated, "They'll have to do that for every single family home as well."

Mr. Lane stated, "I agree with you on that but usually they put the curbs in at the time they did construction. I thought the way everything was laid out originally everything was supposed to be facing that all the fronts were facing one another and all the backs were facing Golf Course Lane is the way I understood it was going to be. So they'll always be parking on Golf Course Lane that's why we want to eliminate the parking there. I mean eliminate the parking signs, the no parking signs because that would be the front of the house. Is that correct? Was that the original plot or has this been redone?"

Mr. Gugel stated, "No, that's the way it's always been laid out."

Mr. Ford stated, "Questions, comments?"

Mr. Gugel stated, "I think what staff would comment is to have a mix of species rather than just planting all one type so."

Commissioner Muth stated, "And I would like to see the Outlot...more stuff put around the Outlot there because if the well is developed there will be a building there for that. Wouldn't you think Mr. May?"

Mr. May stated, "Yes."

Commissioner Muth stated, "...depending on how it worked out if we bought this."

Mr. May stated, "I would defer any comment on it since we don't know..."

Commissioner Muth stated, "We don't own it."

Mr. May stated, "...what we're going to do with it if we are going to do anything with it."

Commissioner Muth stated, "Exactly."

Mr. Kinnaird stated, "Do you envision these yards the back yards to be fenced? Is that a consideration right now?"

Mr. ...stated, "We never thought about it because it was all open space behind it."

Mr. Gugel stated, "I think that would probably be up to the individual property owners whether they fence it."

Mr. Kinnaird stated, "Because I could see a problem with a 20' access right of way which some of you already have there already and then another one have them come along and plant holly trees or something along side of that. Is this the one where they're going to plant he holly trees to prohibit people from using it?"

Mr. Gugel stated, "No that was on the side."

Mr. May stated, "That's to the waste water pumping station."

Mr. Kinnaird stated, "But you would have the same problem there then with this also wouldn't you?"

Mr. May stated, "I'm not sure that we would. This is a little different situation."

Mr. Gugel stated, "Yeah, I don't think there would actually be any kind of driveway or anything going back to the well. I mean it would just basically be open in case they need to get a vehicle back there but I don't believe it is actually going to be a driveway of any kind."

Commissioner Muth stated, "I think there would be."

Mr. May stated, "There could be."

Mr. Kinnaird stated, "Then who would maintain it?"

Mr. May stated, "We would or whoever...if it winds up to be for public use then we would."

Mr. Lane stated, "It's still a private well though?"

Mr. May stated, "At this point yes, it's all private. Well at this point it's not a private well it's just private property. The well has not been permitted."

General discussion among board members.

Mr. Lane stated, "I don't know why you can't turn the townhouses around facing Golf Course Lane and turn them in, why can't you do that?"

Mr. Gugel stated, "Well it wouldn't solve anything. The driveways still..."

Mr. Lane stated, "... on the inside."

Mr. Gugel stated, "Well you can't...the driveway still has to go to the street."

Mr. Bernstein stated, "And you can't put a road inside the middle."

Mr. Lane stated, "You can't?"

Mr. Bernstein stated, "There's really not enough room there. Well, stormwater management is one function of a lot of space and the rest is to provide open space."

Mr. Lane stated, "They don't have any back yard."

Mr. Kinnaird stated, "They don't get rid of what they don't have then will they."

Mr. Lane stated, "Boy when they get a rain it won't have no back yard, we've seen that."

Mr. Cubbedge stated, "The parking on the streets will help keep the speed down."

Mr. May stated, "It does on my street."

Mr. Ford stated, "Any questions?"

Mr. Kinnaird stated, "The plantings the trees that you plant are you under some obligation to ensure that they survive any particular time period?"

Mr.....stated, "They typically got a year warranty on them."

Commissioner Muth stated, "Mr. Gugel have you had a chance to look at this at all?"

Mr. Gugel stated, "The landscape?"

Commissioner Muth stated, "Yeah."

Mr. Gugel stated, "Yeah, just a little bit."

Commissioner Muth stated, "To me it looks...there's not much detail here but it looks unimaginative."

Mr. Gugel stated, “Well for a layout like this you really don’t have any kind of buffering issues. About the only thing we can look at is doing some planting on each property so that they’d be some assurance that you have some shade trees since many different property owners are probably unlikely to do any trees and then just some in the open space. There is not a whole lot to really do particularly on the common areas. I imagine the builder probably does some minimal foundation planting like in front of the houses themselves but that’s usually not reflected on these kind of site plans.”

Mr. Ford stated, “Is there any other public comment and I’d like to ask you to go to the podium if you do have any comments.”

No response.

Mr. Ford stated, “Well I’m not sure how you’re feeling on this parking issue...it sounds like no matter what we approve if we approve anything specific for parking on like Golf Course Lane it really is ultimately would be determined by public safety if the Police felt there was a problem then they could change the... it’s like on Main street I don’t know how many times they changed the yellow line...(tape change)

Mr. May stated, “...in my opinion I think that one will supercede, if it became a true safety issue that would supercede anything that you do.”

Mr. Ford stated, “I don’t think this board is at least I don’t feel that this board is trained and qualified in that type of public safety issue although we a few members who certainly have experience in that area.”

Commissioner Muth stated, “I would suggest the way to get around this is to accept the staff comments and have the applicant place a note on every plat that says parking on Golf Course Lane maybe restricted in the future by the town. So everyone is well aware that that may happen.”

Mr. Ford asked for any other discussion.

No response.

Mr. Ford stated, “If there is no other discussion I’ll entertain a motion for Site Plan, Jermae Estates, Phase II.”

Commissioner Muth made a motion to approve the site plan subject to staff and agency comments and the addition that the plat that every homeowner is given have a note added that says the town may restrict parking on Golf Course Lane and subject to staff approval of the landscape plans. Mr. Kinnaird seconded the motion. Vote – all for. Motion carried.

Mr. Ford stated the next item on the agenda was the Storm Water Management Discussion (see attached). He stated “We had reviewed two changes to the Zoning Ordinance for Surface Water issues and I think we had come to an agreement on those and the remaining item that we were going to pursue further was the Wet Soils issue for building in areas of high water tables. I proposed certain changes to the Zoning Ordinance, I think if you folks got the email I got feedback from John Gibson who is head of the Frederick County Department of Permits and Inspections and also Dawn Early who’s the District Manager of the Catoctin Frederick Soil Conservation District both indicated that they would willing to review submittals for Thurmont similar to the way we do for the County. Mr. Gibson indicated that we would need to work out the details, a procedure for doing but I think it would be a little premature to do that now until we get maybe the attorney to review the other changes. Mr. Gibson made two minor comments to update the wording. One was to replace the BOCA code with International Residential Code and the other is to replace permits office with Frederick County Department of Permits and Inspections. What I’d like to do is see if there is any other changes that you folks would like to make to this, try to finalize it tonight and then maybe we could ask that all three changes be given to the attorney to take a look at it before we try to schedule a workshop.”

Mr. May stated, “If I could just one little comment. Mr. Brown and I went over this afternoon and it’s good from our standpoint. There was question among ourselves about whether some of this should be incorporated into Subdivision Reg’s or whether it should all be within the Zoning Ordinance. We both sort of agreed I guess I... with Mr. Brown to the point that I convinced him it should be in the Zoning Ordinance and now I’m having some second thoughts on number 2 under...to add to Article IX, Special Provisions down at the end of that paragraph place a note on the plat requiring that all construction shall be in conformance with the approved solution that almost, I missed that earlier, in reading it again it almost implies that it would be part of the subdivision process and so I don’t know if you would want to consider some of these things in our Subdivision Regulations or not.”

Mr. Ford stated, “Do the Subdivision Regulations have the same course of law?”

Mr. May stated, “Yes.”

Mr. Ford stated, “I could redo this through it is in the Frederick County Zoning Ordinance so that’s the reason I did it the way I did it.”

Mr. Gugel stated, “I think Walkersville has adopted some of this I don’t know if all their stuff is in the Zoning Ordinance or the their Subdivision Reg’s.”

Mr. May stated, “I’m trying to avoid confusion in the future as to which one is pertinent, which is applicable.”

Mr. Kinnaird stated, “Is this language you can include in both?”

Mr. May stated, "I would think so."

Mr. Kinnaird stated, "So it work in both situations."

Mr. May stated, "Right or either that or let us really look at the Zoning Ordinance to see how this really applies as far as notes on plats. It's an obvious thing in the Subdivision Regulations I'm not really clear how to apply it here especially since we address everything to be done at the time of the issuance of the Zoning Certificate and or building permit which is really more of zoning standpoint than it is..."

Mr. Ford stated, "Would you feel more comfortable taking a look at that with Mr. Brown or do you want me start..."

Mr. May stated, "Well why don't we do it independently."

Mr. Ford stated, "Okay."

Mr. May stated, "Two different perspectives."

Mr. Ford stated, "Yeah, okay. I did meet with the Soil Conservation people and I have the information on how they do it. They have basically soil maps for the entire County and one of the tables in there I have documents here if anybody want to look and they are very thick."

Mr. May stated, "At one point Soil Conservation identified those things for us and we had notes on plats in fact some of the ones in Altogether I believe or part of Woodland Park we had notes on there that they would have to...depending on the soils I think that was when was Walkersville having a little problem with that at one point?"

Mr. Gugel stated, "Well I think that happen through out the County and this was a number of years ago and I think Walkersville might have been one of the first municipalities that kind of started doing their own thing."

Mr. May stated, "And I'd just like to point out that at least from our staff opinion it's not necessarily a wet soils condition that is creating some of the problems in other areas. It's just simply a matter of blind ditches and those things are notorious in this..."

Mr. Ford stated, "These are blind ditches are old..."

Mr. May stated, "Well in one subdivision it was an old field and they have blind ditches in there to obviously drain it quickly enough so it wouldn't harm the crops or whatever. We have blind ditches...there were blind ditches out where I live up on the hill when they did those things. You impact those things and it creates problems for who knows who it's hard to say. Over on I guess Palmer's Alley, Lombard and Walnut in that area a lot of those places have blind ditches in the yards and one guy put in a new service line for his sewer and hit a blind ditch and messed it up and the next thing you know his

basement is flooded from his own property and there's one out there on Palmer's alley where there's a blind ditch that empties into something we put dye in that thing, gallons of dye and we to this day we don't know what happen to it."

Mr. Ford stated, "So what you're proposing then is we look at where we put these provisions before we give it to the Attorney."

Mr. May stated, "That would be my suggestions and it's really a question of one or both. It's that simple."

Mr. Ford stated, "Yeah, okay. I'm still, I'm a little confused on how we would fit it into our current process I talked with Becky about what the process is..."

Mr. May stated, "In the Hansen process...I guess it would be Becky you would have to then identify an agency. Soil Conservation would have to approve a Building Permit now before we would sign off on a Zoning Certificate based on this language. When they apply for the Zoning Certificate here they have to do that first, then they go to the County and apply for their Building Permit. Becky then will go on line and check if we want certain agencies to review those. She would do that then for Soil Conservation and for the County Building Permits to review wet soils."

Mr. Ford stated, "Yeah, now the Soil Conservation people want something that says what they're reviewing for. In other words wet soils."

Mrs. Long stated, "But Rick that Soil Conservation isn't one of the options on there for review."

Mr. May stated, "That's right that would come at the time of subdivision plat submittal and when we send copies to them we could have them identify them with a cover letter simply saying we want you to review for the normal review and wet soils."

Mr. Kinnaird stated, "So this would apply to every single building permit?"

Mr. May stated, "That's what this says, yes."

Mr. Kinnaird stated, "The County has no problem..."

Mr. May stated, "Mr. Gibson evidentially has indicated that they are willing to do that for the town as they do it for the County and I don't know if they do it for any other Municipalities or not. They do it every...again up until the Hansen System we and Emmitsburg were the only couple that did our own zoning so I'm not sure what that review by the County entails for their zoning."

Mr. Kinnaird stated, "Now does the County's review and lets say acceptance of the circumstances to allow a structure to be built on a property do they have any liability for

that decision if two years down the road we have a problem like we've had with some of the other things?"

Mr. May stated, "My guess is that they would not. They're simply identifying the problem and offering solutions before you build. In other words you're drains would have to daylight if you're at a certain slope or whatever or you can anticipate this or you should do this or they're should be a sump pump, there will be no basements."

Mr. Ford stated, "Yeah there will be no basements is quite possible and the other thing I've added on, well it's been on here but I just want to point out is that it's not in the current...should the soil type information found in site plan be questioned by the Planning and Zoning Commission the Commission may require a soils evaluation for proposed property by a certified soils...prior to it's approval on the site plan."

Mr. May stated, "See that's another one of those...is that Zoning Ordinance or Subdivision or both and I've very serious maybe it should be both."

Mr. Gugel stated, "Well this is referring to the site plan and everything related to that is in the Zoning Ordinance."

Mr. May stated, "I'm just...I would really I think I would feel more comfortable in the future maybe if we had language that addresses this problem in both documents."

Mr. Ford stated, "The reason I put that in was because the soils maps for the town are pretty gross and I know talking to people and also my own personal experience I know there are areas that are wet rather frequently which show on the soils map to not have the wet soils problem so I think we need the flexibility to decide does that area really...can we agree with what they have on the plot or do we want them to take another look because the detailed soils evaluation would show if there indeed was a wet soil problem even though the map might show..."

Mr. May stated, "Right as I said I think at the last meeting wetlands, wet soils themselves this area is notorious for having fingers that just come out almost out of nowhere and they can certainly impact one or more individual dwelling units."

Mr. Ford stated, "Yeah the soils conservation people said it's alluvial plain or something coming from the mountain and notoriously we do have poor drainage."

Mr. May stated, "That's one of the reason so many years ago there was so many fish ponds in this area."

Mr. Ford stated, "Okay so I'll take a shot at it and you can take a shot at it and see if we can exchange emails because I'd like to have this not hang around too long."

Mr. May stated, "No I agree."

Mr. Kinnaird stated, "I think though as far as your question as to whether this is...we think this is satisfactory I think you could certainly ask that question now. When you make a decision with Mr. May whether you want it in one or the other or both that's certainly..."

Mr. May stated, "I was just going to comment that we have...what are the other issues we have hanging as far as wrapping it all together?"

Mr. Ford stated, "Well there is the Surface Water as far lot to lot kind of problems and then also the Stormwater Management the change that we proposed to deal with liability for damage to adjacent property..."

Mr. May stated, "And now Wet Soils."

Mr. Ford stated, "And now Wet Soils so it's three."

Mr. May stated, "So my question is would you like to have those three items and would you like me to go ahead and submit those to the attorney in draft form knowing that what happens here will impact not necessarily in the language but where we put it."

Mr. Ford stated, "Well I don't know I would hate to waste their time."

Commissioner Muth stated, "I would say when we're closer to the final project is when you ought to give it to them. Otherwise you're doing it twice, they may do it twice anyway but that way if we do it now we're guaranteed to do it..."

Mr. Cubbedge stated, "At that time when they will determine how we're going to make the bond or the lean or the amount of money."

Mr. Ford stated, "That's one of the issues, yes."

Mr. Kinnaird stated, "Whether we can do that."

Mr. Ford stated, "Any other matters to be bought before the commission."

Mr. Gugel stated he had the Annual Report to review. (see attached)

Mr. Gugel stated he will not be at the May meeting but if there are agenda items he will still be able to do the staff report.

Without further business to be discussed, the meeting was adjourned at 9:08 p.m.

Respectfully submitted,

Rebecca E. Sharer- Long
Recording Secretary