

1 representatives of the Fairland Master Plan Citizens Advisory
2 Committee, who have also worked hard on this project with us.
3 And they will continue to be involved, I hope, with the
4 project. Namely, Stewart Rochester has been very active with
5 us. Patrick Ziliacus [PHONETIC SP.] is also one person I
6 wanted to name and we've also been speaking with Mr. Charlie
7 Peters. Some of the individuals are here this evening.

8 Finally, thanks to Mary Pat Wilson from the
9 Montgomery County Public Schools for their help with respect
10 to the Burtonsville Elementary School. We agreed with the
11 Planning Staff recommendations, in addition to the one that
12 Mr. Weaver just mentioned. That's a standard requirement on
13 record plats.

14 We would like to highlight the following things for
15 you and not just in terms of complimenting Rich's
16 presentation, and that is the Burtonsville Shopping Center is
17 part of the components that are to accomplish the objectives
18 of the Fairland Master Plan and we're very much involved with
19 that and we support that. One of the most important ones is
20 obviously to encourage redevelopment. And this is certainly
21 -- will do that. This will foster the redevelopment of the
22 Burtonsville Shopping Center, which is a main center for
23 retail there.

24 We are redeveloping the center. We will be
25 installing shared use pathways and the like on the perimeter

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1 so that the pedestrian access that's noted in the Master Plan
2 will be there. We're building a portion of the Burtonsville
3 Access Road. If permitted, if the signal warrants are there,
4 we'll be installing traffic lights both at the Route 29 point
5 and also on the Burtonsville Access Road. And that
6 Burtonsville Access Road, of course, will also assist in
7 tying in the retail area there. That we want to address the
8 Master Plan's goal of strengthening Burtonsville as a local
9 center through the reconstruction of the roads are noted in
10 the Master Plan with respect to 198. You know, that's an
11 ongoing state highway analysis that's going on right now.
12 The Burtonsville Access Road, the construction that's in the
13 CIP, it's when the next four years of the CIP it will be
14 constructed. Reconfigure this landscaping, like I mentioned
15 already.

16 With respect to the stormwater Management
17 facilities, we mentioned that before. The gully that we'll
18 be resolving you could drive a cart -- like a horse and buggy
19 through it right now. It's pretty big. So that will be
20 alleviated and that will help things out a lot. Onsite
21 pedestrian friendly landscaping and the like, that's part of
22 the Master Plan objectives. We wanted to let the Board know
23 that we were serious about doing so. And so we do accept
24 staff's recommendation to be bound by the illustratives that
25 are on the Illustrative Circulation Plan. There will be

1 variations on this site. It will not be just a uniformly
2 boring all the way through the project. You'll have
3 modulations in the widths of the sidewalks and the like, as
4 you would in many centers. And the areas that are not
5 heavily trafficked by patrons and the like, you may have
6 slightly narrower sidewalks and the like. This is the
7 standard illustrative hierarchy of sidewalks that we did
8 agree to and we'll be happy to do that. But you will be
9 seeing tree grades, tree plantings, benches, receptacles and
10 the like, things that are more akin to a Site Plan
11 application.

12 The other points that we wanted to make were with
13 respect to the Stormwater Management Concept Plan, this
14 design accommodates the Burtonsville Elementary School. We
15 think that's good for the area there. We will look to, and
16 we anticipate, sharing in some of the costs with the public
17 school system in providing that stormwater management
18 facility. And we have continued to work with them and we
19 look forward to continuing to work with them on alleviating
20 that situation there.

21 And so with all that having been said, we have high
22 hopes for this redevelopment of this center and we're more
23 than happy to answer questions of the Board. Thank you very
24 much.

25 CHAIR: Thank you. We have a number of speakers.

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1 Steward Rochester and Charles Peters. Gentlemen, you can
2 step back. I'll start with them.

3 MR. ROCHESTER: Good evening. I almost said
4 afternoon, but it is evening now. I'm Stewart Rochester with
5 the Fairland Master Plan Committee. I also want to
6 acknowledge Sammy Young, who I see here who was a key member
7 of our committee and who worked on the Fairland Plan,
8 including this portion of the plan that involved
9 Burtonsville.

10 I've been struggling to come up with a metaphor to
11 convey the wide gap between what the CAC and the community
12 envisioned here and where the developer has gone with his
13 plan. Someone said that what's left of Marxism looks more
14 like Groucho than Karl. For what was to have been the
15 Burtonsville Town Center, things like "Honey, I Blew Up the
16 Kids" or "Extreme Makeover."

17 We, and I, personally, when I say we, the CAC,
18 members of the community, and I, personally, have worked long
19 and hard to find some common ground with the applicant,
20 trying to understand and appreciate each other's objectives
21 and concerns. Although there has been much frustration and
22 little consensus, I do want to emphasize the high regard we
23 have for the property owner, Chris Jones, for his ability,
24 his enterprise, and his intelligence, which in some ways
25 makes this plan a little more disappointing compared with

1 what I think we might have been able to achieve here if we
2 had worked a little harder at it and had been more creative
3 and come to some consensus as to dimensions and scale and
4 concept.

5 But this is a developer that we've come to like and
6 respect, even as we disagree. And I do want to emphasize
7 that. There are a number of specific points I want to
8 address and then I'll offer a couple of general observations.
9 One, I have been asked and will tentatively support the
10 request of a waiver of the RC setbacks, so long as restricted
11 to the RCPs to the west, where the environmental piece of it
12 will protect the school. We are concerned that such a waiver
13 enables a property owner to overextend the development of the
14 loop, in order to enhance the use and value of this property
15 beyond its Master Plan limits and intent. But we will rely
16 in the Board's discretion that such a waiver would not
17 compromise the essential integrity of the RC zone here or
18 elsewhere.

19 Secondly, I want to be sure the record is clear,
20 and I'm confident, I know it is, that any water and sewer
21 reclassification should be limited to the C-2 zone and not
22 extended the RC portion of the property.

23 Thirdly, we applaud what appears to be a sensible
24 decision to relocate the stormwater pond, in order to better
25 protect contiguous forests and catch runoff from the

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1 elementary school. We realize this will depend on
2 consultations between a developer and Montgomery County
3 Public Schools over cost sharing, adequate fencing, and
4 screening of the facility, and other issues that need to be
5 addressed early on if this is to be a feasible solution.

6 Our main issue, as has always been, is the size of
7 Jonestown. This year, bulk and scale, what the applicant has
8 proposed, which it seems to us does diminish and may
9 overwhelm, if not negate, the main street village concept
10 that the Master Plan contemplated. To be fair, communities
11 often have unrealistic expectations. Our hope was for an
12 inviting sense of place where there would be a more integral
13 tie-in with public spaces around the school, outdoor
14 restaurants, seating and the like, and other amenities. But
15 we recognize the many constraints to achieving this, a
16 business district that is so fractured and where few of the
17 property owners, in truth, are as engaged as Mr. Jones. And
18 to his credit, the applicant has made a good faith effort to
19 meet the pedestrian-friendly guidelines in the plan with
20 regard to sidewalks and streetscaping.

21 Having said that, we still worry about the impact
22 of the proposal on one other small local retail in the area
23 that the Master Plan encourages and the community values.
24 Two, the character and scale of the surrounding low-density
25 residential wedge; three, the adjacent Patuxent watershed;

1 and four, the future of the Burtonsville Business District
2 and Town Center itself, which seems destined to remain
3 somewhat in limbo and lacking any coherent theme or special
4 distinction.

5 If this is not the nightmare Wal-Mart scenario,
6 it's disturbingly close to what I've called Son of Sam. And
7 we would urge the Board to attach any conditions to ensure
8 that once approved this Preliminary Plan can't morph or be
9 reassembled into a Wal-Mart-type big box. That would truly
10 make a travesty of the Master Plan goal intent.

11 We take comfort in the applicant telling us that
12 this is a theoretical maximum size and layout, but we, and
13 you, have to guard against the theoretical mischief or
14 potential for arm here as well.

15 As we stated at the conclusion of our letter that
16 appears in the stamped packet, insofar as this proposal
17 evidently will not go to Site Plan, and given the
18 extraordinary importance of the site, with far-ranging
19 impacts on the elementary school, the Patuxent watershed, and
20 other retail in the area, as well as the surrounding
21 residential community, it's all the more imperative that the
22 Board give the plan careful scrutiny at this point in the
23 process, which maybe the only occasion to review it. Thank
24 you.

25 CHAIR: Thank you. Mr. Peters?

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1 MR. PETERS: My names is Charles Peters,
2 representing Santini Road Property Owners Association. We,
3 as residential property owners adjacent to the Burtonsville
4 Shopping Center, Jones RC tract had been watching this piece
5 of property. This property was adjacent to two other large
6 tracts, 48 and 80 acres, bordering our area that are being
7 considered for cluster development. The other properties
8 appear to be going to subdivision by the book.

9 We are vehemently opposed to this Board granting
10 Mr. Jones the setback waiver to allow commercial parking on
11 land zoned residential. Both for the principle it would
12 violate and the precedent it would set. The property owner
13 himself has created this very problem by overdeveloping his
14 site. Since when do we reward, with a waiver, the build out
15 of a property to enhance its value beyond what the Master
16 Plan capacity allows? Thank you.

17 CHAIR: Thank you.

18 UNIDENTIFIED SPEAKER: Can I just ask a couple of
19 quick -- now, you are opposed to the waiver of the setback
20 for the parking facilities?

21 MR. PETERS: Regarding the parking, yes.

22 UNIDENTIFIED SPEAKER: Do you want to just --

23 MR. PETERS: Why?

24 UNIDENTIFIED SPEAKER: Yeah, because you are saying
25 it will impinge on the residential?

1 MR. PETERS: Well, I'm just concerned that once we
2 let the camel's nose under the tent where do we go from
3 there? What other waiver are we going to go to. The site is
4 jammed full and it appears to me that if possibly we can, you
5 know, reduce some of the size of the buildings that are
6 there.

7 UNIDENTIFIED SPEAKER: May I ask you --

8 MR. PETERS: Certainly.

9 UNIDENTIFIED SPEAKER: -- listen to her question a
10 little differently, because I thought she said something that
11 was a little inconsistent with what your concern is.

12 MR. PETERS: Okay.

13 UNIDENTIFIED SPEAKER: Because it suggested that
14 you were opposed to it from the residential standpoint. I
15 think what you said is that you are opposed to the idea of a
16 waiver allowing parking on the residential portion.

17 MR. PETERS: That's correct.

18 UNIDENTIFIED SPEAKER: But the parking is for
19 commercial activity on the residential portion. And I think
20 that's what you're saying you're opposed to.

21 UNIDENTIFIED SPEAKER: So you just don't want it to
22 be larger. This would mean --

23 UNIDENTIFIED SPEAKER: No.

24 MR. PETERS: No. I'm concerned that we're going to
25 -- we're going to get some form of commercial creep.

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1 UNIDENTIFIED SPEAKER: It's against regulations to
2 allow commercial parking to occur on a residential lot. And
3 I think --

4 UNIDENTIFIED SPEAKER: Okay.

5 UNIDENTIFIED SPEAKER: -- and by allowing this to
6 go forward that means that we have --

7 UNIDENTIFIED SPEAKER: Started the --

8 UNIDENTIFIED SPEAKER: Started the --

9 UNIDENTIFIED SPEAKER: [VOICES OVERLAP] commercial
10 on residential.

11 UNIDENTIFIED SPEAKER: Yes.

12 UNIDENTIFIED SPEAKER: But now, excuse me, I was
13 going to ask you, Mr. Rochester, you seem to take a different
14 view on the waiver issue.

15 MR. ROCHESTER: Well --

16 UNIDENTIFIED SPEAKER: Or were you asking that it
17 be waived in some part and not waived in the rest. I
18 couldn't quite understand that.

19 MR. ROCHESTER: First of all, just to be a little
20 clearer, and I understand Mr. Peters' concern, the parking
21 itself would not take place on the RC. But you would not
22 have what would have been normal setback between the R -- if
23 that was parking, we'd go right up to the RC. And then
24 that's --

25 UNIDENTIFIED SPEAKER: So you lose the setback?

1 MR. ROCHESTER: You'd lose the setback and I am
2 concerned that you may compromise, therefore, the integrity
3 of the RC.

4 UNIDENTIFIED SPEAKER: So where are you [VOICES
5 OVERLAP]? Can you point that out?

6 MR. ROCHESTER: Which is the purpose of the
7 setback.

8 UNIDENTIFIED SPEAKER: That's what they're
9 [INDISCERNIBLE]?

10 UNIDENTIFIED SPEAKER: Yeah. Point that out right
11 there.

12 MR. ROCHESTER: The waiver is to this portion of
13 the RC zone, which the applicant controls, from approximately
14 this point to this point.

15 UNIDENTIFIED SPEAKER: Well, wait, if we drew a
16 line, what areas are being allowed to be built on that
17 wouldn't have been built on without the waiver?

18 MR. ROCHESTER: This road, in grey, would have to
19 have been set back 20 feet approximately from the zoning
20 line, which runs right to the edge of the road.

21 UNIDENTIFIED SPEAKER: The road would have to have
22 been set back?

23 MR. ROCHESTER: The road would have to have been
24 set back.

25 UNIDENTIFIED SPEAKER: So it all goes back 20 feet

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1 you said.

2 MR. ROCHESTER: Twenty feet. May I add for the
3 record that where the applicant does not open the adjacent
4 property, they meet all the established setbacks on the other
5 perimeters of the site.

6 UNIDENTIFIED SPEAKER: Okay.

7 MR. PETERS: You know, there is a concern when we
8 do all of these drawings that Santini Road kind of in the
9 aerial shots gets kind of blurred out of the picture and our
10 residences are not really given the credit that they're due.
11 And at the backside of where the stormwater management pond
12 is, is the beginning of that 48 acres, and there will be
13 houses that are, from what I understand, already permitted,
14 but they've been held up because the state roads purchased
15 that property for the ICC. And so those houses that are
16 planned to be built there are on hold now and then the other
17 property would be north of that, which is the large open
18 space above that green space. So we're talking about future
19 development is going to be done right in that --

20 UNIDENTIFIED SPEAKER: Right, I understand.

21 MR. PETERS: -- direct area.

22 UNIDENTIFIED SPEAKER: I understand what you're
23 saying.

24 MR. ROCHESTER: May I make just one more point?

25 CHAIR: Well, I think we're really --

1 MR. ROCHESTER: Well, it's important.

2 CHAIR: Really quick.

3 MR. ROCHESTER: All right. Really quick.

4 CHAIR: You've got to take the questions and turn
5 it into --

6 MR. ROCHESTER: No, no, no. It's to be fair to the
7 applicant because I've had long discussions with him on the
8 waiver. And we gave a nod to the waiver on the piece of the
9 property adjacent to the RC that he owns, but not to the
10 north, the area that he doesn't own. At the same time, I
11 have to respect Mr. Peters' position as well. We were trying
12 to be an honest broker in this, as the National Planning
13 Committee. And there is the principle that we are concerned
14 about where a developer, again, could really develop beyond
15 what is the zone capacity, based on the setbacks and the
16 configuration of the property.

17 CHAIR: Okay. We understand. Thank you very much.

18 UNIDENTIFIED SPEAKER: Okay.

19 CHAIR: The next two speakers are Cleve Brown and
20 Lynn Martins.

21 MR. BROWN: Defer to the lady.

22 CHAIR: Mr. Brown? Ms. Martins?

23 MS. MARTINS: Hi. Thank you. I'm Lynn Martins. I
24 am the president of Seibel's Restaurant, which neighbors the
25 Burtonsville Shopping Center. We were established in 1939

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1 and we're a family operation. I am part of that family. And
2 we are excited about this project. We look really forward,
3 as was referred, Burtonsville's kind of business district is
4 definitely in limbo. The new development with the 29 and 198
5 and future 198 prospects, I think that this is something that
6 could really encourage the other property owners within the
7 business district. I think everybody is kind of waiting for
8 someone to step forward and do something. And I think this
9 is something that we need.

10 There has been some great development going on in
11 the area, some wonderful housing has been built, but we need
12 to keep these people within our business district. We need
13 not to be chasing them away. And I think that this is an
14 offer that will help keep all of these people in our
15 neighborhood. And like I said, we've been there since 1939.
16 It won't be myself, but my children are involved in the
17 business and we'd like to stay there. And as a neighbor, Mr.
18 Jones has been there. We've had -- you know, had very many
19 conversations on what has been going on and we encourage it.
20 We definitely look forward to it.

21 CHAIR: Thank you. Mr. Brown?

22 MR. BROWN: Thank you, Mr. Chairman, Members of the
23 Board. I'm Cleve Brown. I'm president of the Patuxent
24 Watershed Protective Association, and the name itself tells
25 you what we're about.

1 We are concerned about the parking setback waiver.
2 It has the effect of increasing the parking, which has the
3 effect of increasing the other activity on the total site.
4 We heard that there has been a serious runoff problem up to
5 this point, contributed by the school, as well as the
6 existing shopping center. And we've heard about the
7 Stormwater Management Plan, which will quote unquote should
8 help a lot, and that's great. That's great. But my question
9 would be why at this point, before anything is built, why
10 issue a waiver that is going to create more of a problem that
11 needs a remedy? More impervious surface and more commercial
12 activity on the site?

13 We have no problem with the gentleman using the
14 property as it was intended, but to change the regulations to
15 increase the capacity, and that's exactly what it's doing,
16 whether -- I think one speaker incorrectly referred to using
17 the residential property for parking. No, I never understood
18 that, but it does give up the setback, which has the same
19 effect, it increases the parking on the area and in effect
20 enlarges the site.

21 The fact that the owner owns the adjoining
22 residential property is fine. It lessens objections, but
23 changing in zoning and waivers go with the land and not the
24 owner. And when that's passed on, then you have a commercial
25 site that is in violation of what the present setbacks would

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1 require. And for the Patuxent Watershed Protective
2 Association, those are my comments. Thank you.

3 CHAIR: Thank you. Any questions? I do want to
4 say to Ms. Martins, first of all, love your restaurant.

5 MS. MARTINS: Thank you.

6 CHAIR: Been there many times. And I was just
7 curious, now that the new Route 29 is open, has there been an
8 impact on your business that you've seen?

9 MS. MARTINS: There was definitely an impact with
10 the 29 and the signage. The state very poorly handled
11 directing the traffic because it, you know, used to be an
12 actual stop. You came to Burtonsville, you had a left-hand
13 turn, right-hand turn to go to Laurel. That was a great
14 disruption. I mean, if you call my voice it says, "Please
15 press 3 for the update waive of Seidel's," because it
16 constantly changes. And they've tried to fix that.
17 Unfortunately, it was a little late.

18 CHAIR: So you did lose business during the
19 construction?

20 MS. MARTINS: I think we've lost business, and it's
21 really mainly due to the construction, not due to the actual
22 road reconfiguration.

23 CHAIR: Yeah.

24 MS. MARTINS: It's, you know, holds up traffic.

25 CHAIR: Just curious because of all those

1 discussions we had over the years.

2 UNIDENTIFIED SPEAKER: Mr. Chairman, could I make
3 one additional comment?

4 CHAIR: No, thank you, sir. Thank you very much.
5 Any rebuttal from the applicant? Any other questions?

6 UNIDENTIFIED SPEAKER: I have a question, primarily
7 of the applicant.

8 CHAIR: All right. Thank you very much. You are
9 excused. Mr. Dugan, do you have a [INDISCERNIBLE]?

10 MR. DUGAN: Yes, thank you.

11 CHAIR: Okay, go ahead.

12 MR. DUGAN: If I can borrow your microphone for a
13 second. Okay, thank you. What I was going to talk about
14 was, and we'll be happy to answer any questions, but with
15 respect to the driveway, the parking setback waiver, and why
16 we're going to ask for that with DPWT but also why we brought
17 it to your attention. And that was in the Master Plan, under
18 -- for this particular property, the various recommendations
19 that were included in the staff report. One of them had to
20 do with rezoning, an amount not to exceed three acres of the
21 eastern portion of the RC parcel, to enable the center to
22 redevelop. And then there was language that said add a loop
23 road, adjacent to the outer perimeter of the new C-2 zoned
24 land in the rear of the center, generally running from the
25 southwestern corner of the site and existing at U.S. 29.

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1 I had two points. One was that our proposal here
2 will provide more green space in those areas than would have
3 been available there if the loop road had been built along
4 the rear of the property there. Because the loop road would
5 have been in the RC zone plan. Just for dimension purposes,
6 at the southwesterly corner, that distance is 100 feet
7 setback from the property line, where we've committed to
8 build a fence along the perimeter of the Burtonsville
9 Elementary School, and where we've agreed to have a forest
10 conversation easement area. So you have 100 feet at that
11 point. The narrowest point that it gets to is 60 feet there,
12 as you can see there, as it necks down.

13 So although it's not always the case, certainly in
14 many instances, zoning lines follow property lines as well.
15 There is some analogous situation to setbacks from property
16 lines and setbacks from zoning lines, and I'll admit that
17 it's not exactly, but it is to avoid having incompatible uses
18 too close to one another, and that's certainly an element of
19 why you would have a setback.

20 So my point is, with respect to distances for
21 setbacks, there is 60 feet at a minimum right here. As they
22 mentioned before, a setback for parking a driveway is only 20
23 feet or so. This is quite a bit more than that, even at its
24 narrowest point. I'd also point out that the distance from
25 the other areas further back were significantly more than

1 that. They are 300 to 400 feet back from the property line
2 and in terms of distances from the residential properties,
3 that's obviously a very significant distance.

4 The stormwater management facility is going to
5 alleviate much of the erosion today that is at issue with
6 respect to trying to preserve the Patuxent and set it up for
7 a better situation.

8 For those reasons, we think it makes sense. We are
9 using the C-2 zone area that we thought we would be able to
10 use, assuming that the loop road went behind the center. We
11 would have used the loop road for that access. We now have
12 that roadway on our property so that we can have similar
13 access, so we're using less land there theoretically than we
14 would have otherwise. That's why we think it's justified.

15 The other thing is we certainly have no parking in
16 the RC zoned land. Let me just check one other thing here.
17 I think that's it. We'd be happy to answer questions.

18 CHAIR: All right. Discussion?

19 UNIDENTIFIED SPEAKER: I have a question. I want
20 to ask the staff, do we have in the record the letter from
21 Mr. Dugan concerning the applicant's intentions with the
22 sewer request? I don't see it in my packet.

23 UNIDENTIFIED SPEAKER: Mr. Dugan's letter?

24 UNIDENTIFIED SPEAKER: Well, there is a reference
25 in Mr. Rochester's testimony, or maybe, Mr. Dugan, you can

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1 just answer it yourself. I mean, there was a letter of July
2 21st.

3 MR. DUGAN: There was a concern that we were asking
4 for a sewer and water category change for any of the area
5 other than the C-2 zoned area. I submitted a letter that
6 said that we had no intention to have the sewer and water
7 category change for anything other than the C-2. In other
8 words, we were simply asking for sewer and water category
9 change for the C-2 zoned land.

10 UNIDENTIFIED SPEAKER: You submitted it to us?

11 MR. DUGAN: Yes. We also conveyed a copy to Mr.
12 Rochester as well.

13 UNIDENTIFIED SPEAKER: And that is still your
14 intention?

15 MR. DUGAN: And indeed --

16 UNIDENTIFIED SPEAKER: And you are still abiding by
17 that letter?

18 MR. DUGAN: Absolutely.

19 UNIDENTIFIED SPEAKER: And we do have a copy of it?

20 MR. DUGAN: I have a copy of that. I also have a
21 copy of the approved category change from the director of
22 DEP, and it is for the C-2 portion zoned -- portion of the
23 property only. The actual category change --

24 UNIDENTIFIED SPEAKER: So, perhaps, we should just
25 incorporate that in part of the record.

1 MR. DUGAN: Sure. It's into the record.

2 UNIDENTIFIED SPEAKER: So it's clear.

3 MR. DUGAN: Sure.

4 UNIDENTIFIED SPEAKER: Other than that, I guess we
5 need to discuss the waiver, and what other issues do we have?

6 UNIDENTIFIED SPEAKER: I have other questions
7 before we get to the waiver.

8 UNIDENTIFIED SPEAKER: Okay.

9 UNIDENTIFIED SPEAKER: The principal from the
10 elementary school was here, but she left. Would you show
11 where the driveway that leads up to the elementary school is
12 and the relationship of that to this center -- this site?

13 MR. DUGAN: Okay. Well, it shows on this aerial
14 and it also shows on this. The access point to the loop road
15 for the elementary school is located here.

16 UNIDENTIFIED SPEAKER: Oh, okay.

17 MR. DUGAN: And it goes offsite and will eventually
18 loop around back down to the loop road.

19 UNIDENTIFIED SPEAKER: All right. And if I
20 understand correctly from what's been presented, there is at
21 least probably 60 to 80 feet now, 60 feet at the closest
22 point. Where the loop road is that looks like it might be as
23 much as 80 to 100 feet.

24 MR. DUGAN: Well, it's --

25 UNIDENTIFIED SPEAKER: The end there to where you

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1 said the loop road -- to the school site is?

2 MR. DUGAN: Yes.

3 UNIDENTIFIED SPEAKER: Okay. I just wanted to get
4 some sense about that. Now, I just need to understand one
5 other thing, and I'm particularly interested in legal
6 counsel's guidance on this. While I was pleased to hear that
7 there is no parking on the residentially zoned lane, because
8 under no circumstances do I believe we could support that,
9 because that's, obviously, a violation. What I wanted to
10 know though is in light of the fact that this applicant has
11 control of the RC land and they're asking for a waiver in
12 light of the fact that they have put the road up to the RC
13 land, as opposed to measuring it from the end of the RC
14 parcel further east so that there would be no need for a
15 waiver. Whether that's consistent with the kind of typical
16 request and whether or not, in fact, that's something that we
17 regularly grant based upon such a request. And that's gets
18 into the question about the waiver request that Ms.
19 Wellington was asking about also.

20 UNIDENTIFIED SPEAKER: I think typically when you
21 have waiver requests like this, they do not involve property
22 under common ownership. So I think that's a relatively
23 unique factor. If the waiver is granted, then my expectation
24 would be that it would impact how the -- any potential
25 development on the adjoining site would be presented and

1 approved because it will raise compatibility issues and may
2 limit amount of density or how close they could build to that
3 existing roadway based on compatibility issues. With respect
4 to the merits of the waiver itself, I would defer to
5 technical staff on this project.

6 UNIDENTIFIED SPEAKER: Okay. Technical staff,
7 would you please respond to that? Also, would you respond to
8 the point of clarification that in light of the fact that
9 this is illustrative, and that also is under the control of
10 the applicant, that those buildings can be re-sited, they can
11 be reduced in size, or they can be reconfigured so that you
12 still get the same total square footage, I'm assuming, and
13 still not -- and there won't be anything that's a detriment
14 to the applicant, I believe. So I just want you to speak to
15 that. Why must it be that representation versus some other
16 representation?

17 UNIDENTIFIED SPEAKER: You ask two points. First,
18 the staff report was deliberately a little mum on the parking
19 setback because we were assuming that DPS, the director of
20 DPS, would issue a parking waiver as part of the review of
21 the Parking Facilities Plan that will be required of the
22 applicant to prepare at the time of building permit. So we
23 did not provide a lot of guidance on that.

24 I think the fact that the applicants owns the rural
25 cluster zoned portion is pertinent to the review of the

db

1 waiver, because I'm sure compatibility is one of the issues
2 that we would look at in the review of the waiver. I do
3 believe that if the waiver were not granted, and as it stated
4 in the Staff Report, they would have to respect that required
5 setback, which we believe is 20 feet. And I further would
6 believe with some creative redesign, this being illustrative
7 and a conceptual layout, that they could achieve, if not this
8 square footage, something very close to it.

9 UNIDENTIFIED SPEAKER: So just to make sure I
10 understand what you're saying, there is no apparent
11 impediment to the applicant if they met the setback
12 requirement; is that correct?

13 UNIDENTIFIED SPEAKER: I think it could be dealt
14 with, I do.

15 UNIDENTIFIED SPEAKER: All right. Second question.
16 In terms of square footage that's being proposed, especially
17 in light of the fact that this is our one short, there will
18 be little or if any loss of total square footage if there was
19 a reconfiguration of space; is that correct?

20 UNIDENTIFIED SPEAKER: You're getting into some
21 design elements. I'm a little uncomfortable making a
22 statement on the record. Would they lose square footage?

23 UNIDENTIFIED SPEAKER: You can't say that they will
24 lose square footage; is that correct?

25 UNIDENTIFIED SPEAKER: I can't say they will, no.

1 UNIDENTIFIED SPEAKER: You can't say that they
2 will? All right. And you are going to get your chance.

3 UNIDENTIFIED SPEAKER: Okay.

4 UNIDENTIFIED SPEAKER: Thirdly, is there anything -
5 - Piera, you wanted to say?

6 MS. WEISS: Yes, I just wanted to say, if they do
7 set back the required amount it is conceivable that they
8 might lose some square footage, whether it's 1,000 square
9 feet, whatever. But if you do change the setback, you do,
10 accordingly, lose something, whatever it is.

11 UNIDENTIFIED SPEAKER: Whatever it is.

12 MS. WEISS: Whatever it is.

13 UNIDENTIFIED SPEAKER: From an economic standpoint,
14 which is not your area, I understand, but based upon your
15 history, would they lose significant value on this parcel as
16 a result of meeting the required setbacks?

17 MS. WEISS: Would you like my opinion on that?

18 UNIDENTIFIED SPEAKER: I want your opinion.

19 MS. WEISS: Okay. In my memorandum I did make my
20 opinion and I believe that there is no preexisting condition
21 here which warrants a waiver.

22 UNIDENTIFIED SPEAKER: Well, that was going to be
23 the next question. So thank you for answering two questions.

24 MS. WEISS: I believe that any configuration, since
25 we know that this is conceptual, any change in it would have