The Leesburg Planning Commission met in regular session on Thursday, July 6, 2000, at 7:00 p.m. in the Council Chambers, 25 West Market Street, Leesburg. Members present for this meeting were: Chairman G. Glikas, Vice-Chairman C. Vaughan, Commissioners: C. Cable, K. Kearns, D. Kennedy, and K. Umstattd. Commissioners L. Schonberger and S. Rutherford were absent. Staff members present for this meeting were: Brian Boucher, John Callahan, Paul Gauthier, Delane Parks, Lee Phillips, Stacey Rothfuss, and Mike Tompkins

Minutes

Commissioner Kennedy made a motion to approve the draft minutes dated May 18, 2000, and June 15, 2000. The motion was seconded by Commissioner Kearns and approved with all voting aye, including Chair.

Petitioners - None

Councilmanic Report

Commissioner Umstattd reports that the Council voted 4-3 to initiate a proposed rezoning in the Potomac Crossing area of a parcel that had been zoned for townhouses. Arcadia wants to change it to higher density multi-family. Mayor Webb, Councilmembers Jackson and Umstattd voted against. It will now come to the Planning Commission for review.

In the Council's organizational workshop on July 5, 2000, Councilmembers Jackson, Umstattd and Atwell expressed concerned about the number of staff members, especially in Planning, that are leaving the Town of Leesburg, for opportunities elsewhere. They are very concerned that the Town of Leesburg is losing its hardest-working, best-qualified people and hope to do whatever possible to keep these people. This is a major concern of the Council.

Chairman Glikas asked about the Arcadia application and a concern about the play area. Commissioner Umstattd answered that the Council amended the resolution to include some of the promises that Arcadia has made. The Planning Commission will receive a complete list from Council about this. Chairman Glikas notes that this application will need careful consideration. Commissioner Kennedy asked for a copy of the Council minutes to help with this issue. Commission Umstattd will supply a copy of these minutes.

Commissioner Cable congratulated Commissioner Umstattd on her appointment as the new Vice-Mayor and thanked her for continuing to serve on the Planning Commission.

Public Hearings - None

Subdivision and Land Development Items:

A. Tri-State Drywall – Preliminary/Final Development Plan

Mr. Callahan addressed the Commission. Staff recommends conditional approval.

Commissioner Cable has asked for maps before and comments that she would like to see vicinity maps for these applications.

Commissioner Kearns requests that the first paragraph, last sentence of the June 28, 2000, staff report be modified to read "*as agreed to in writing by the applicant in the letter dated July 5, 2000"*.

Commissioner Kearns moves that the Tri-State Drywall Preliminary/Final Development Plan dated April 28, 2000, and received by the Town on May 2, 2000, be approved, conditioned upon satisfactory resolution of the Department of Planning, Zoning and Development review comments dated June 15, 2000, and revised June 22, 2000, and Department of Engineering and Public Works review comments dated June 13, 2000, as agreed to in writing by the applicant in the letter dated July 5, 2000. Commissioner Kennedy seconded the motion.

All approved voting aye, including Chair, motion passes.

B. Hamlet @ Leesburg – Preliminary Subdivision Plat

Mr. Callahan addressed the Commission. Staff recommends conditional approval.

Commissioner Cable refers to the June 27, 2000, letter to Mr. Quante from Mr. Callahan. Item #2 states that the applicant must show they have permission to put the trail on the Church's property or eliminate the trail from the plan. Mr. Callahan states that the trail will be eliminated from the plan. Commissioner Cable would like to see the trail remain. Mr. Callahan states that it was a marketing idea. The applicant may look at providing this trail in the future. The trail would not connect to any Town trails. Commissioner Cable asked if the reason the trail was removed was because the applicant could not receive permission. Mr. Callahan states that it was a design feature that was presented to the client. When the plans were printed the trail was inadvertently left on. Chairman Glikas brings up the question of maintenance of the trail. It usually goes to the homeowners association. However, if it falls into disrepair the Town may have to step in. Commissioner Cable would like to determine a sense of commitment on the part of the applicant to pursue the trail.

The applicant, Mr. Pat Corning with Bowman Consulting addressed the Commission. The trail was a marketing issue, intended to show the trail as a possibility. The applicant asked the consulting firm to look into this. They started to look into it and thought that it should be included on the preliminary plan so they would have the ability to do it. It would require cooperation form the Church and the more they looked into it the more complicated it became. An easement was needed in order to get it approved. They thought it should be removed because if the Church said "no" they would not be able to build the trail. They would like to build the trail, and if an easement were to be granted in the future they would, but if it became a condition of approval for this application, and the easement was never granted, then it would be a problem.

Mr. Gauthier states that the applicant was given the option to provide the trail or eliminate the trail. If the trail goes in, the application does not come back to the Planning Commission. If they don't put the trail in, the application does not come back to the Planning Commission. It was an "either/or" condition for approval of the plat. It is not a requirement.

Commissioner Cable's preference would be to have this trail. Anytime there is an opportunity to have a connection to downtown Leesburg it is an important marketing issue. She would not hold up the application for this, but strongly suggests this be pursued. It would be disappointing if this could not be done. If it came down to an option of having it or not, it would be very desirable to have this trail

done. Commissioner Cable goes on to state that at some point in the future the Planning Commission could look at requiring these types of trails be provided, and asks for any suggestions.

Chairman Glikas answers that it looks like staff has given the applicant an avenue to work the issue out.

Commissioner Cable is talking about future projects and making trails a requirement as opposed to just being an option.

Mr. Callahan states that it is possible to look at the overall trail system through the Parks and Recreation Commission and see where some logical connections to some neighborhoods from the outlying subdivision to downtown.

Chairman Glikas states that the Parks and Recreation Commission is currently looking at that and trying to make that system work. It's a big project and something that can be discussed at a later date.

Commissioner Cables points out that the comprehensive plan states that trails be encouraged when they can be connected to the downtown.

Mr. Gauthier states that staff will do everything that they can to make sure that the trail is there, although they cannot guarantee it. One of the difficulties of the trails is that many times the connections are offsite and it is difficult to require things when they are offsite. What will need to happen is to get the parts of the trails that are onsite, that's when you can make it a requirement. If the Planning Commission wants staff to look into trail issues and ways to implement that, we can do that. It is something that the Director of Planning is currently working on. In the context of the subdivision we are fairly well constrained.

Commissioner Cable suggested that when the Planning Commission reviews the Subdivision Ordinance, maybe it could be added to the list of things to be reviewed at that time.

Mr. Gauthier states that it does say that you have to put in sidewalks or trails whenever onsite. But for the current application it is not onsite. Even if you change the ordinance, there isn't much you can do.

Commissioner Kennedy asks about the existing Marshall Drive is a public street, the Marshall Drive show on the plan appears to be a private street?

Mr. Gauthier answers; no it is a public street.

Commissioner Kennedy asks why there are not trees in the front yard of each of these townhouses.

Mr. Callahan states that there should be trees, many times they are not shown on the drawings but referred to in notes.

Commissioner Kennedy states that Tulip Poplars were noted on the plans. Aren't these types of trees that we are not supposed to be using?

Mr. Callahan states that the Tulip Poplars are existing trees onsite.

Commissioners Kennedy states that there are subterranean footers in these duplexes. There have been cases when in other areas the first few subterranean footers were put in and then the rest of the duplexes did not have them. Is there a method to examine as each of these houses is built to insure that the correct footers are being put in?

Mr. Tompkins states that Mr. Boucher is aware of this problem.

Mr. Callahan made the applicant put a note on the plan, and hopefully whoever reviews the construction drawings will provide that note on the final plat that they will be inspected by our zoning department at the time the footers are in place and that they have to be 18 inches square. Note #27 on the cover sheet under "general notes" addresses this.

Mr. Boucher states that before an occupancy permit is issued, surveyors have to show where the connection is. They provide a signed, sealed survey that state that the footers are there. It has been a problem in the past and we have made some of them dig up the site to show us that the footers are there. Many times when the sites are inspected, the footers are already filled in and we do rely on the engineer's survey.

Mr. Tompkins points out that the zoning ordinance is being changed to
_____.

Commissioner Kennedy moves that The Hamlet at Leesburg Preliminary Subdivision Plat dated April 25, 2000, and received by the town on May 12, 2000, be approved, conditioned upon satisfactory resolution of Department of Planning, Zoning and Development review comments dated June 27, 2000, and Department of Engineering and Public Works review comments dated June 16, 2000, as agreed to in writing by the applicant in a letter dated June 28, 2000. Commissioner Kearns seconded the motion.

Commissioner Cable states that she will support this motion and reiterates her strong hope that this applicant will pursue the provision of this trail. Chairman Glikas agrees.

All approved voting aye, including Chair, motion passes.

C. Potomac Station Apartment – Preliminary Development Plan

Mr. Parks addressed the Commission. This is part of the overall Potomac Station plan development; this section is adjacent to the retail portion of Potomac Station. Staff recommends conditional approval. The applicant has added additional landscaping along the frontage (in addition to what is required by the ordinance) based upon discussion with the Planning Commission.

Commissioner Cable asks about berms?

Mr. Parks answers that it was talked about with the applicant and that the elevation of the property makes it difficult to create a berm that would be effective. Based upon that, the applicant elected to put in additional landscaping.

Vice-Chairman Vaughan asks about the timing of amenities, like the pool, and when they will be available for the community? There have been problems in the past with this, and would like to see it

included in the proffers or the motion, that the amenities will develop with the project. This has been done in the past.

Mr. Callahan states that it will be going in at the same time the apartments are going in. In the past when phases of development are being done we have asked for recreation amenities be done at a certain point in the phases, but here there are no phases, it is just all being built at once.

Commissioner Kennedy asks about the drawing in regards to sidewalks along Ft. Evans Road. Mr. Callahan states; yes, the sidewalk will run the entire property.

Chairman Glikas asks about what improvement will be made at the road frontage. Mr. Gauthier states that they are required to provide a half section of a 4-lane divided roadway. Two lanes are under a different agreement, the second phase of the Leesburg Premium Outlet and with the Home Depot special exception. If those two lanes are there, they will build their turn lanes, conditional curb and gutters and needed with turn lanes and sidewalks.

Commissioner Kennedy moves that the Potomac Station Apartments Preliminary Development Plan, Staff Report, 3rd Submission be approved conditioned upon satisfactory resolution of the Department of Engineering and Public Works review comments dated June 22, 2000, and the Department of Planning, Zoning and Development review foments dated June 26, 2000, as agreed to in a letter provided by the applicant dated June 27, 2000 and revised July 6, 2000. Vice-Chairman Vaughan seconded the motion.

Commissioner Cable thanks the applicant for addressing the berming issue and for providing additional landscaping. That is very commendable and appreciated. Chairman Glikas agrees.

All approved voting aye, including Chair, motion passes.

D. Stratford/Ryland – Preliminary Subdivision Plat

Mr. Parks addressed the Commission. Staff recommends conditional approval.

Commissioner Cable asks when we approve a plan that has a specified number of parking spaces per unit, especially with townhouses that have one of those spaces in the garage, if there were a building permit submitted to enclose the garage, is that basis to deny that building permit?

Mr. Parks states that we would go back and look at the plan and see what the required number of spaces were and the provided number of spaces. If the provided number of spaces is exactly the same as the required number of spaces, and they lost a space, they wouldn't need it. If they had an excess of 10 spaces and they lose one they would still fall within the required number of spaces.

Commissioner Cable asks if the first 10 building permits would be issued? Mr. Parks answers, yes. Commissioner Cable asks if it would be a denial issue for a building permit if the required parking was not maintained. Mr. Parks answers, yes.

Commissioner Kennedy points out and reads from Mr. Park's review comments, dated June 23, 2000, page 5, "*Referral/Fire and Rescue" Item #1. Fire/Rescue review comments are attached for your consideration. …… The Loudoun County Fire Protection Inspector has indicated that providing parallel parking spaces (at 9.5 ft width per the Town Zoning Ordinance) on both sides of the proposed*

30 ft wide private streets would not leave the minimum 18 feet travelway width necessary for appropriate fire vehicles access through the residential development."

Commissioner Cable to follow up on what Commissioner Kennedy just read, did that not say both sides and isn't this indicating that the parallel parking will be on one side only? Mr. Parks states that is correct, in the letter of agreement it is made very clear that parking will be on only one side. Staff has talked with the Fire Marshall about this, to ensure adequate space for fire and rescue vehicles. Parking on only one side is clearly stated in the letter of agreement. The plan leaves it a little more ambiguous, staff wanted it clearly stated.

Commissioner Kennedy agrees that Commissioner Cable's point is well taken. However, a drive after 9:00 p.m. on virtually any private drive that has single-family houses in Leesburg (Linden Hills among them) will show that people have a tendency after 9:00 p.m. to pay no attention to those signs. In addition, as we have learned earlier, the ability of the Town Police to go into a private drive and to enforce laws that are not Virginia State laws, I think that Council has said that it is not something that the Town can do.

Commissioner Umstattd and Chairman Glikas state that Commissioner's Kennedy point is well taken.

Commissioner Cable moves that the Planning Commission approve the Stratford/Ryland Preliminary Subdivision Plat, conditioned upon satisfactory resolution of the Department of Engineering and Public Works review comments dated June 20, 2000, and the Department of Planning, Zoning and Development review comments dated June 23, 2000, as agreed to in writing by the applicant in a letter dated June 29 and 30, 2000, with clarification of certain review comments (including exhibits). Chairman Glikas seconded.

The motion was approved as shown below:
Aye: Chairman Glikas, Commissioner Cable, and Commissioner Kearns
Nay: Vice-Chair Vaughan, and Commissioner Kennedy

<u>Zoning Items:</u>

A. ZOAM 00-04 – Colleges in I-1 District

Mr. Boucher addressed the Commission. A slight change was made in the ordinance that is being proposed next Tuesday. Mr. Boucher passes this out to the Commission. Please look at page 3, this is a proposal to add colleges or university in the I-1 District under certain conditions. There are size limitations. What we have done is tighten up the language of the proposed legislation to specific that the 12,000 sq. ft. is gross floor area. Mr. Boucher details the staff report.

Commissioner Cable asks about page 2 of the staff report, it says that the table calls for a minimum of 5% of business areas to be made up of public and/or civic uses. Is this 5% of any given area of any given application? Mr. Boucher states that is correct, there is no maximum. Commission Cable asks if an applicant came in adjacent to a site that was zoned for business or I-1, they too would have to provide a minimum of 5% if the college was next door and had already consumed a large area. Mr. Boucher asks Commissioner Cable if she is asking if each individual development would have to do it? Ms. Rothfuss states that with Leesburg Commons, it was considered one large development, 5% would apply in that way. Commissioner Cable states that she would hope that would be the case. That each applicant has to do his own.

Commissioner Cable comments that it is interesting that adding this to the I-1 doesn't create any different circumstance than technical schools, which are currently allowed by right. This is just educational vs. technical.

Commissioner Kearns knows that Mr. Barton asked for 12,000 sq. ft. Since many buildings have first floors with universities in commercial areas, and typical area plates today are 25,000 sq. ft., she thinks that 12,000 sq. ft. was insufficient use for a university, maybe not for Mr. Barton, but for general education use. It's not a very big area when talking about education and classrooms. It's a very common use and many times it is the entire first floor. She would like to see the square footage increased to 25,000 because it is a plus for economic development to attract these types of universities. She knows they can request more space by special exception, but it would be nice if they knew they could just go ahead and do it. Why are we sticking with 12,000 sq. ft.?

Mr. Boucher answers that staff is being conservative. Given that the size of buildings that have been proposed so far for education or office buildings, 25,000 sq. ft. is large. Staff wanted to maintain control. Parking becomes an issue with larger educational uses, especially with night schools. We are keeping it fairly small because in a development where like this is located parking would not be an issue because the size is small. If you have 10 students, you have just short of 7 parking spaces. It's a percentage calculation. Parking can be substantial. The larger use can always be addressed through special exception.

Commissioner Kearns states that if you are a developer today you are going to develop a building whether it is 12,000 or 25,000, and try to park 4 to 1 and not go by the Town plan. A builder will do more parking to attract tenants. That is what we are seeing in the market place. Commissioner Kearns believes that it would help the Town of Leesburg to increase the size. Typically these universities are for adult students who would be parking at night when the parking lots are not being used by the employees. Mr. Boucher agrees that you can do joint parking and he would expect that to happen with a larger university that is one of the things that would be looked at for a special exception. We would allow shared parking agreements under the ordinance for this type of use. Mr. Boucher did look at other ordinances. This seemed to fit the needs currently, no one has proposed anything larger. Commission Kearns would like to recommend 25,000 sq. feet. From an economic development viewpoint, it you have it there, they will come, rather than making it a special exception. It opens up to some opportunities that might otherwise not come your way. The Internet businesses today want to educate where they are located, they want that as part of their product as part of their office campus. We don't have to many areas that can be office campuses but let's make them as attractive to the kind of industry that we want as we can. If you want to put caveats on increasing the square footage about the parking, or other caveats, I don't think it could hurt.

Commissioner Umstattd asks if this application has to go to the Council and if there is some way to add to the staff report Commissioner Kearns comments? Mr. Boucher states that it could be modified to incorporate her comments.

Mr. Tompkins states that Commissioner Kearns is encouraged to repeat her comments at the joint public meeting next week.

Commissioner Cable agrees with Commissioner Kearns and has no problem with what is being proposed other than the fact that the opportunity for larger universities to come in and have larger square footage is there with the provision of the special exception. Remember we are considering

putting this in the I-1 district which is our office area and to open the area by right to other uses other than office, when you have the opportunity to consider those other uses with special exception, she is concerned about.

Chairman Glikas asked if Mr. Boucher could go back and look into this. Mr. Boucher states that there is not enough time to do this. It was a matter of staff being conservation. The thought being that if a lot of people wanting to locate in our I-1 for this use, we can get a look through the special exception, and put a few reasonable conditions on them.

Commissioner Kearns states that businesses will go where it is easiest for them to go. Special exceptions does not make it easy for them, it's time consuming. Virginia Tech as the entire first floor in a building in Vienna. It's a very typical scenario. Wouldn't the Town of Leesburg of Leesburg like to have a Virginia Tech if they needed 25,000 sq. feet? We could speed up a special exception, but it costs them money and time, and there would be other people pursuing them. Commissioner Kearns is looking at this from an economic development point, and thinks that 25,000 sq. feet is not very much.

Commissioner Umstattd asks if Commissioner Cable and Kearns can be at the public hearing Tuesday night in order to present their different views of this zoning item. The Commissioners will try to be there.

Mr. Boucher states that staff will mention this concern in their report, and will take a look at the 25,000 sq. feet and bring it forward as a discussion item.

Mr. Tompkins states that even after the Planning Commission comes back with their recommendation, there is still the opportunity to discuss those types of issues with Council.

At this time there was much discussion about Planning Commissioner's attendance at the public hearing on Tuesday night and what would constitutes a quorum.

Commissioner Cable states that she normally is not supportive of a zoning ordinance amendment outside of the process of the zoning ordinance review but once again there is an issue here that is not covered currently in the ordinance, the fact that a college/university is limited to a single district and the fact that allowing such an increase in the districts where colleges/universities could be located does increase our economic development and educational opportunities, therefore she will support this amendment.

<u>Comprehensive Planning Items</u>

A. SE2000-06 – 1311 Barksdale Drive (Home Daycare)

Ms. Rothfuss presents this special exception application. The applicant, Ms. Bennett, is present. Approval is recommended. Ms. Rothfuss passes around pictures of applicant's yard. Staff was concerned that the yard was not fenced, however, the pictures supplied by applicant shows the fenced yard.

Commissioner Cable asked where the employees would park? There is a two-car garage and a wide driveway. Applicant states there will be 3 people working with her, 1 part-time and 2 full-time. One of the employees does not drive. Commissioner Cable asks if there is sufficient room for parent to drop off their children? Applicant states that there is room and if it is raining or snowing, they can

come into the garage and drop off the children. Also applicant states that the pick-up times of the children are staggered. Which road is the driveway off of? It is off of Barksdale Drive.

Commissioner Kennedy motions that SE-2000-06, 1311 Barksdale Drive, Home Daycare, be adopted as written. Commissioner Kearns seconded the motion. All approved voting aye, including Chair, motion passes.

Old and New Business

A. Administrative Matters

Ms. Rothfuss addressed the Commission. There are two issues discussed. One question was about keeping a public hearing open for 10 days. The Planning Commission Bylaws currently state that it must remain open for 10 days. Staff has suggested that the 10-day constraint be removed from the Bylaws and keep public hearing records open on a case-by-case basis.

Chairman Glikas asked what other areas do in regards to this? Ms. Rothfuss surveyed a couple but did not get a huge response. Commissioner Kearns states that Fairfax County does not keep a 10-day period. Sometimes they defer a case and keep it open at the same time.

Commissioner Kearns does not want to keep it on a discretionary basis. Unless the same guidelines are used each time that we might be open to litigation. The public sometimes does not participate until after the Planning Commission has met and it gets in the newspapers. They we get all kinds of letters and comments from the public. She suggests a minimum of 3 days, no more than 5 days. We still need to have time frame in order to obtain public response.

Commission Kennedy does not want to make any change to the Bylaws about the 10-day issue.

Commissioner Cable thinks that it hinders the Planning Commission sometimes and helps at other times. There are times when we have consensus and no issues and the item has to come back again. It is additional staff time, additional time to read the staff report, additional discussion, and additional option for the public to come back a second time. If it is always an option to defer the discussion and keep the record open on cases that are significant, she would favor eliminating the 10 days from the Bylaws and exercising the option when the opportunity presents itself. Commissioner Cable asks for the Town Attorney's answer in regards to leaving the Planning Commission open for litigation if they decided on a case-by-case basis.

Mr. Donnelly answers that Fairfax County does not have a mandatory waiting period and do decide on a case-by-case basis. Spotsylvania County also does it this way. He is not familiar with how Loudoun County does it, but with all jurisdictions that he is familiar with do decide on a case-by-case basis. To answer the specific question, Mr. Donnelly states that you can always be sued. It is his opinion that they would not prevail, unless they could establish that you treated people who were similarly situated in a different fashion. As long as you have a reasonable basis for treating one class of cases one way and another a different way, you are safe from a legal standpoint.

Commissioner Kennedy is not in favor of changing the 10-day period. There are many times that the public do not response until well after a public hearing. Ten days takes us to the next Planning Commission meeting, there is no compelling reason to do this.

Commissioner Kearns likes to know what the rules are, so that everyone can play by the same rules.

Vice-Chair Vaughan would hate to change anything without knowing why it is the way it is. Where did the 10 days come from? His experience is that there is not much public participation at this level and very frequently the community does not make a significant fervor until it goes to Council and then all of a sudden it's like a new issue that no one ever heard about before.

Commissioner Cable states that the Planning Commission does want to encourage public participation and we do not get a lot of it. We are in the process right now of trying to streamline our processes. We spend a lot of time of over and over the same issues, when sometimes they are very minor and simple and can be taken care of the very night that they come be us. It would release staff, our review and further consideration. As long as we have the option of deferring to give additional time on an issue, we are doing a disservice to ourselves, staff and the people who spend the time to come to the initial public hearing, when there is not a need for further delay, to not have the option of going forward at the time of the public hearing if we so choose. If there are any objections or indications that there is a need to go further, then we defer. It is as simple as that.

Vice-Chair Vaughan asks what criteria or guidelines do we use to establish a deferral period? What issues require or necessitate a deferral?

Commissioner Cables states that it comes up at the time of public hearing and the discussion that is held by the public, staff or this Commission. If there are unanswered issues and we don't want to go forward or don't feel ready to, or have additional questions, then we defer.

Chairman Glikas hears both sides of the issue. He is in favor of having a time frame. Many people come to our meetings and are very upset and concerned or have input that they want to provide. I don't think that I can listen and hear what that person has to say in 6 minutes. And if there are six people or more that come to talk, there is no way I can digest what they have said and make a decision without doing some research of my own. The time frame is good for the community and he likes it.

Commissioner Cable understands what Chairman Glikas is saying.

Mr. Gauthier would like to state a reason to leave some flexibility and not have a specific timeframe. That is the Design and Construction Standards Manual. It came to the Commission, there was little discussion, why hold it up and make it come back in 14 days when it is fresh in your mind, staff has given the presentation. Usually when these come forward there is a unanimous agreement with the development, community and town. There are some issues where you might want to act that night and when there are a range of opinions you might want to leave it open. From a staff viewpoint there are some specific things when you can clear the calendar and move on.

Chairman Glikas asks if holding it for a 10-day time create a problem? Mr. Gauthier states that staff comes back with another staff report saying the same thing that the first staff report said. Now the public hearing has been held, it's been 10 days and no one has come forward, it seems like the Commission could move forward.

Commissioner Kearns asks if the reason for changing this is for the convenience of re-writes of ordinances, etc.? Mr. Gauthier states that there are some things that clearly are not controversial. Commissioner Kearns agrees with that statement. She just thinks that the other side outweighs that. Mr. Gauthier states that if it were to happen that he brought the Design Manual up and there are 15

upset people in attendance, that would be very clearly something that the Commission would not want to act on. You may want to leave that one open. Chairman Glikas states that if that is the case with 15 upset people in attendance and then the applicant is sitting there saying that this needs to be pushed through. This needs to go forward. The Commission is then sitting there with the dilemma of wondering whether or not it should go forward or be deferred.

Commissioner Kennedy states that he has been in the public shoes, standing at the podium, fighting and supporting applications. If the motion had gone against him that night, he would have felt slammed-dunked. He doesn't think that it is a fair thing to do to any citizen of the Town of Leesburg. A citizen has a right to come forward at a public hearing and then have 10 days for others to agree or disagree with what has been said. Let's not steal that from the citizens. It's not a rule that is hurting the Commission. It's causing us to put a new date on a staff report. No one has given me a compelling reason that we need to vote on it that very night.

Mr. Tompkins suggested that staff work with the language in the Bylaws that may address both sides of concerns. Commissioners Kearns suggests that there be specific rules governing deferral.

Commissioner Cable concern is continuing things just because that's the way it's always been done. These issues need to be looked at.

Commissioner Kearns requested that staff find out what Loudoun County does.

Ms. Rothfuss addressed the Commission about time extensions. It's occurs most of the time with rezoning applications. The Zoning Ordinance is very strict regarding the time staff has to review applications and the language is being rewritten in the current review process of the Zoning Ordinance to give staff more time to review the applications.

Another question that came up is when should the Commission take formal action on a time extension request. The Planning Commission should take action on a request for a time extension when an application is on the agenda and the applicant and Planning Commission agree to an extension for further review. The Town Attorney suggested that if an application is still under extensive review by staff and the 90-day time limit nears expiration, then staff may handle requests for time extensions administratively. The applicant would simply submit a letter requesting an extension and the case planner would place the letter in the file and complete the review of the application before bringing the case to the Planning Commission for review.

Vice-Chairman Vaughan asked what the specific criteria were for a time extension. Ms. Rothfuss states that they are time frame as to how long they want the extension for, a time frame for submission of new material, those are two major components. The others she cannot remember off the top of her head, but she can certainly look at them again.

Vice-Chairman Vaughan states a couple of concerns, Commissioner Kennedy never wants to grant an extension less than 90-days. Ms. Rothfuss states that the Planning Commission has control over negotiation with the applicant in regards to this. Vice-Chairman Vaughan states that Commissioner Schonberger's comments have always been that the applicants needs to show that that they are progressing with the application before granting an extension. Vice-Chairman Vaughan states that personally he wants to speed the process up and doesn't have any real concerns about time extensions being granted administratively. He would like the Planning Commission to be notified when that has been done for an application and the period of time that it has been granted for. Ms. Rothfuss stated

that it could be done and could be included as part of the information in the meeting packets, but not on the agenda.

Commissioner Kearns thinks that it is a good idea. Commissioner Cable fully supports this idea. Ms. Rothfuss states that the item will either be on the agenda as a time extension request or it will be something that is on the agenda for discussion that staff believes that the Planning Commission is ready to act on but the applicant forgot to do a letter and does want an extension or the staff is at a time deadline.

Commissioner Kearns asks that a photocopy of the applicant's time extension letter be put into the packets.

Mr. Phillips hands out a withdrawal letter regarding the Carlson Property. The applicant is withdrawing its request for a variation to permit construction of a common parking court on 2.87 acres of property. The attached sketch shows where they are proceeding with a by-right subdivision. This has not been reviewed by staff, it's only FYI.

Committee Reports

Commissioner Cable reports that she attended the Economic Development Commission meeting this evening at 5:30 p.m. and she had to leave before it was over. It is helpful for her to attend these and she would like to see a member of that committee attend the Planning Commission meetings once in awhile. They want to be included in the loop for zoning applications and other items and be able to have input.

Mr. Tompkins states that staff currently keeps the Economic Development Commission informed through Mr. John Henry King.

On a motion by Commissioner Kennedy, seconded by Commissioner Cable, the meeting adjourned at 8:58 p.m.

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Brenda G. Norton, Recording Clerk
Leesburg Planning Commission