

January 12, 2009

KILMARNOCK PLANNING COMMISSION
Tuesday January 12, 2010
Town Hall
Kilmarnock, VA

Regular Meeting Minutes

1. Call to Order

Chairman Booth called the regular meeting to order at 7:00 pm with the following members present:

Raymond Booth, Chair	Jane Ludwig
William Smith	Steve Bonner
Rebecca Nunn, Council Liaison	

Members Absent:

Claudia Williamson, Vice-Chair
Dave Reedy

Staff Present:

Tom Saunders, Town Manager
Marshall Sebra, Assistant Town Manager/ Planning Director
Paul C. Stamm, Jr., Town Attorney
Joan N. Kent, Transcriber

2. Recognition of Guests:

Chairman Booth welcomed Kilmarnock residents, business owners and guests.

3. Acceptance of the Agenda

ACTION: Commission Member Bonner made a motion to accept the January 12, 2010 Planning Commission meeting agenda as presented, seconded by Commission Member Smith; and carried unanimously.

4. Public Forum

Chairman Booth opened the public forum by inviting members of the audience to voice their concerns or ideas in regards to planning issues. Each speaker was limited to 3 minutes.

There were no participants in the public forum.

5. Minutes: Approve, Correct or Amend the Minutes for the December 8, 2009 Planning Commission Meeting.

ACTION: Commission Member Smith made a motion to approve the minutes for the December 8, 2009 Planning Commission meeting as presented, seconded by Commission Member Bonner; and carried unanimously.

6. Public Hearings

A. Request by Sea Star Enterprises, LLC to rezone six parcels of land totaling approximately 1.2 acres located off Chase Street, between Heatherfield Court and Cedar Lane to R-2 (Medium Density Residential). The request pertains to Tax Map # 23A-31 lots 40A, 40B, 40C, 41B, 41C, 41D; currently zoned R-1 (Low Density Residential).

1. Description of request from staff and property owner

Assistant Town Manager/ Planning Director Sebra advised Planning Commission Members that a staff report, zoning maps, a copy of the application from Sea Star Enterprises, LLC, and comments from adjacent property owners were included in their packet. Mr. Sebra introduced Mr. Rick Schuder, owner of Sea Star Enterprises, LLC.

Mr. Rick Schuder stated that he would like to rezone the property in order to build condominium type townhouses resembling those at Heatherfield Court. Mr. Schuder said that currently Chase Street had some drainage issues, which his proposed project would remedy. Mr. Schuder advised that he had read all of the comments and concerns submitted by adjacent property owners and wanted to reassure everyone that the townhouses he built would be just as nice as those at Heatherfield Court.

Unknown female from audience asked if there would be any buildings higher than two stories.

Mr. Schuder replied that height limitation was 35 feet maximum.

Commission Member Ludwig asked Mr. Schuder if the townhouses would be the same design as those at Heatherfield Court.

Mr. Schuder replied that they would be very similar.

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Commission Member Bonner asked Mr. Schuder if a portion of the property where he intended to build two of the units was already zoned as R-2.

Mr. Schuder replied that it was.

Mr. Bonner commented that the reason he asked that question was to bring it to the public's attention that Mr. Schuder could build those two units without seeking permission from the Town or anyone else. Mr. Bonner encouraged the public to approach the developer in a mutual way so that due diligence was met and everyone would be happy.

Commission Member Ludwig commented that she thought Mr. Schuder's plan would be a major improvement over the rental houses that currently existed on the property.

Mr. Schuder advised that both he and his wife were environmental science majors and it was not their intent to be a detriment but to better the community.

Commission Member Bonner asked Mr. Schuder what type of barrier he intended to place between his project and Heatherfield Court. Mr. Bonner also asked what reassurance did the Heatherfield property owners have that his intended project would not turn into something else at a later date that would devalue their property.

Mr. Schuder replied that there was already an existing privacy fence between the two properties. Mr. Schuder stated that he intended to place a homeowners association in the covenants to protect the development.

Unknown female from audience wanted to know how many different models of townhouses would be built.

Mr. Schuder said that he had not gotten that far in regards to the design aspect.

Chairman Booth asked the audience to refrain from asking questions at this time and to wait until he opened the floor for public comments.

Mr. Schuder said that he intended to create a wild life habitat pond as a buffer to the houses and street traffic.

Commission Member Bonner asked if there would be a fence around the pond.

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Mr. Steve Engel, engineer for Sea Star Enterprises, LLC replied that the retention pond would be designed to absorb run off and would not have a significant amount of water in it year round.

Commission Member Smith asked Mr. Schuder if he intended to complete his project in stages or all at once.

Mr. Schuder replied that he intended to build the project in stages.

Commission Member/ Council Liaison Nunn asked Mr. Schuder how many units he intended to build.

Mr. Schuder replied nineteen. Mr. Schuder reiterated that he loved the appearance of Heatherfield Court and noted that he would be willing to work with the residents in regards to his project so that everyone could be happy. Mr. Schuder acknowledged that he was aware of their concern that one day his project might turn into Section 8 housing but vowed that would never happen. Mr. Schuder said that he had been approached by Section 8 housing in the past regarding the existing rental houses on the property and he had turned them down. Mr. Schuder said that his intent was to build high-end townhouses.

Commission Member Smith asked if the existing six units would remain in tact until the back units were built.

Mr. Schuder replied that he would have to demolish the existing units in order to build the infrastructure needed for the project.

Commission Member/ Council Liaison Nunn asked if the homeowner's association would maintain the streets within the development.

Mr. Schuder replied that they would.

Commission Member/ Council Liaison Nunn asked Mr. Schuder if he was planning to install streetlights.

Mr. Schuder replied that he had not gotten that far in regards to the design process and asked his engineer, Mr. Engle to speak.

Mr. Engle stated that what had been decided so far was to mirror the townhouses at Heatherfield Court in regards to architecture, height and size of units. Mr. Engle said that the VDOT approved entrance to the development would require them to fix the current drainage problem that existed on Chase Street by replacing the pipe. Mr. Engle advised that they intended to construct a gazebo and noted that the property would be heavily landscaped.

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Commission Member Bonner suggested the possibility of Mr. Schuder obtaining a copy of Heatherfield Court's homeowner's association by-laws and implementing them in his development.

Mr. Schuder replied that he would definitely take a look at theirs and see what could be done.

2. Chairman Booth opened the public hearing.

3. Chairman Booth asked for public comments.

a. Ms. Anita Sanders of Heatherfield Court in Kilmarnock, VA asked if Mr. Schuder intended to put in his own privacy fence in addition to the one that Heatherfield Court already had.

Mr. Schuder replied that his intent was for a green design instead of an additional fence.

Chairman Booth explained to the public that it was not appropriate for them to question Mr. Schuder and stated that their comments should be directed to the Planning Commission.

b. Mr. Charles O'Donald, Chairman for the Heatherfield Court Architectural Committee, referred to the information found in the Planning Commission packet and stated that he did not know if he was looking at a rough sketch of plans or exactly what he was looking at. Mr. O'Donald said that he wanted to know the distance between the fence and the back of the units.

Assistant Town Manager/ Planning Director Sebra advised Mr. O'Donald that what he was looking at in the packet was something that he had produced on his computer as opposed to trying to display a full set of plans to the audience, which would have been a difficult task.

Mr. O'Donald responded by saying that what he was looking at was not reality but the first step. Mr. O'Donald informed Mr. Schuder that his plans gave no idea of what the elevation of the homes would be.

Chairman Booth again stated that comments from the audience were to be made to the Planning Commission and not to Sea Star Enterprises, LLC.

Assistant Town Manager/Planning Director Sebra informed Mr. O'Donald that the elevation of the homes was not known at this time but advised him that the Town ordinance limited elevation to a maximum of 35 feet. Mr. Sebra explained that the public hearing was being held to address

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the rezoning issue only and that Mr. Schuder would have to submit a detailed set of plans to be approved by the Town at a later date.

Mr. O'Donald stated that when someone changed one thing then everything around it changed to a certain degree. Mr. O'Donald said that he enjoyed the morning sunshine in his bedroom window and that the sunshine was pertinent to the growth of his shrubberies, all which would be affected by the erection of the proposed townhouses. Mr. O'Donald stated that he found the project lacking in imagination. Mr. O'Donald said that some of the buildings going up around the area reminded him of the barracks that he trained in for Korea back in 1953. Mr. O'Donald said that Heatherfield was designed to look like a Victorian village and he did not see any theme to Mr. Schuder's project. Mr. O'Donald said that he would like to see the townhouses creatively arranged on the property.

c. Mrs. Lucille Tutt of Heatherfield Court in Kilmarnock, VA stated that she was concerned about how Mr. Schuder's development was going to look with all of the units crammed on such a small amount of acreage. Mrs. Tutt said that if she could see a picture of the townhouses that Mr. Schuder intended to build, it would ease her mind. Mrs. Tutt wanted to know what the square footage of each home was going to be.

Chairman Booth said that as the project moved forward than the plans would be available for public view. Mr. Booth stated that it was impossible to have the full picture at this stage.

Commission Member Bonner stated that the Planning Commission was limited as to what it could do in regards to the architectural design because the Town did not have an ordinance for such except in the historical district. Mr. Bonner said that there were all types of regulations that Mr. Schuder would have to comply with but just like anyone who was building a home, the Town could not dictate what it would have to look like.

Commission Member/ Council Liaison Nunn clarified to the public that the hearing was only for the Planning Commission to recommend or not to recommend to the Town Council the rezoning request and nothing more. Mrs. Nunn said that if Town Council granted the rezoning request than the next stage would require Mr. Schuder to submit his plans for the project to the Town for approval.

Commission Member Ludwig stated that she owned the property in question at one time and it was a matter of public record that Mr. Schuder paid \$650,000 for it. Mrs. Ludwig said that it had been his dream to mirror Heatherfield Court or to make his development even more beautiful. Mrs. Ludwig stated that Mr. Schuder was very conscientious about the environment

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and once done, she felt the project would be a major improvement to the community.

d. Mrs. Ursula Murch of Heatherfield Court in Kilmarnock, VA stated that the project was a mixed bag for Heatherfield residents. Mrs. Murch said that she was happy for Mr. Schuder who was trying to make his dream come true but noted that a draw back to Heatherfield homeowners was that his project would create beautified competition for their homes. However, Mrs. Murch said that was the way things went. Mrs. Murch stated that Mr. Schuder had offered to be welcomed with friendly arms and she felt that it would be in everyone's best interest to quit trying to stop something that they couldn't stop. Mrs. Murch said that she hoped good will would prevail even though some of the residents would lose their unobstructed view. Mrs. Murch finalized by saying that if good will was shown on both sides, they could all live as good neighbors.

e. Mrs. Kendall Vickery stated that the request for rezoning dealt with 1.2 acres and wanted to know the size of the entire parcel.

Assistant Town Manager/ Planning Director Sebra replied that the entire site consisted of 2.4 acres.

Mrs. Vickery said that everyone should keep in mind that the units were being built on 2.4 acres and not just 1.2.

4. Chairman Booth closed the public hearing.

5. Chairman Booth asked for Commissioner's comments and/or action.

Commission Member/ Council Liaison Nunn commented that currently Heatherfield was the only game in Town and she felt there was a need for another complex just like it.

Commission Member Bonner commented that maybe Mr. Schuder could provide better specs at the Town Council public hearing should the Planning Commission recommend the rezoning.

Commission Member Smith stated that he felt the project would only appreciate the surrounding property value because the existing rental properties would be disposed of.

Town Attorney Stamm advised that the Town could not make the request but that the developer could proffer that the property would only be used to build townhouses or condominiums if rezoned.

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Mr. Schuder said that as a Virginia gentleman he would make that proffer.

ACTION: Commission Member/ Council Liaison Nunn made a motion to recommend to Town Council that the 1.2 acres listed as Tax Map # 23A-31- lots 40A, 40B, 40C, 41B, 41C, and 41D be rezoned from R-1 to R-2 with the proffer made by the property owner that only townhouses or condominiums would be built there, seconded by Commission Member Bonner; and carried unanimously.

Chairman Booth called for a short recess at 7:50 pm.
Chairman Booth reconvened the meeting at 8:05 pm.

7. Commissioner Comments

There were no Commissioner comments made.

8. Old/ Unfinished Business

A. Request for a Conditional Use Permit by White Stone Land Partners, LLC to establish a petroleum storage site on their 10-acre parcel of land, located North of Harris Road and South of Technology Park Drive. The request pertains to tax map# 28-143.

1. Update of request from staff and property owner.

Assistant Town Manager/ Planning Director Sebra advised that during the December meeting, the Planning Commission voted in favor of recommending to Town Council that the request by White Stone Land Partners, LLC to rezone their property from C-2 to M-1 be granted. Mr. Sebra stated that the second public hearing regarding their request for a Conditional Use Permit to establish a petroleum storage facility on the property was carried over to this meeting so that the property owners could provide more detailed plans. Mr. Sebra advised that updated information on the proposed project was included in each Commission Member's packet.

Mr. David Jones, member of White Stone Land Partners, LLC, addressed the Planning Commission. Mr. Jones stated that as the result of the many questions and concerns generated from the last meeting, he had renderings prepared, which he brought with him and put on display. Directing their attention to the drawings, Mr. Jones told the Planning Commission that their intent was to place the petroleum storage facility in the center of a wooded area on the property so that it would be screened from view. Mr. Jones pointed out the

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two VDOT approved entrances to their property and the location of the intended retention pond. Mr. Jones advised that only a minimal amount of trees would be removed in order to create space for the buildings and the tanks and they intended to provide any additional buffering necessary to obstruct view. Mr. Jones said that the buildings would resemble those existing in the industrial park. Mr. Jones reiterated that it was their intent to be good neighbors not only to those businesses located in the industrial park but to those persons residing in the surrounding residential area as well. Mr. Jones stated that he had spoken with Mr. Steve Graves with Sevarg Pools, Mr. Greg Williams with M-Tech, and Mr. Cromheim who all advised that they were not opposed to the petroleum storage facility with the proper buffering. Mr. Jones noted that the left side of Harris Road was already considered as a heavy commercial area with the inclusion of the hospital, the doctor's offices, the YMC and the businesses located in the industrial park. Mr. Jones said that the petroleum storage site would be a quiet, clean and tightly regulated facility. Mr. Jones reminded everyone that the property was currently zoned as commercial and eventually there would be some type of development there. Mr. Jones felt that it was a good location for what he and his partners had in mind. Mr. Jones said that there were businesses in the industrial park that generated more intense traffic than their intended plan would. Mr. Jones estimated that tractor-trailer volume would be on an average of 1.3 a day and regular truck volume was estimated at 4 trucks twice a day. Mr. Jones stated that Harris Road was part of the by-pass road constructed for truck traffic. Mr. Jones said that Mr. Quarles had provided Commission Members with their operational history, bulk plant justification, and a list of regulatory bodies that they had to comply with. Mr. Jones advised that Mr. Quarles was seated in the audience if there were any technical questions that the Planning Commission had. Mr. Jones thanked the Planning Commission for allowing him and his partners to come back before them to represent their case.

2. Chairman Booth opened the public hearing.

3. Chairman Booth asked for public comments.

a. Mr. Clifton Palmer, adjacent property owner to subject property, stated that he was aware that the facility would have to meet state regulations to avoid disasters but asked if anyone had thought about natural disasters such as hurricanes, etc. Mr. Palmer advised that the trees on the property, which would serve as buffers were at least ninety feet tall, and wanted to know if anyone had taken into consideration what could happen to them during a severe ice storm. Mr. Palmer wanted to know if the clean up crews for truck spills would be local or if they would have to come from the Richmond area because it would be a shame to have a loved one die in the back of an ambulance because they couldn't get to the hospital. Mr. Palmer said a matter of five minutes could mean their life. In closing, Mr. Palmer said that he did not think that a petroleum storage facility was a good idea for that area.

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b. Mr. Joe Curry of Kilmarnock VA inquired as to whether an environmental impact study had been done.

Assistant Town Manager/ Planning Director Sebra stated that to the best of his knowledge, at this time there had been no environmental impact study done.

Mr. Jones advised that the Town's application did not require one.

Town Attorney Stamm replied that the environmental impact study was usually conducted when the required permits for the facility were being sought from the state.

Mr. Curry said that in the interest of being good neighbors, the study would be a good thing to do. Mr. Curry wanted to know exactly how far the facility would be from the hospital. Mr. Curry said that the reason he was asking this question was because he heard that the subject property would be a great location for this type of facility and was wondering how that could be with it's location so close to the hospital.

Mr. Jones responded by saying that the hospital housed far more dangerous chemicals than a petroleum storage facility would. Mr. Jones said that the huge natural oxygen tank located within a hundred feet of the emergency room door was far more volatile than a fuel tank. Mr. Jones said that he had already spoken with individuals at RGH who had no issue with the chosen location for the petroleum storage site.

Mr. Curry said that a fuel storage facility would just be adding more danger. Mr. Curry stated that he was all for progress but he didn't feel that the chosen location was a good place for it.

Mr. Jones replied that location was the only place where it was allowed.

Chairman Booth reminded the audience that comments were to be directed to the Planning Commission and not to each other.

Mr. Curry said then he would address the Planning Commission by saying that the Town of Kilmarnock was not the place for a fuel storage facility. Mr. Curry finalized by saying to put it somewhere else.

Commission Member/ Council Liaison Nunn said that she stated at the last meeting that Planning Commission Members and Council Members had to look at the pros and cons of every issue. Mrs. Nunn said that other than a gentleman who was in the audience at the last meeting and who had

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studied oil because he worked on a fish boat, she found that most persons didn't know much about petroleum storage facilities so she did some homework. Mrs. Nunn said that she spoke with the Chairman of the Department of Energy for the State of Virginia and he said that there were usually two concerns that everyone had which were traffic and leakage. Mrs. Nunn said that the traffic had already been addressed but noted that the Chairman told her that there was more leakage from a car parked in a driveway than there was from a facility because the facility had to undergo such strict regulations. Mrs. Nunn commented that at one time propane tanks exploded and now it was almost unheard of. Mrs. Nunn advised that there were empty fuel storage tanks sitting at the end of Waverly Avenue, which were far more volatile than a full tank. Mrs. Nunn said that she completely understood why the people living adjacent to the site didn't want to see the facility. Mrs. Nunn felt that both sides needed to be examined and assured everyone that Homeland Security would require all types of security measures to be taken. Mrs. Nunn advised that what a fuel storage tank emitted into the atmosphere was not nearly as dangerous as what the Town's Wastewater Treatment Plant could emit which was chlorine. Mrs. Nunn said that maybe Kilmarnock was not the best place for it but if everyone wanted to heat their homes than it had to be put somewhere.

Commission Member Ludwig said that she thought the proposed site was not an appropriate place.

Commission Member Bonner said that he had searched for the right words to say and had heard them earlier during the meeting from Mr. O'Donald. Mr. Bonner said that whenever someone changed one thing, then everything around it was changed to a certain degree. Mr. Bonner said that the Town had a nice Technology Park and had just acquired \$400,000 worth of more land in that location. Mr. Bonner felt that the fuel storage facility was going to change the way that it looked. Mr. Bonner asked why the Town would even consider putting revenue ahead of the safety and welfare of its citizens. Mr. Bonner said that he would feel guilty in doing that. Mr. Bonner advised that he was totally against it and did not feel that it was appropriate for Kilmarnock.

c. Mr. Jackie Barrack, owner of Geo Products, Inc. stated that he thought the proposed location was a wonderful place for the fuel storage facility and advised that the site neighbored his property. Mr. Barrack said that there shouldn't have even been a discussion about traffic issues because Harris Road was a bypass road that was already being traveled by fuel tankers. Mr. Barrack advised that his business generated two tractor trailers per day in 2008, not to mention the number of dump trucks that are in and out of there. Mr. Barrack said that the little bit of traffic generated by Quarles would hardly amount to anything and the entrances to the site would have to be approved by VDOT. Mr. Barrack commented that the Town had developed a fine industrial park, which he felt should be kept upscale, and said that with the proper landscaping by Mr. Jones, it could be accomplished at that site. Mr. Barrack said that the

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Rappahannock Record had quoted an individual who said at the last meeting “what would the fuel storage facility do for the Town”. Mr. Barrack advised that Quarles was a large distributor who sold millions of dollars in fuel each year and noted that they would do a lot for the Town. Mr. Barrack said that the Town would collect personal property taxes on the trucks, real estate tax, gross receipt tax, water/sewer fees, and remarked that the facility could possibly generate more job openings in the area. Mr. Barrack affirmed that the Town would benefit from Quarles. Mr. Barrack stated that he had just as much to lose as anyone if the fuel storage facility went on the proposed site because the county assessed value of his property was right at a million dollars. Mr. Barrack noted if they wanted to put it right beside him then it wouldn’t bother him one bit because of all of the regulations that it had to meet. Mr. Barrack commented that if not here, Quarles would find a place and he felt the facility should be tucked back in the woods where no one could see it and the Town could benefit from it. Mr. Barrack reminded the Planning Commission that the Town had lost two car dealerships last year and was losing a large equipment supplier. Mr. Barrack said that he thought this would be a good opportunity for everyone. Mr. Barrack thanked Planning Commission Members for the good job that they were doing before taking his seat.

Mr. William Prilleman, no address given, wanted to address a comment made by one of the Planning Commission Members who had said that a fuel storage facility was an inappropriate use. Mr. Prillman said that clearly the Town Council did not think so because according to the Town ordinance it was allowed with a conditional use permit. Mr. Prilleman asked what where some other uses for a property zoned M-1.

Assistant Town Manager/ Planning Director Sebra began reciting the many uses with a conditional use permit from the Town Code such as airports, airstrips, shellfish processing...

Town Attorney Stamm interjected that there was a plethora of things that can be allowed with or without a conditional permit such as electrical appliance assembly, automobile assembly, a machine shop, laboratories for pharmaceuticals or medical with a conditional use permit, process and packaging of bakery goods, cosmetics, perfumes, pharmaceuticals, coal yards, wood yards, contractor storage yards and noted that the list went on.

Mr. Prilleman stated that his point was that there could be something less desirable going on that site if not the fuel storage facility. Mr. Prilleman commented that Town Council had approved the uses for M-1 because they were listed in the Town Code and he felt the proposed site was the right place for a fuel storage facility if it was going to be in the Town at all. Mr. Prilleman stated that he did not see any reason why it should not be approved, unless of course Council’s decision was wrong.

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Commission Member Ludwig clarified her previous statement by saying that she felt that the particular place chosen for the site within in the Town was inappropriate because it was too close to an established residential area and the hospital. Mrs. Ludwig said that she did not say that this was an inappropriate use in the Town.

Mr. Prillman advised that it would be a highly regulated facility and he did not think they could find a better place for it than the chosen site.

Commission Member Bonner advised that the property was rezoned as M-1 because it followed a natural progression with adjacent properties and noted that it could have very well have been rezoned as R-1 due to the other homes in the area.

Mr. Curry said that he hoped that the Town would never base a decision on how much tax money something would generate over the welfare of the people.

d. Mr. Mike Christopher of Aquilla Point Drive in White Stone VA and former Vice-Mayor of Kilmarnock agreed with Mr. Curry on his last statement but said that he was in favor of putting the fuel storage facility on the proposed site. Mr. Christopher stated for the record that he had owned TCH Oil Company and had sold it to Quarles. Mr. Christopher advised that they chose the Kilmarnock site for geographical purposes because the two companies that Quarles purchased were located in Irvington and Reedville. Mr. Christopher advised that TCH Oil Company had been in the Town of Irvington for 90 years and never had catastrophe. Mr. Christopher assured everyone that these facilities were not an accident waiting to happen. Mr. Christopher stated that most accidents occurred where petroleum and propane were stored in smaller quantities such as homes and commercial properties because it was not regulated. Mr. Christopher commented that anyone would be hard pressed to find an accident that had occurred at any fuel storage site nationwide. Mr. Christopher thought that too much emphasis had been placed on accidents occurring and noted that even though regulations applied to all facilities, stricter ones were placed on new facilities due to new techniques proven to eliminate spills. Mr. Christopher said that a nationwide search would not produce a case where a production tank leaked because it just didn't happen. Mr. Christopher advised that even if a tank failed it would still hold every drop of fuel but again reiterated that he was not aware of that happening at any facility around the area. Mr. Christopher commented that he could understand the neighbors being upset about it. Mr. Christopher answered Mr. Curry's earlier question by saying that the site in relation to the hospital was approximately 1700 to 2000 feet in straight line and advised that the hospital was a non-issue for whatever transpired at the site. Mr. Christopher said that he, like Mrs. Nunn wished everyone was educated on this or had conducted a little research because fuel storage facilities had a worse

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name than it probably should have. Mr. Christopher finalized by saying that it was a necessary thing and he thought the proposed site was a great place because of the bypass road. Mr. Christopher's final comment was that an industrial park sure sounded like a place for a petroleum plant to him.

Chairman Booth asked Mr. Christopher if the plan for a fuel storage facility was presented to and rejected by the Town of Irvington.

Mr. Christopher replied that this particular plan was not presented to or rejected by the Town of Irvington but a plan for the placement of two propane tanks in Irvington was pulled back as the result of a lot of negative feedback.

Commission Member/ Council Liaison Nunn asked Mr. Christopher how many gallons of propane and oil did he think was stored in private tanks within the Town.

Mr. Christopher estimated that there were probably 250 gallons in every house tank that used that type of heat, which was probably 40 percent of the 753 existing houses in Kilmarnock. Mr. Christopher said that the number 753 stuck in his mind but it had been a while since he served on Council.

Mrs. Nunn did some figuring on a piece of paper and replied that would be approximately 68,800 gallons stored in Town right now.

Commission Member Bonner commented that amount was being stored in many locations as opposed to just one.

Mrs. Nunn advised that when the Main Street Project was being done, there were many empty tanks discovered underground, and noted that empty tanks were much more volatile than full ones. Mrs. Nunn said that she wanted people to look at the pros and said her biggest concern was that the residents didn't want this facility in their back yard. Mrs. Nunn said that she did not feel it would be hazardous to the hospital.

Commission Member Bonner asked Mrs. Nunn what were some of the pros that she kept referring to.

Mrs. Nunn replied that she was referring to the safety issues. Mrs. Nunn said that most people hear the word petroleum storage tank and automatically think that it was going to blow up. Mrs. Nunn said that the positive information received regarding the truck traffic and chances of leakage might not actually be considered as pros but were definitely anti-cons.

Commission Member Bonner asked Commission Member/ Council Liaison Nunn what was the difference between Irvington residents and

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Kilmarnock residents. Mr. Bonner said that the Irvington residents didn't want it down there in their residential area and neither did the Kilmarnock residents who were seated in the audience and owned property in Town.

Mrs. Nunn replied that as she had said earlier, the only concern she had about having a fuel storage facility in Kilmarnock was the fact that the residents didn't want it in their back yards.

Mr. Christopher said the difference in the situation was that the Irvington citizens would have been literally looking out of their five picture windows at the tanks because of where the parcel was located.

Mr. Jeff Brown with White Stone Land Partner's, LLC said that it seemed to be a legitimate concern that the site was too close to a residential area but noted that M-1 zoning required a hundred foot setback from any residential property. In looking at the plans, Mr. Brown advised that the nearest residence appeared to be around 200 to 300 feet away.

Assistant Town Manager/ Planning Director Sebra brought an overview of the property up on the screen and showed where the residences were located in regards to the fuel storage site.

After seeing the overview, Mr. Brown estimated that there was approximately 600 feet between the closest residence and the proposed site for the plant. Mr. Brown asked everyone to keep in mind that much of the area was going to remain wooded except for any 90-foot trees that could reach a tank. Mr. Brown did not think that enough emphasis had been placed on the actual profile of the building and the entire facility. Mr. Brown showed the direction of the cut away through the entire facility. Mr. Brown noted that the building was taller than any other structure and how the tanks were aligned horizontally. Mr. Brown advised that the petroleum tanks would be 22 feet in height and the propane tanks would be even lower. Mr. Brown finalized by saying that from a visual standpoint the fuel storage facility could not be seen unless a person flew over it in a plane.

Mr. Clifton Palmer said that he owned an eight-acre tract of land near the site and wanted to know what the fuel storage facility would do to the value of that property. Mr. Palmer said that one of his children might eventually want to build a home there someday.

Mr. Jeff Brown responded by saying that just as Mr. Palmer had options in regards to what he could do with his property, White Stone Land Partner's LLC had options in regards to what they could do with theirs. Mr. Brown said that the bottom line was that the property would be developed in some fashion because that was what they had bought it for.

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Mr. Palmer replied that he was all for development but just not the fuel storage facility.

Commission Member/ Council Liaison Nunn asked Mr. Brown if White Stone Land Partners, LLC was selling the entire 10 acres to Quarles.

Mr. Brown replied they were selling the portion outlined around the proposed facility.

Commission Member Bonner referred to a picture of a fuel storage facility that had been included in his Commissioner's packet and asked where it was located.

Mr. Brown was not exactly sure.

Mr. Bonner said that his point was it was out in the wilderness somewhere with no buildings around it.

Mr. Brown replied the picture was not an indication of what their plant was going to look like.

Mr. Bonner said that his point was, that it was out in the middle of nowhere where it should be. Mr. Bonner noted that it was not near a hospital, or near houses.

Mr. Brown replied with all due respect that there were existing tanks located north of Town, existing tanks at the end of Waverly Avenue, existing tanks that have been in Irvington for 90 years near a school and residential property and never once had there been a problem. Mr. Brown said that this was a use permitted in the Town Code, granted that a conditional use permit was needed, but for it to have even been listed showed the intent to allow this type of facility. Mr. Brown stated that the only property in Town zoned industrial was in Technology Park and noted that their property was adjacent to it. Mr. Brown asked Mr. Bonner where he thought an appropriate place would be if not there.

Mr. Bonner replied that he thought it should be in the wilderness somewhere or out in the county but not in the Town. Mr. Bonner stated that he had a job to do which was to have the voters seated in the audience and the applicant who came before them try to make things work out for the good of everyone involved. Mr. Bonner said that he keeps going back to the statement made by Mr. O'Donald regarding change. Mr. Bonner stated that if the Town allowed one oil company to come in then surely another would want to come and so on. Mr. Bonner noted that was why there were controls in place to not allow something and not to take that chance. Mr. Bonner said that he had a

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problem with a fuel storage facility being in the proximity of the hospital, other businesses, residences, and the property that the Town had just purchased.

Mr. David Jones advised that he was sure that those same arguments were made twelve years ago when the industrial park was first started and there was nothing there but woods. Mr. Jones said that the Town of Kilmarnock at that time was begging people to come there and he was one of the first persons to oblige them. Mr. Jones commented that it was an industrial park.

Mr. Bonner interjected that it was a technology park.

Mr. Jones responded by saying that when he purchased his piece of property there it was sold to him as part of an industrial park. Mr. Jones said that it was the Town of Kilmarnock that allowed this use in one place and that was where they were asking to put it. Mr. Jones stated that the neighbor's concerns were their concerns, because above all else they wanted to be good neighbors. Mr. Jones advised that they did not arbitrarily just approach the Town of Kilmarnock and say that they wanted to put a fuel storage facility at that location. Mr. Jones said that was where the Town directed it to go and therefore zoned it as such. Mr. Jones finalized by saying that it was the Town of Kilmarnock that allowed this use in the first place and then directed them as to where they could put it.

Commission Member Ludwig added to Mr. Jones' comment by saying it was allowed with a conditional use permit.

Chairman Booth asked Mr. Jones if this project had been presented to any other localities other than Irvington and Kilmarnock.

Mr. Jones replied that the only site they had inquired about was in the one in Kilmarnock.

4. Chairman Booth closed the public hearing.

5. Chairman Booth asked for Commission Member's discussion and/or action.

Commission Member Smith advised that this was a very difficult decision for him. Mr. Smith said that he actually lived across Town away from the site but if he were in Mr. Palmer's position, he would be sitting in his seat. Mr. Smith said that he was all for progress and moving forward but noted that in all honesty when he thought about the vision for the Town with all of the money that had been invested, petroleum tanks just did not come to mind. Mr. Smith stated that if allowed, the Town would be setting precedence and would have a hard time denying any others that wanted to follow in the future.

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Commission Member Bonner said that his mind had not changed from the last time. Mr. Bonner stated that the Planning Commission was only a recommending body and the Town Council would have the final say. Mr. Bonner said that he did not feel that safety should be sacrificed for revenue. Mr. Bonner finalized by saying that he did not see this as being a project that would enhance the Town.

Chairman Booth stated that he agreed with both Commission Member Bonner and Commission Member Smith. Mr. Booth said that it just wasn't a good fit and therefore he could not support it.

ACTION: Commission Member Ludwig made a motion to recommend to Council that the request made by White Stone Land Partners, LLC for a Conditional Use Permit to establish a petroleum storage site on their 10 acre parcel of land located North of Harris Road and South of Technology Park Drive, listed as Tax Map # 28-143 be denied, seconded by Commission Member Smith; and carried with a 4 to 1 vote. (Commission Member/Council Member Nunn opposed)

9. New Business

A. History of Boundary Line Adjustments

Assistant Town Manager/ Town Planner Sebra gave a brief overview of the history of boundary line adjustments made in the Town beginning in 1930 until 2007.

B. Zoning log report

The zoning log report was included in each Commission Member's packet.

C. February 9th Planning Commission Meeting

Assistant Town Manager/ Town Planner Sebra advised that he was going to try to arrange for a joint meeting to be held with Council on that date so that the Water/sewer Master Plan could be presented.

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10. Adjournment

ACTION: Commission Member Ludwig made a motion to adjourn, seconded by Commission Smith; and carried unanimously.

Meeting adjourned at 9:16 PM

Prepared by:

Joan N. Kent

Raymond Booth, Chair