

CU&V MEETING
APRIL 26, 2018
VERBATIM MINUTES

Verbatim 4-26-18 - Amellio - Tab F
Conditional Use and Variance Board

Chair Avila - Commence on Tab...Tab F, V as in Victor, 18-001.

Mr. Mullin - Yes sir, Mr. Chairman, let me...I know it's in your packets, but, just to make it easier, here's the criteria that are referenced in those sections I read that are applicable for your edification. I know it was in the, your packets that were sent out to you, but, sometimes it's easier if you got additional copies.

Chair Avila - Yes, sir.

Mr. Mullin - In addition, Mr. Murphy and Mr. Amellio have tendered some additional documents that we need to go through that were not in your packet. Uh.... Mr. Murphy is coming to the podium so let me go through these uh....

Mr. Murphy - And, I'd like to just briefly address that...there's a package for each...

Chair Avila - One second, sir.

Nick Gillette - Should we have staff do their stuff first?

Mullin- No, we can...I was going to say, Mr. Murphy, each board member now has a copy of this...

Murphy - That's correct and what we want to do is mark one of them for identification, that's all.

Mullin - She's marked it.

Murphy - Okay, that's fine. That's all we need to do so far...

Mullin - But I need to go through these so the record is clear...

Murphy - Yes...yes.

Mullin - Okay. The first thing, the applicant has filed an appeal of the paving requirements of Davis Road and you have the criteria and the section of the County's code that was referenced when we started reading the quasi-judicial procedures and the applicable evidence. So, that's the appeal. What he's handed to you tonight, and you can comment on this, Mr. Murphy, at any time, is first, it's entitled Scott Herring Rebuttal.

Mr. Herring was the previous County Engineer and left the County's employ on or around December 2017, correct me if I'm wrong, Mr. Pope.

Mr. Pope - Roughly sir.

Mullin - The determination as to the suitability or the ability to pave Davis Road is not based upon Mr. Herring's documents. Mr. Herring... the Planning and Economic Development Opportunity office went out and retained the services of a third party engineer to make the determination because Mr. Herring left, it would not be available, the new County Engineer had just come onboard and was not in a position to, with all the volume of work, to make a decision; so, Mr. Pope's department went out and hired Peters and Yaffee so Mr. Herring's determination is not an issue. It's Peters and Yaffee's determination that is of the issue. If you want to comment on that, Mr. Murphy, why, feel free.

Murphy - We're fully aware of that, but we still think it's relevant the action that was taken. And, we're prepared to look at the subsequent report that was done. This is just for history so you can see what happened. Mr. Herring filed his as he left the County his last day and we're just including that so you can see what he had done. But, we're not going to ignore what's before you at this time.

Mullin - I just want to make the record clear should you admit these into evidence that Mr. Herring's determination has no bearing on the matter before you tonight. If Mr. Murphy wants to submit it for some historical data that Mr. Herring said the road could be paved and he denied the variance, again, that's not part of your hearing. Peters and Yaffee's report that you will hear...that you have in your packets and you will hear their testimony, they were hired by Planning and Economic Development to give a third party impartial review of Davis Road and make their determination as to that, so, I just want to make the record clear, you'll have to decide on which ones are relevant or not. The second document in the documents handed out tonight by Mr. Murphy which were not in your packet is titled Willows Farm Nassau County Approval Documentation. Willows Farm, for the record, is a five-lot subdivision that was approved on or about 2011 or 2012. That was approved under a different ordinance. The ordinance that's in... at the subject tonight is not the same ordinance that Willows Farm five-lot subdivision was approved. In addition, each variance, no matter when it's approved or denied, is considered by the courts on its own

individual merit. I just want to make the record clear again that Willows Farm was approved approximately six years ago under a different ordinance than the one you're looking at tonight which is 29-152. So, the relevancy of that you will have to determine as we move forward or whether you admit these into the record. The third one is Hawks Landing Davis Road Approval Documentation. As was discussed at the last hearing, the Hawks Landing Davis Road Approval Documentation, which is in your packet submitted tonight by Mr. Murphy, which was not in your packets, excuse me, has some commentary; it has a Nassau County Board of County Commissioners' notes of their meeting February 23, 2009; it has, in addition to that, a copy of a proposed agreement dated December 3, 2009 that, you will note, is signed by everybody except the Board of County Commissioners...Holloway, so it's not a binding valid agreement. You have as the last copy, what appears to be a transcript of a meeting that is not dated and was a contemporaneous, court-reported document; it was done, as I'm advised, Mr. Murphy, correct me if I'm wrong, from a recording of a meeting of the Board of County Commissioners; correct me if I'm wrong, Mr. Murphy, that would have taken place somewhere on or about 2009 or 2008. But, again, this is not the contemporaneous recorded document and it's not dated and the relevancy of this, I guess, Mr. Murphy, you can address that

Murphy - I certainly will.

Mullin - and the other items that are before the Board to be admitted, in addition to what you've already provided to staff.

Murphy - Alright, just a few comments.

Mullin - If you will just state your name so we have it.

Murphy - Okay, it's William Murphy on behalf of the applicant.

Mullin - Thank you.

Murphy - As far as the documents that you have, they're mostly historic. They can consist of some matters that have previously been ruled on by the County Commission. The agreement that counsel says was unsigned, if I remember correctly, counsel, you played a part in getting that agreement drafted, and I believe it was signed. I don't think the copy you have is signed but I believe that it was.

Mullin - Mr. Murphy, the only copy you've provided is not signed.

Murphy - Okay, you don't recall if that was signed or not? You did the work on it, didn't you?

Mullin - No sir, would you had agreed that it's not signed?

Murphy - I don't see it. A... Mr. Amellio will come up and he'll talk to you in a second as a witness.

Mullin - Here you go...would you look at ...have you seen these documents?

Amellio - I saw them (inaudible).

Mullin - Okay, by all means, take the time so we can ...yes, sir. Because the...the copy that I had does not have a signed agreement.

7:14:36 Inaudible conversation....

Mullin - Just a minute, she has to pick it up on the record.

Murphy - Mr. Amellio said that it was not signed. (inaudible....)

Mullin - Okay, well, that ..you would agree with me that that agreement doesn't pertain to Willow Farms.

Amellio - Yes it does....

Murphy- Yes, it pertains to Willow Farms, but it wasn't signed by the County Commission for Hawks Landing.

Mullin - Exactly.

Murphy - Right, as I said, I believe you drafted that, didn't you, sir?

Mullin - No.

Murphy - You didn't work on that?

Mullin - No, sir. The question, Mr. Murphy, is do you agree this proposed agreement that you're...

Murphy- ...that has no signature on it.

Mullin -has no signature...so never approved..

Murphy - I think it was approved but that copy does not show a signature.

Mullin - Do you have one...that was signed?

Mr. Amellio - No.

Murphy - Mr. Amellio, come on testifies to that. He was there.

Mullin - Alright. So, Mr. Chairman, I...is the first thing in order to accept these into the record is you have the determination as a Board to make whether they are relevant to the variance request that's before you tonight. Again, Mr. Herring's determination is not an issue. Peters and Yaffee is the engineering firm who went out and evaluated the road and they will make their presentation to you tonight, not Mr. Herring's, and I would advise you legally you could not rely on Mr. Herring's comments in one form or another because that's not the basis of the determination. The Willows Farm documentation, if the purpose is to show it as historical and that there was a waiver granted for the five-lot subdivision on Davis Road, it was, understanding that it was granted under a different code that is no longer valid in Nassau County. That code was changed after a year and half or two years of hearings by the Board of County Commissioners and the Planning and Zoning Board as a major change to the Road and Drainage Standards and the Subdivision Standards and that same variance request under the current code may or may not be granted if it was Willow Farms today. The Harks Landing approval documentation, again, that documentation's not signed; therefore, it's not valid. What purports to be a transcript is not dated; and, again, unless Mr. Murphy can correct me, if it's not done contemporaneously with the hearing, so my opinion is, especially as to that, that it is not relevant and has no bearing from a relevancy standpoint on the issues tonight. The issues tonight are the criteria that you have which Mr. Murphy and Mr. Amellio will address under the current criteria for the waiver request for paving of Davis Road.

Murphy - I'd like to respond briefly.

Mullin - Certainly.

Murphy - Okay. We'll have witnesses here to address some of the questions that have been raised and as far as I know, this Board

doesn't usually have a court reporter present; so, obviously, the transcript was not contemporaneous. It was provided by staff and it was recorded at the time of the hearing. But, we'll address each of these issues as we proceed tonight. We have an... a marked document, whether or not it's accepted, it is proffered so it will be part of the record for the appellate tribunal to review. It will stay with the transcript. Thank you.

Mullin - Well, you have to make a determination as a Board of whether you would accept it into the record.

Murphy - No, no...it becomes...Counsel, you...you do legal work. A proffer has to be accepted; it's not something you can turn down because this is going to go to the next level. They have to see what the argument is. So, the court reporter will retain a copy of this no matter what the ruling is.

Mullin - Mr. Murphy, she can retain a copy. Their determination is whether it will be admitted into the record.

Murphy - No problem with that. In fact, it will part of our record. Thank you, Beth.

Mullin - I won't argue with you on the legal debate; but, I'm just saying they have the determination whether it is admitted into the record for the hearing tonight. That's a decision, Mr. Chairman, you'd have to make. If you have any questions about these, I'll try to answer them, but, that's the decision the Board has to make.

Chair Avila - It seems to me that they hold no bearing, then we have no need to. That's personal.

Mullin - That's...then you would need to vote...if there's a motion made not to accept these into the record, then, we'll go back to original documents that were provided to staff and the court re...I mean, the Clerk will read those; but, if your motion is to not accept them into the record for consideration, that would be a motion someone would have to make, or, to accept them into the record, either way.

Avila - We can deliberate it for a moment if the Board wishes to.

Gillette - Board Member Gillette. My feeling is if our legal department does not feel like they are relevant and they were just submitted, is that correct, Mr. Mullin?

Mullin - Yes, sir. They were submitted tonight at 7:00; they were not submitted prior to tonight.

Gillette - If you feel they are not relevant, then...we have...I think we should follow your guidance on that.

Murphy - Can I correct something that was just said?

Avila - Certainly.

Murphy - These were submitted multiple times. We printed them out and delivered them today but they been submitted to staff multiple times before; just so you know. Okay?

Mullin - Let me clarify that, Mr. Murphy. Mr. Pope? Would you swear Mr. Pope in, please?

Deputy Clerk - I did earlier, do you want me to swear him again?

Mullin: Yes.

Deputy Clerk: Do you swear or affirm that the testimony you give is the truth, the whole truth and nothing but the truth, so help you, God?

Pope - Taco Pope. Director of Department of Planning and Economic Opportunity and I affirm the oath.

Court Reporter - What?

Pope - (slowly) Taco Pope. Director of the Department of Planning and Economic Opportunity.

Mullin - Mr. Pope. You heard Mr. Murphy say that these documents that were tendered tonight at about 7 o'clock were previously provided to your staff, is that correct?

Pope - That's what was stated. The...you know, again, just for the record having only a few moments to have looked at these, there are items in here that...so...things like Willows Farm has been addressed in other applications; but, this packet in this format with the cover letter and the narratives in these

configurations, I've not been provided these previously. No, sir.

Mullin - Thank you. So, you have a motion, I think, that without...I don't know if you got a second to that motion.

Gillette - That would be a motion.

Murphy - I have a response.

Mullin - Mr. Murphy you will have to come to the microphone

Murphy - We'd like to put on a witness related to the same item that was just discussed.

Mullin - You need to swear in Mr. Amellio. Yeah.

Deputy Clerk - Mr. Amellio, can you raise your right hand? Do you swear or affirm that that testimony you're about to give is known as the truth, the whole truth, and nothing but the truth, so help you God?

Amellio - I certainly do.

Deputy Clerk - Can you please state your name and address into the record...

Amellio - Joseph Amellio. 1958 St. George Court, Middleburg, Florida 32068.

Deputy Clerk - Thank you, sir.

Murphy - Will you state whether the documents that are in those entire exhibits that are marked as Exhibit two have been provided to staff in the past, at least one or more times.

Amellio - Yes.

Murphy - Every one of them.

Amellio - Yes. Not only that but if you look at the package that was given to me, more than, I'd say 75 percent of the documents that are in this package are also in the ones that are there. The only thing that I did was I put them in a concise order and made comments with them. That does not mean ...and as a matter of fact, Mr. Pope had all of these things delivered to him before Stacy...uh, excuse me, Stephanie Kurtz, even did her

report and I submitted it to him. All five packages. I have the emails and proof that they went to him. Now, let me also address what you said. You said that Hawks Landings was not relevant because it was a past document. I'll tell you why it's relevant, sir, okay, because Asa Gillette and Gillette and Associates did the original engineer....

Mullin - Mr. Amellio, let me...let me stop you for a minute, please, sir. Just...I represented the Board and we have to look at what's relevant tonight.

Amellio - It is relevant.

Mullin - What's relevant tonight is you filed an application.

Amellio - That's correct.

Mullin - Under the current code of Nassau County...

Amellio - Correct.

Mullin -seeking a variance to the paving.

Amellio - Correct.

Mullin - The issue about what was or was not approved previously has no bearing; it is not part of the criteria tonight.

Amellio - That is correct.

Mullin - So, we don't need to get into any issue about what somebody may have done, not have done, from as relevant standpoint.

Amellio - But, if you let me finish, sir, I would have answered all of that then you would have been able to talk to me.

Mullin - Mr. Amellio, we're trying to get through this. If you're saying that the documents that you tendered tonight in Exhibit One as marked by the court reporter are in the packet that you provided to Mr. Pope...

Amellio - Would you like me to pull them out and go one by one through them?

Mullin - I'm...I'm asking you a question, Mr. Amellio.

Amellio - Yes?

Mullin - Have you provided...is that in the packet that Mr. Pope has... that he submitted to these Board members in advance of the hearing tonight?

Amellio - Yes, sir. And if you look....and Mr. Pope, if you'll pull them out, we'll go one by one and pull them out.

Mullin - No, then....are you saying we don't need these additional documents because Mr. Pope already has them in the record.

Amellio - They've already....well, I don't....I've not had a chance....I've looked through most of them in hear because the packets are very thick; but, I saw the majority of everything that I've given to you is also in the package that Mr. Pope has and which Stephanie Kurtz looked at. And, previously, they were all submitted to County and have been with the County and the County staff for over a year....

Mullin - Mr. Amellio, we're strictly talking about your application for the variance.

Amellio - Yes, sir. I understand that.

Mullin - So, are you saying that the documents marked Exhibit One that you tendered tonight are already in the packet that you ...that was submitted by Mr. Pope to these Board members?

Amellio - Sir, the majority of them are in that package.

Mullin - Then, you're saying there are some that are not?

Amellio = I...I don't know. I didn't get page by page but I looked through it quick and I saw that most of everything that I had in my package was in there. If there's every single one, I have not had a chance to sort them out and go one for one.

Mullin - Well, in order to be fair to both sides...

Amellio - Right.

Mullin - ...Mr. Amellio, and to this Board, and my advice to this Board is to continue this matter.

Amellio - No.

Mullin - so that you can get with Mr. Pope and make a determination that all these documents are as represented by you

Amellio - (inaudible)

Mullin - because it's only fair to you to have that happen. But, obviously there are documents you're not sure are in the packet. Mr. Pope has indicated that he does not believe what's in Exhibit One tendered tonight is in the record. So, in order to be fair to you and the Board members who have not seen these before, we think, we should continue this matter and then you'll have the time to get with Mr. Pope and go through each and every one of these documents.

Amellio - Can I get a word in there, Mr. Mullin, because you've been going on for quite some time. I would like to address the fact that when you first said that Hawks Landings had nothing to do because it was prior history. I mentioned the fact that Asa Gillette, Gillette and Associates, ...

Mullin - Mr. Amellio, we're talking about the documents in Exhibit One. I didn't see anything there from Gillette regarding...

Amellio - It's included in the package that you were referring to.

Murphy - Joe...

Amellio - You mentioned Asa Gillette; you mentioned Hawks Landing before.

Mullin - Mr. Chairman, I would suggest that the Board continue the matter to allow Mr. Amellio time to get with Mr. Pope...

Amellio - Alright, alright, alright...

Murphy - Have a seat...let me just address this...We have a witness that came from the far East for this. Excuse me, the near East. We're not going to bring him in again. If we have to, we'll proffer everything tonight but we're not going to do a continuance...absolutely! And we would suggest you listen to this because whether you listen or not, it's going to go into the record of the court reporter. This man is not going to come from the near East again to testify. We brought him here and he's going to speak tonight whether you listen to it or not. We hope you listen to it because it'll be very enlightening.

Mullin - Mr. Chairman, let me comment. Mr. Murphy...

Murphy - Yes, sir...

Mullin - ...we, as the...the Board did not submit additional documents at the eleventh hour...let me finish...

Murphy - Then just reject them. That's all you have to do. Reject them.

Mullin - Are you asking us to reject them?

Murphy - No, I'm telling you if you reject them, that's fine. They're in the record, they will go up on appeal and we'll give our testimony here tonight. If it's being used as an excuse to avoid hearing from the expert, it's not going to work.

Mullin - If you want your expert to testify tonight and then have this matter continued so Mr. Amellio can get with Mr. Pope and ensure that the documents he wants to be considered are properly considered, we will gladly, with the Chair's consent, gladly let your expert testify.

Murphy - Well, regardless of what happens, we want the expert to testify. As I said, he was brought here at his own personal expense and he'll probably explain why he did that.

Mullin - Then, I would recommend, Mr. Chairman, that you let the expert testify and after that, continue the hearing so Mr. Amellio has time to get with Mr. Pope and they can determine what documents have been submitted. There seems to be some confusion that wouldn't be fair to the Board nor members of the public who may be here nor Mr. Amellio until we can make that determination; but, with that....

Murphy - Or we can wait until the end of the hearing to make that decision, if you like.

Mullin - Well, if you like...if the Chair would like, Mr...the expert, Mr. Seaman, to make his remarks after he's sworn in, then, that's up to the Board.

Chair Avila - I think Mr. Gillette, Board Member Gillette, was about to make a ...

Board Member Gillette - Well, I think...

Avila - ...motion.

Gillette - Well I think, based in this, I thinkI'd...it seems reasonable to let the applicant's witness testify in the records since he will not be able to attend again. And, I certainly don't think it's going to hurt anything to hear from Mr. Seaman on this.

Avila - What about the packet? You were going to comment on the packet or make a motion on the packet? I don't want to settle the packet issue just so we can move forward

Gillette - I think we ought to hear testimony first and then make a decision on the packet.

Avila - Very well. I didn't want to lead.

Zetterower - Do you need that in a motion?

Avila - No, I don't think we do.

Mullin - No, I think if you decide to let Mr. Seaman testify, then that would be the proper way.

Avila - We'll ...we'll move forward the normal hearing and get to the testimony part, so I want make sure that there's no ex parte communications with any member.

Board Member Zetterower - None with Zetterower.

Board Member Gillette - Gillette none.

Board Member Hartley - Hartley none.

Chair Avila - Avila none and no correspondence, email or written.

Mullin - Excuse me, Shep, you're going to have state your name because the court reporter when you say yes or no.

Board Member Brock - Board Member Brock . None. No.

Mullin - Thank you.

Avila - ...and there were no email communication or snail mail communication at all?

Zetterower - Zetterower, none.

Gillette - Gillette, none.

Hartley - Hartley, none.

Brock - Board Member Brock, none.

Avila - Very well, thank you. Do we want to have the documents placed into the record?

Mullin - No, sir. Not yet because you...you haven't decided...and you had a gentleman raise his hand on the front row, Mr. Chairman, that may need to...

(Individual not Identified) - It's a simple question with all this discussion...

Mullin - You have to come to the podium, sorry.

(Individual not Identified) - With the conversation of expert testimony, I was just...I wanted to clarify for the County if he was still doing a presentation as well.

Mullin - We don't know yet.

Avila - We are crossing that bridge when we come to it, no pun intended.

Mullin - So with that, Mr. Chairman, if your intent is to have Mr. Seaman provide testimony under oath, then you can determine after his testimony how you want to proceed after that with the confusion with the documents.

Avila - Yes, sir. Understood. While it's unorthodox, I can emphasize with the applicant, so, Mr. Murphy, if you'll bring forward your witness, have him sworn in and...

Murphy - Is the County going to present anything first, they can go right ahead now.

Mullin - Well, we need to determine, Mr. Murphy, the documents. There's confusion about the documents. Your request was to let your expert testify and then the Board would determine what to do versus a continuance so that your expert wouldn't be at a

disadvantage or not having the ability to come back because of his cost and expense, we understand that.

Murphy - I understand that.

Avila - The...the issue becomes, sir, is if we...with that packet, if some 80, 50, 20 however...whatever percent of that is in the existing packet that was submitted, you know, we have to accept it into the record and that includes the staff's presentation, so, if they are going to do the presentation, then we have to decide the document issue first.

Murphy - Okay, we'll go ahead and make our initial presentation right now, if that's the case. I just wanted to see when you wanted to start. We'll do it right now. Are we ready?

Mullin - Well, well we first have to determine the documents, Mr. Murphy.

Murphy - I thought that the Board had decided to wait.

Mullin - No, you asked them to let your expert testify so that he would not be required to come back. That's what they've granted you right now; that your expert has the ability to testify now. If your expert wants to wait and listen to the County's expert, then we will have the County's expert testify and then Mr. Seaman can testify. Beyond that, the Board will have to determine, because of the confusion of the documents, whether to continue the balance of the hearing until another date. But, if it's a matter of the experts testifying, then they can certainly do that.

Murphy - I thought the procedure was going to be that the applicant would put on his case and later the County would put on its expert subject to cross examination, so we could do it at that time. You can cross examine our witness at this time.

Mullin - What you're...with all due respect, Mr. Murphy, we have not resolved the issue of the documents. We have to resolve the issue of the documents. What you'd requested was to have that determination made after your expert was able to testify in case this Board decided to continue the hearing because of the confusion of the documents. Your expert would have the ability, so that he wouldn't have to come back at his expense, and testify at a later time.

(inaudible conversation)

Murphy - Okay, all right, the only plat...the only issue he has, and it's not really an issue, is that he has a diagram he's going to use as part as his presentation which would apply no matter what the situation is; so, he's ready to testify right now.

Mullin - Then you can allow their expert to testify and then to...in all fairness, you want to go first with your expert, Mr. Murphy? Whether or not they continue this or not, but, you want to go first?

Murphy - Well, do we have the option?

Douglas Seaman - No we go first.

Murphy - Yeah, that's what I thought the procedure was. You're asking me if I want to go first?

Mullin - No, no....

Murphy - We'll go first.

Mullin - As to your expert only.

Murphy - That's fine.

Mullin - Okay.

Deputy Clerk - Sir, please raise your right hand. Do you swear or affirm that the testimony you're about to give is the truth, the whole truth and nothing but the truth, so help you God?

Douglas Seaman: I do.

Deputy Clerk - Can you state your name and address for the record?

Seaman: Okay, my name is Douglas Seaman and my address is 86048 Jones Road, Yulee.

Deputy Clerk - Thank you, sir.

Seaman - Okay. Thank you.

Murphy - You want us to qualify this expert? I think he's pretty well known around here.

Seaman - Well, okay. I was the past County Engineer from about 2007 to 2009. I was involved in Davis Road prior to my exit from the County and for the last four years after that, I went to Afghanistan and worked with the military; and then, I'm now working for the Department of the State in Saudi Arabia. I just spend a year and a half in Miami Beach as an Assistant City Engineer; so, I've been involved in both the City and County government. I want to thank you for giving me the opportunity to talk about the documents. There's a lot of historical documents that is...that the applicant feels is prevalent; but, really, the only one that we need to talk about tonight, and I ask for your consideration, is the plat of Willow Farms, because on the plat, there's a dedication statement that is very important and also on the plat, there is a ...the, the primary reason not to pave Davis Road is on the plat. Without those two items being brought up, then we don't have the ability to properly...properly discuss this. So, if...right now, I'd like for you to consider only agreeing to have the plat of Willow Farms issued into...into with the package. The other documentation we can reserve for a later time. All of it is in the County records; it just has to be, you know, pulled out from time to time. So, right now, I think would be prevalent for you to agree that the Willow Farms plat is the only document that will be brought forward; is that acceptable?

Mullin - You have a copy of that plat?

Seaman - It is in the documentation that was submitted...uh, under Willow Farms...

Mullin - It's in the documents that were submitted in the packet.

Seaman - Under Willow Farms, there was about six page, each page document. Joe, do you have that document?

Amellio - I think (inaudible)

Deputy Clerk - I do have that same Willow Farms plat, no book or page or signature, two pages.

Mullin - Is it the complete plat or is it a copy of a partial portion of the plat?

Deputy Clerk - I'll see if I can find it.

Murphy - My hands are shaking.

Mullin - Because of the plat?

Pope - It looks complete.

(inaudible conversation)

Hartley - Where's it at?

Mullin - I guess it'll have to be pointed out for the Board members where it is in their packets.

Avila - It's much different looking at it

Hartley- This right here?

Pope - No, it's a two page plat. (inaudible conversation following)

Gillette - It's about the middle...(inaudible numerous conversations)....about two-thirds of the way through the packet.

Murphy - The question is see, this is not signed...

Deputy Clerk - Mr. Mullin, it's a full plat but it is not executed. I just handed it to Mr. Pope for conformation.

Murphy- Okay.

Mullin - Okay.

Seaman - Unfortunately, the copy we have is not a recorded copy. I'm assuming that this is exactly as to what has been recorded. Let me just testify against this document and then we can verify it, if necessary at a later date. Let's get past...

Mullin - Do you know, Mr. Seaman, is your testimony going to be using the criteria that's under consideration tonight?

Murphy - There is a signed....

Mullin - Does the plat that you're...or the unsigned plat that you're about to testify about, does that address the criteria that's before the Board tonight?

Seaman - Yes it does.

Mullin - Okay, that's fine.

Amellio - There is a signed plat.

Seaman - So, anyway, that's the actual recorded plat is what we need to talk about. I don't have a copy of it here but what you have should be identical...if there...I don't think there's any ...there's only two things on the plat. One of them is what's drawn here and then...

Mullin - Let...let me, for the record, and yes, Mr. Murphy may want to help you with this. I can't ...when you say "what's drawn here", the court reporter can't determine....

Seaman - Okay.

Mullin - ...what's drawn "here". That document....

Seaman - Okay.

Mullin - That document that you're looking will have to become part of the record.

Murphy - We would like to move that as part of the record.

Mullin - It would be nice if you could identify....

Seaman - I have a 24 by 36 copy blow up section of the plat of Willow Farms. It shows the Willow Farms five-lots going from Musselwhite Road towards the ...the Hawks Landing. It does not show Hawks Landing. It just shows the five plats of Willow Farms and Musselwhite Road.

Mullin - Does that board depict everything that is on the official plat, do you know?

Seaman - It only depicts the portion of it. There are, of course, there like two or three pages on the official plat, the signature page and then there's the dedication page.

Mullin - Just to be clear on the record, what you're pointing to is ...we've marked that Exhibit 2, I would assume, is not reflective of the official plat. This is something you have put together for presentation purposes tonight, am I correct?

Seaman - Yes, correct.

Mullin - That's fine.

Deputy Clerk - Mr. Mullin, that would stay with us, correct?

Mullin - Excuse me?

Deputy Clerk - That would stay with us.

Mullin - Yes. It will. And, I don't know if the Board members, Mr. Chairman, can see it from the distance. That's up to the Board members. Then you can proceed, Mr. Seaman.

Seaman - Okay.

Murphy - If it would be easier for you, I'll carry this and he point to it.

Seaman - Based on the rules that you set down, it's a very evident what needs to be brought forward tonight. Staff report is very specific. As you mentioned, there's nine items that has to be agreed to that ...that staff has said that there's inconsistency. And, I would like to point out that there...there's no inconsistency, that we are consistent with the conditions.

Mullin - Excuse me, excuse me...have you got the timer set?

Deputy Clerk - Yes, sir...it's seven minutes right now.

Mullin - Did you advise Mr. Seaman, to be fair, what the time limit is.

Seaman - Right.

Deputy Clerk - It started at ten minutes, now, we're at seven. (inaudible portion)... but anytime someone would talk I would paused it.

Seaman - Okay. That's fine.

Mullin - Can you...is the clock...I don't see the clock reflecting this.

Deputy Clerk - For some reason, it's not lit up, I'm not sure.

Seaman: That's fine.

7:42:57 Deputy Clerk - (inaudible)

Mullin - I just wanted to be fair, so he could see it.

Seaman - I know. So, what we were asked tonight is that for staff to indicate each item that they had contended were not consistent and then we will rebut that item, so we will be able to comment on each one of the items, and, at the end, the Board will be able to vote, if we meet the conditions of the variance or not.

Mullin - Well, again, I can't give you legal advice, Mr. Seaman, only Mr. Murphy can; but, if you're going to make a presentation, I'm assuming that you're going to address the criteria and then your opinion....

Seaman - Yes..

Mullinhow you feel Willow Farms pertains....

Seaman - Correct.

Mullin -or in some way addressed the criteria.

Seaman - Correct. And then, also on your package that you were given by staff, you have Exhibit A and we're already discussed Exhibit A doesn't exist, not to be used.

Mullin - Let me....and I don't mean to draw this out but, understand that we are in a quasi-judicial hearing and I would implore Mr. Murphy to assist in this; but, saying Exhibit A and holding it up, the record doesn't know what that is. So, when you say Exhibit A, you have

Seaman - Staff report, Exhibit A...

Mullin - Exhibit A...wait just a minute...

Seaman - Okay.

Mullin - The court reporter, for the record, Mr. Murphy knows this, I'm sure, she has one Exhibit that was the proposed document submitted at 7 o'clock tonight. That in Exhibit One. Your board would be, and you could put, and again, I'm....Mr.

Murphy, you're going to have to help out here. You should have an Exhibit Two on that board.

Murphy - I thing we've said, we would make this, it is actually Exhibit Two, that's just for identification.

Mullin - Yes, sir. Would you take one of those tabs, please, and write number twonumber two on there and stick that on that board, please.

Murphy - And to help clarify, he's looking at the staff's report and referring to their exhibits as he goes through.

Mullin - It might be helpful, maybe, are you going to question Mr. Seaman or you just going to....

Murphy - We'll see how much time we have left.

Mullin - Okay. Just trying to be fair to everybody so the record is clear.

Seaman - Understood, understood. We want to be very clear.

Mullin - Yeah.

Seaman - So, as we already discussed that this Exhibit A, that's in staff report is not to be used in the consideration tonight, am I correct?

Mullin - No, sir.

Seaman - Yes.

Mullin - Let me...let me do it this way. Mr. Murphy, he's your witness, you use your witness however you want to do it. But, if we're going to just start holding up documents, for the court reporter's standpoint, for the record's standpoint, there has to be some identification because wherever you take this to a higher level, they are blind looking at what is referred to "We're not going to consider this".

Murphy - We have very little time, let me go ahead and clarify.

Mullin - This won't take away his time. This doesn't take away his time.

Deputy Clerk - The time is paused currently and you have six minutes and 28 seconds.

Murphy - I think he identified Exhibit A from the staff report. So, that's what that is. I think that identifies it, we can put (inaudible). He can go through each of the exhibits he's looking at now are staff's exhibit marked by staff, correct?

Seaman - Correct.

Murphy - Okay, good.

Seaman - Right, so Exhibit A we're not going to discuss. Exhibit A is the staff report and we're not going to discuss. I just want to make sure that I understand this from the previous comments. Okay, and then so we'll....

Mullin - Mr. Seaman, I can't comment....I don't know how to comment on that. You'll have...

Seaman - Okay, fine! We'll move...move forward and then what we have is Exhibit B which is the feasibility study. So, we actually have two documents that I will be talking to tonight - the staff report and the feasibility study. What we are likely to do is in the staff report, in order to counter every item that we need to for the variance board to be able to vote in favor of us, each one of these items that staff has says we don't have a leg to stand on, we want to be able to say "well, staff maybe not have done enough research" or "there is some information that staff did not include". So, what we'd like to be able to do is present that information. They tell us why they have said that we do not meet the requirements and then we will say where we do meet the requirements. So, I just want to present that as the way that we're going to proceed. It is my understanding that that's the way that it is to go; and, then, the feasibility report, I have some comments. Feasibility report is a very good report but it has some information that might not be correct...totally correct, and some information that needs to be updated. So, I like to be able to address the feasibility report. So, with that, I think that we'll be able to prove that a variance for not paving Davis Road is something that this Board can approve.

Mullin - Let...let me see where I can start.

Seaman - Okay.

Mullin - Mr. Seaman, you are Mr. Murphy's witness. What I hear Mr. Murphy say is that in order to have you not have to come back....

Seaman - Yes.

Mullin -in case this Board continues this, that you would be put on as a witness and you would address the issues that you want to address. So, if you want to address and Mr. Murphy you're going to have to assist in this...if Mr. Murphy's going to put you on as a witness and lead you through the required provisions of the ordinance that I assume you think are met through your testimony, that's fine. What you're doing now doesn't address the issue. You're saying what you want to do after staff makes their comments; so, Mr. Murphy, do you want Mr. Seaman to testify tonight before the Board makes the decision on whether to continue this so he doesn't have to come back. If that's the case, then please put on your witness and take him through the criteria so that he can testify to that criteria and then he would not have to come back.

Murphy - He's attempting to explain his intention but he needs to do that to proceed...

Mullin - Yes.

Murphy -and that's what you should do right now. Go through it item by item, briefly say what they said and briefly respond to it.

Seaman - Unfortunately, there is not enough time to comment on eight items which they say the applicant has failed to do. Okay, now...how much time do I have left?

Deputy Clerk - Four minutes and forty-seven seconds.

Seaman - Okay.

Chair Avila - Mr. Seaman, before you begin...

Seaman - Yes...

Avila - At my discretion, I can grant more time...

Murphy - Okay, we would really appreciate it. It's a very long report.

Avila - It is a long report, within reason.

Murphy - That's right. Thank you.

Seaman - Understood

Avila - If you could....

Deputy Clerk - Give him ten minutes?

Avila -when we get to like fifteen minutes, give me the high sign.

Deputy Clerk - Okay.

Avila - I'll give him an extra five to the original ten to see where we're at and give me the high sign and I'll just acknowledge

Deputy Clerk - Do you want to give him ten minutes or fifteen minutes at this point?

Avila - Fifteen minutes total.

Deputy Clerk - Okay. So, ten minutes we are already after five.

Mullin - And, Mr. Seaman, you have to stand because the microphone won't pick you up....

Deputy Clerk - Yes, sir.

Mullin - ...if you leave the...if you leave the podium, unfortunately.

Seaman - Okay, if you notice on the Exhibit Two that is being passed around, there is a parcel of land on Davis Road...no...a parcel of land that is on Davis Road it's the shape of a triangle. If you notice, it extends into the right-of-way of Davis Road. At that point, for about 337 feet, Davis Road is only thirty feet wide. Thirty feet wide for 300 feet. Now, it is my understanding that any County road that is going to be paved has to have a minimum right-of-way width of sixty feet; that's by County ordinance. I have a copy of it here. I just wanted to say that County ordinance says that any County road that's going to be paved has to be sixty feet. Joe Amellio is being asked to pave this road that is only thirty feet. The reason why back in 2009, as County Engineer, I recommended to

the County Commission not to pave Davis Road was because of the obstruction; the 337 feet. As far as I know, there's been no change. I drove out there today. The parcel of land is still in Musselwhite... in Davis Road, and, as a matter of fact, the septic tank is...if you made Davis Road sixty feet, the septic tank for the mobile home that is there would be in the road which is another reason why I recommended to the County Commission not to pave Davis Road. There are some other reasons not to pave Davis Road. It's roughly 3,000 feet long. It has, when the Hawks Landing is approved, when the plat is approved, it will have 31 accesses; 31 accesses onto Davis Road. The number of trips per day is 228. The Florida Greenbook standards says that if you have a dirt road over 500 trips a day, then you might pave it. But, the Greenbook standard also says that dirt roads are important and can be maintained if you don't have a lot of traffic on it. So, some of the issues in the Yaffee report is that they didn't do a traffic study; they estimated the number of trips per day to be 450; that's a high estimate. The actual calculation is 228; I'm sorry, 288 trips per day. The typical section in the Yaffee report, there's two of them. One of them is the typical section for the 30-foot right-of-way. So, they say that you can go in there and pave that road and put in curb and gutter. Well, when you have an eleven-foot lane there, and there's two of them, so that will be 22 feet; that leaves eight feet left over for the curb and the curb is three feet; so, now, you only have two and a half feet to go from back of curb down to the right-of-way line. In the two and a half feet, any of that runoff would go directly onto private property. So, that typical section forces the developer to put runoff from the public road onto private property. Another reason why back in 2009, I recommended that paving Davis Road was impossible. As a matter of fact, I said it was impractically impossibility. You cannot pave Davis Road because of this encroachment. So, back then, Davis Road, under a different set of criteria, understood, got a waiver. Willow Farms came along, and under a different set of rules, Willow Farms also got a waiver. They got a waiver for the same reason. The triangular piece of property, 337 feet, that only allows thirty feet of road, was deemed by another staff; the first staff says, "no, we can't pave it" that was in 2009. Three years later, a different staff, which I believe Scott Herring was the Engineer at the time, he approved Willow Farm not to be paved. So, in three years after 2012, Willow Farms got a paving waiver and now we're in front of the Board asking for the same consideration that if Willow Farms didn't have to pave the road and deal with the narrow right-of-way requirements; then, why does Joe Amellio has to do it?

Murphy - Can I interrupt you for a second? As far as runoff goes, which would be better for the neighbors? Paved road or unpaved road?

Seaman - Well, in my opinion, dirt roads serve a purpose. I live on dirt road, I like a dirt road. A dirt road tends to slow people down. Dirt roads are easy to maintain. Paved roads, over after a period of twenty years, will cost a lot of money to mill and resurface whereas with a dirt road, you have a maintenance agreement, I believe there was some suggestion that there was a maintenance agreement between Mr. Amellio that never got signed; but, he was willing to help pay for the cost of maintaining Davis Road. He was willing to give the County money to help maintain Davis Road and that was the intent behind, "well, if we're not going to pave it; then, let the developer go ahead and maintain it."

Murphy - If there was going to be rainfall, would there have to be retention ponds?

Seaman - Yes, there....that's another reason. The retention ponds, basically, there are no properties on either side of Davis Road that are willing to give up their property for money or for retention purposes. Mr. Amellio went out in 2009, contacted all the property owners, no one was willing to sell. So, there was some discussion that St. Johns River Management District would give an exemption to paving the road. It was mentioned briefly and I think the feasibility study has says that a waiver can be applied for. Well, the only person that can apply for the waiver is the County. A private developer with St. Johns River Management District cannot get a waiver for the stormwater requirements for paving Davis Road. So, if Mr. Amellio is required to pave Davis Road, he's required to get a St. Johns River Management permit. If you're required to get the permit, you have to treat the water quality, stormwater and retention. Now, the feasibility study says that we can treat the water in the roadside swales. That's not necessarily true. There's a County ordinance that says that there will be no stormwater treatment in County roadside swales. So, there's some minor issues with the feasibility study making some statements that counters County ordinances. That needs to be corrected.

Murphy - Were there roads cited by the County as an example that you used?

Seaman - There are two typical sections that were mentioned in the feasibility study. Typical section one which was the curb and gutter section; and, typical section two which was the standard sixty-foot right-of-way section. Both of those typical sections did not meet the typical sections approved by Broward...by the Board of County Commission. They were different. First of all, this typical section one, the curb and gutter section, is totally inconsistent with the Greenbook standards and with any standards that the County has for a curb and gutter section. The best you can do with a curb and gutter section is have a fifty-foot right-of-way but you need a ten-foot easement to put the utilities in. So, and the typical section two is slightly different than what is been approved by the Board of County Commission. So, the two typical sections that's being proposed in the feasibility study have never been approved by the Board of County Commission.

Murphy - Are they appropriate for what they are being used for in their report.

Seaman - The first...the typical section two is fine for a sixty-foot right-of-way and on for about 2,500 feet of Davis Road, we have a ...a right-of-way at sixty-feet. But, the typical section one is not something that will work for 337 feet.

Murphy - Did you examine the two roads they gave as examples to see if they (inaudible)?

Seaman - In the report, they mentioned that these two typical sections were similar to Miner Road and to Radio Avenue; that these typical sections have been used on those two roads. I can agree that typical section two, standard road sixty-feet with a swale, is similar to Radio Avenue and Miner Road; but, nowhere on those two roads could I find anything close to meeting a 30-foot right-of-way with curb and gutter section. So, its...there's some information in the feasibility study that needs to be corrected. There is no road...no section of Radio Avenue or Miner Road that has 30-foot right-of-way that has a curb and gutter section.

Murphy - And what they presented as examples in that report?

Seaman - They indicated in their narrative.

Murphy - And did their examine show to be good examples.

Seaman - Well, actually, Miner Road is like a major...or minor arterial. It's...it's a major road. It...it...it's a ...it's....Davis Road is 330....3,500 feet long. It ends in...in a dead end section. You're going to have 20...31 lots. Miner Road and Radio Avenue is nowhere close to that. You have schools on Radio Avenue, Miner Road you have...you just have hundreds of lots and more daily trips that you can have. So, I can understand where both Miner Road and Radio Avenue needs to be paved. I just can't understand why there's so much fuss about pavingpaving Davis Road.

Deputy Clerk - It's time. This thing's not buzzing. We're having technical difficulties.

Seaman - Alright, okay.

Avila - Please...please continue. I don't want interrupt when you're talking.

Murphy - inaudible.

Seaman - Okay. So, there's a stormwater is an issue. Stormwater. We can't provide stormwater within the road right-of-way. There is no area to provide stormwater adjacent to the road. So, asking the developer to pave the road is impossible. The 337 feet in the area where there is only 30-foot right-of-way is another impossibility. You can't build the road and prevent water from going onto private property. There's also some constraints. The high point of the road and the low point of the road is in the wrong areas in order to allow water to drain into an area. If there was a possibility of stormwater retention, the high point is close to Musselwhite Road and so all the water from that high point will drain to Musselwhite Road, another County road that has no stormwater retention or water quality. So, somehow, you have to reverse the flow of water; you have to make the water go uphill and then back down Davis Road for treatment. So, all these items I discussed with the engineer, Mr. Gillette, at the time and we presented our case to the County Commission. The County Commission agreed that there's ah...seems to be an impossibility here and issued a...started to issue the waiver and the waiver went all the way through and except for the final plat, never got signed. The final plat which is basically the mylar; everything else was approved all the way up to the mylar. The mylar was delivered to the County and didn't get to the County Commission. Now, that's our...our...

Mullin - I hate to interrupt, Mr. Seaman, do you know what happened to the mylar?

Seaman - No, I don't know.

Mullin - Okay. Do you know ...did the County Commission ever approve that plat?

Seaman - No. Correct. They neverthey never approved signing the mylar. Everything up to that they did approve.

Mullin - Wouldn't the indication of a plat's approval being the signing of the plat and the recordation of the plat?

Seaman - Um...yeah, I agree with you that's the final act of the recordation; but, all the actions of the Commission's and staff lead one to believe that the plat would have been signed because we would have the maintenance agreement approved, we would have had ...

Mullin - Can I ask you, Mr. Seaman, is there for the Board's edification, is there a development out there now called Hawks Landing that accesses Davis Road?

Seaman - There is a undeveloped piece of property called Harks...Hawks Landing.

Mullin - Okay. How manydo you know how many lots are under consideration....?

Seaman - 23 lots.

Mullin - ...for the new Hawks Landing?

Seaman - It's the same. There's been no change.

Mullin - Have you seen the new application showing the specifics of the development...for Hawks Landing?

Seaman - I believe I have seen the ...the...the...documentation that I've been provided has been identical to what was submitted...

Mullin - No, sir, the question was have you seen a new application; not the 2009, have you seen a new application filed that depicts the number of lots for Hawks Landing?

Seaman - I...I've been provided documentation that shows me 23 lots.

Mullin - Okay.

Seaman - Is there any change?

Amellio - No...no change.

Seaman - No, so the answer is yes, there's been no change from the documentation that I've been provided.

Mullin - From 2009?

Seaman - Correct.

Mullin - Thank you. I just wanted to clear that up.

Seaman - Okay. Good.

Murphy - In addition to the runoff problem, is that going to impact the neighbors along that road during heavy rain?

Seaman - You can't pave the road. You cannot pave the road.

Murphy - And your opinion hasn't changed.

Seaman - Right. And, if you pave the road, you have to put the water somewhere and there is no place to put the water. It does not flow to any location that is available to put in retention.

Murphy - And what kind of expense is involved in paving that road?

Seaman - Again, the average expense for a developer, I'm not sure what the cost is. It could be ...oh, I don't know....\$300,000.00.

Murphy - And the agreement that we saw about the maintenance, did that indicate the County had no additional expenses for maintaining this road.

Seaman - From the maintenance agreement that was worked on at the time and from the one that I've seen that has not been signed but was intended to be signed, that maintenance agreement basically says that the applicant will pay the additional cost

equal to the number of trips being added to the road. And, I believe that was four additional gradings per year.

Murphy - And, if they were 23 home sites, that anticipated to add a lot of tax revenue to the County?

Seaman - I would imagine with the impact fees, and with the ah...ah...the new homeowners and buying property and cars and living, yes, I would...ah, I would think that there would be a benefit to the County to induce people to move to Callahan and live there.

Murphy - And no expense to the County?

Seaman - Again, there would be no additional expense to the County if the road was not paved.

Murphy - Is it necessary to raise that road substantially if you were to pave the road?

Seaman - Yes, based on the geotechnical report that was submitted in 2009 that basically says that these soils on Davis Road is basically unsuitable for adding a road on top of it, you would have to remove some existing materials and then raise the road up to be higher than the groundwater elevation so that the bottom of the base would not get wet. Same requirements the County has for their drainage ordinance. You have to have the road at a certain elevation; you have to set the crown of the road at a certain design storm...

Avila - Mr. Seaman...

Seaman - Yes?

Avila - We're kind of getting in the weeds.

Seaman - Correct. Okay.

Avila - And, there's about a minute left, if you just could kind of just wrap it up, Mr. Murphy, on this testimony.

Murphy - Let me just summarize it...if there's anyway possible for this road to be paved in your opinion?

8:08:25 Seaman - In my opinion, the road still cannot be paved. There's been no changes in the last four or five years that would indicate that the road could be paved. You have 337 feet;

there's 30 feet wide. If you could acquire the additional 30 feet from one property owner or the other, then, there would be no issues; it could be paved. But, if you go out there, you'll find that the triangular lot is a mobile home. It sits close to the edge of the road and the septic tank is in the road...drain fields, septic tank, drain field; and on the other side you have homes that, if you move the road over 30 feet, then the road would be in front of their front porch. So, there's, again, I see no feasibility for the County to acquire the additional 30-foot right-of-way or a private property owner to acquire this 30-foot right-of-way necessary to pave the road.

Murphy - And, if this road stays in an unpaved condition what would you....

Avila - Sir, Mr. Murphy, we are at time.

Murphy - Yes, thank you very much.

Avila - Okay, thank you.

Mullin - That brings us back, Mr. Chairman, to the Board's decision back to the documents. You're...you're, when I say you're, the County's third party engineer was hired to do their evaluation is here. The documents are still not decided what these new proposed in Exhibit One have been submitted to Mr. Pope, so there's some confusion about that; but, you have to decide as a Board having afforded Mr. Murphy's request to have his expert testify, then...or he deems him to be an expert, what you want to do at this stage as a Board.

Avila - My trepidation is we have obviously several members of our community that are here; came for a hearing and we're going to ask them to come back again. And, we're getting into passing the clock. We've been here for two hours in our hearing as a whole; but, I will...we'll seek consensus from the Board. I would rather move forward and get this avocation and presentation done tonight and whatever decision is made, is made, and we move forward. It's evident by, you know, Mr. Murphy and the way he's ...he's anticipating getting a denial and then going to appeal which I don't understand that. But, I need to seek consensus from the Board if we want

Murphy - We just like to remind the Board that we...this is not the first time we've been here. That's why we're concerned with moving it forward. So, that's our position. Okay. Thank you,

Gillette - Mr. Chairman, if I may. I just have a question. If there...if there's new information or we cannot be certain that you have not provided new information that we have not seen, that means the public hasn't seen it. So, my concern would be that you...if you...if you're certain that we have all this information in our packet, then there's no reason to submit what you submitted tonight.

Avila - If it was done just for convenience sake, I'm agreeing with Mr. Gillette. If it was done for convenience sake which I believe Mr. Amellio said that he pulled everything out and consolidated it, coupled with the fact that it doesn't really apply...

Murphy - Well let me...

Avila - ...on the application, it's being...it's coming forward to us tonight and there appears to be some of this similar documentation in the packet.

Murphy - Let me explain why there's some confusion because what we're being asked is if this was presented to the Board before. We're saying that it was presented to staff before. We don't know what took place between staff and the Board. That's why we can't answer that directly.

Avila - It's public records, sir.

Murphy - Everything we gave you is public record.

Avila - What...what...whatever you got from the staff is what we got.

Murphy - No, I'm talking about what...what we delivered today; we believe it's all been given to the staff more than once, but...

Avila - So, therefore, it would...

Murphy - It should have...should have been there but we can't say it did because we don't know what you go. That's what the situation is.

Avila - You know exactly what we got. I'm telling you. You know exactly what we got because it's right here ...here in front of me.

Murphy - Okay...so..

Avila - It's on the website, so if you're telling me on the record that what is in that packet is in here, then, we move forward.

Murphy - Well....

Avila - That can go in.

Amellio - May I ask a question?

Avila - One moment...go ahead.

Amellio - May I ask a question?

Murphy - Give him a chance.

Avila - Go ahead, Mr. Amellio.

Amellio - I was under the impression that you could bring a document if it was not in your original application that was pertinent in proving all was applicable to the...our request. Am I not correct? I thought I saw that where there was prior law that says, "If an applicant brings...

Mullin - I can answer that, sir.

Amellio -brings a document that is relevant....

Mullin - Mr. Amellio, if you're saying that what you provided as Exhibit One, you want this Board to consider tonight as additional documents. What you originally started saying was that everything you provided Mr. Pope's department had that; that's evidently not the case. If you're saying you're providing Exhibit One....

Amellio - I didn't...

Mullin - Let me finish...Exhibit One has additional documentation for the Board to consider, then we can rule...they can.. on those documents submitted.

Amellio - Okay.

Mullin - So these are new that you're submitting tonight, is that correct?

Amellio - Yes, and I need to explain that. A good portion of them are in the package that Stephanie Kurtz had in hers; not all of them are, and the other ones that aren't, it's relevant information that we are allowed to present. That's what I thought...but,

Mullin - I understand...

Amellio - ...but, there might be a misunderstanding there when you ask me a question are they all in there, I cannot tell you exactly which ones; but, there are some that are relevant, and when you said to me that...and, and if I might explain without being cutoff, sir, really, honestly...I'd like the chance to...may I finish and complete one thought? Okay? In Hawks Landing, and this is where it all ties together and it's very important that you understand this. Gillette and Associates did the original engineering report. It was Gillette and Associates that went forward and presented the case before the Board of County Commissioners and they...Gillette and Associates conferred with Mr. Douglas Seaman, the prior County Attorney, okay? They then agreed that they...that the road could not be paved. Then, it moves forward to Willows Farms where, if you read the minutes of Willows Farms, they again use Gillette and Associates, the same engineering report, and ruled on that. So, that document from Hawks Landings is pertinent to my...to my cause. And, then, if you go further, Mr. Herring who issued the denial letter and to which some of the continuation of denial incorporates some of his language, okay? He then turns down after, and when he issued and also in the records of Willows Farms, you will note on the recorded plat that Stacy Johnson, one of the Commissioners, and the Board of County Commissioners put a mandate on the plat that says these...that Davis Road shall not be paved. That is an ordinance, that is a restriction on that plat and it is recorded.

Mullin - Let me just address...

Amellio - So all of these documents tie together...

Mullin - Mr. Amellio, what's on a plat is not an ordinance. It does not restrict whether Davis Road can be paved or not. The Davis, the Willow Farms plat stands by itself legally in every other way. That plat, whatever's written on there, we don't have a formal plat before us that says Willow Farms. We have a ...a...two pages that are copied but that plat doesn't control Davis Road.

Amellio - Alright...

Mullin - We're still getting...if we could just get back to the documents...

Amellio - But, can I just finish that, sir? I spoke to Stacy Johnson, a Commissioner. She said it was their intention at the time because she was the same Commissioner that looked at both of them, Willows Farm....

Mullin - Mr. Amellio, Mrs. Johnson is not here. We're talking about the documents; not something somebody would have said outside the presence of this hearing and she's not here tonight; I don't see her in the audience.

Amellio - Alright...

Mullin - Again, to Mr. Gillette's question, we have members of the audience, and, I would assume, unless somebody's sitting out here. Just for the record, there's probably 15 people sitting out here in addition to our...or the County's third party engineer. If they intend to testify, they should have the ability to see whatever these new documents are so that they can possibly gauge their testimony based on what they haven't seen that you brought tonight.

Amellio - Okay.

Mullin - So, I don't know how many copies you have to provide to them so they have the opportunity, in all fairness, so they have that opportunity. We want to be fair to both sides.

Murphy - There are multiple copies, I'd be happy if you want to pass them through the audience. Also...

Gillette - Mr. Chairman, if I can, that document is very thick and there may be information in there that is positive for your case but we don't have time to go through volumes of papers nor does the audience...

Murphy - Okay. It's just if they want to, they can see it.

Gillette - ...just to save time.. but, it...I think a continuance at this point would give everybody ample time to review the documents that you submitted and let everybody else render their own opinion. I suspect they're not here in favor of you, so it can only probably help.

Murphy - Well, now I would suggest that we let everybody do it and get this over with. That's my suggestion.

Gillette - I'm not in favor of that if we're going to add that as documentation for the record.

8:18:39 (inaudible conversation in background)

Gillette - Mr. Mullin, if that...if we're at an ultimatum here, I mean, I would make a motion we reject the additional documents and move forward with the hearing, and, if the applicant's not happy with that, then we continue the hearing.

Mullin - Mr. Murphy, you need to comment on that.

Murphy - No, we just want to move the hearing forward. We agreed with that. We think that the documents are all relevant; but, if that...that's what it takes to get this done tonight, why don't we go ahead and do it. I would suggest each of you read the legend that's on that plat; it doesn't just apply to Willow Farms and I think that's a misleading statement. So, go look at it yourself. It applies to Davis Road. That's what it's talking about. So, please look at that, thank you. (inaudible comment)

Mullin - So for purposes tonight, then, Exhibit One will no longer become an exhibit because it's not going to be admitted in the record. You agree with that, Mr. Murphy?

Murphy - No, we don't but you can rule that way. We have no problem with that .

Mullin - And, it will not become part of the record then.

Gillette - I'll make a motion that we accept the documents in our packet and we do not accept the additional documents that we presented tonight.

Hartley - And I'll make...I'll second.

Avila - We have a motion and a second. All in favor?

Board Members - Aye

Avila - Opposed? (no response)

Deputy Clerk - Do you want me to read them? Do you want me to read them?

Mullin - Then you need the Clerk to read into the record the documents.

Avila - We'll make a separate motion for the Clerk's documents. Go ahead.

Deputy Clerk - Alright. For V18-001, there's a staff report which is 10 pages; a memorandum to Taco Pope from Scott Herring dated November 27, 2017; Exhibit A which is three pages including the permitting requirements of the St. Johns River Water Management District, Section 62-330.051 of the Florida Administrative Code; Feasibility report from...I'm sorry...for paving Davis Road dated January 16, 2018 prepared by Dow W. Peters of Peter & Yaffee Transportation and Traffic Engineering; Exhibit B 18 pages including a profession engineering certificate 1 page; table of contents 1 page; feasibility report for Paving Davis Road - 6 pages; Appendix A Location Map - 2 pages; Appendix B - Nassau County LABINS Map - 2 pages; Appendix C - USGS Topo Map - 2 pages; Appendix D - Drainage Map - 2 pages; Appendix E - SJRWMD Permit Hawk's Landing/Cover letter - 1 page; Standard General Environmental Resource Permit Technical Staff Report, dated February 16, 2019, prepared by Asa Gillette - 5 pages; Site Drainage Evaluation, revision date of March 26, 2009 from Gillette & Associates, Inc., - 3 pages; Feasibility Report for Paving Davis Road Appendix F, Design Criteria Tables - 14 pages; Feasibility Report for Paving Davis Road, Appendix G - Proposed Typical Sections - 3 pages; Application for a Variance, received March 15, 2018 - 6 pages; Legal Description: Hawks Landing, SP07-003 or, 23 lots 63.10 acres located on David Road off Musselwhite Road, Callahan Area - 2 pages; Hawk's Landing Pre-Development Drainage Plan - 1 page; Site Geometry Plan - 1 page; Letter from Shari Graham to Scott Herring, dated 1-4-12 - 1 page; Geographic Information System (GIS) Map - 1 page; BOCC Agenda Item dated 4-18-12 under Growth Management - 1 page; BOCC Notes of Regular Session dated February 23, 2009 - 1 page; BOCC Agenda Item dated November 23, 2009, Department County Attorney - 1 page; Response to the criteria for granting a Variance, no date or signature - 2 pages; Letter from Cara Ackley Perron, St. Johns River Water Management District to Joseph Amellio, dated January 25, 2018 - 2 pages; BOCC Agenda Item dated April 18, 2012 Department Growth Management - 1 page; Plat Review Application and General Information, signed January 3, 2012 - 1 page; Duplicate of Letter from Shari Graham to Scott Herring, dated 1-4-12 - 1 page; Development Review - Plat

Checklist; Name of Project: Willow Farms, last signed date of April 4, 2012 - 7 pages; Email from Anita Dobrosky to Brenda Linville, Connie Arthur and Peggy Snyder, dated November 3, 2011 - 1 page; Development Review Committee Meeting, dated November 8, 2011 Minutes - 9 pages including: Preliminary Presentation - 2 pages; Development Review Committee Preliminary Discussion Sign In Sheet - 1 page; Pre-Application Conference Form for Development Review - 1 page; Email from Mollie Garrett to Mr. Amellio, dated October 28, 2009 - 1 page; Unexecuted Draft Agreement prepared by Nassau County Attorney's Office, no date or signature - 5 pages; Pre-Application Conference Form for Development Review, dated November 3, 2011 - 5 pages including: GIS Map Willow Farms - 2 pages; Willow Farms Plat, no book or page or signature - 2 pages; Nassau County Development Review Committee, dated November 8, 2011 Agenda - 1 page; Nassau County Development Review Committee Status Report - 33 pages; Letter from Stephanie Kurtz to Joseph Amellio, dated March 19, 2018 - 3 pages; and Memorandum dated November 27, 2017 from Scott Herring - 1 page.

Avila - Thank you, Madame Clerk. For clarity, can we please have a motion to accept the documents as dictated by the Clerk into the record?

Gillette - So moved.

Zetterower - Second

Avila - All in favor?

Deputy Clerk - Who seconded?

Zetterower - Zetterower...

Avila - Zetterower.

8:24:58 Mullin - For the Board, when you second it, because the court reporter doesn't know your name, so you have to say...

Zetterower - Second.

Gillette - Gillette made a motion.

Avila - All in favor?

Board Members - All ayes,

Avila - Unanimous. All right. So, has anyone...is anyone present that is a witness that has not been previously sworn in? Does the...

Mullin - The engineers.

Avila - The engineers? Then...

Mullin - He needs to come...to the podium.

Avila - Would the representative for the third party engineer come to the podium to be sworn in, please?

Dow Peters - Good afternoon.

Deputy Clerk - Would you, please, raise your right hand? Do you swear or affirm that the testimony you're about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?

Peters - I do.

Deputy Clerk - Please state your name and address for the record.

Peters - Dow Peters, 9822 Tapestry Park Circle, Suite 205, Jacksonville, Florida. The zip code is 32246.

Avila - Thank you, sir. You may be seated.

Peters - Okay. Thank you.

Avila - Mr. Pope, the floor is yours. Yes, sir, you have a question?

8:26:15 - Mr. Davis - Are you going to swear in any of the public that...

Avila - That...you'll be coming up and speaking for or against and it will be at that time. We're just doing anybody that has been called as a potential witness. It...there...a witness is going to be questioned in testifying. A member of the public is going to come and speak from...from themselves.

8:26:33 Mr. Davis - as a witness?

Avila - What's that?

8:26:33 Mr. Davis - I said I submit myself as a witness.

Avila - You'll have you an opportunity to come up and speak as a member of the public.

8:26:41 Mr. Davis - As a witness as well. Expert.

Mullin - Yes, sir, when you...when you come to present your testimony for or against, you can state whatever your credentials are and then the record will reflect how you're being treated as a witness.

Avila - Thank you, sir.

Deputy Clerk - Shouldn't you not read fast?

Pope - Do what now?

Deputy Clerk - Shouldn't you not read fast (inaudible)....

8:27:16 Pope - Taco Pope, Director of the Department of Planning and Economic Opportunity. For the record, I'm a professional planner certified through the American Institute of Certified Planners with twelve years' experience in the public sector. I had a lot more energy a few hours ago; I'm not going to lie to you. So, this evening we're going to discuss V18-001, Amellio Davis Road. To be honest with you, this is very simple. It's very straightforward and it's very concise. I'll be quick and then I'm going to turn it over to Mr. Dow Peters who can address some of the technical requirements in the report. The request has been discussed already. The applicant is seeking relief from Sections 29-32 of the Nassau County Code of Laws and Ordinances requiring Davis Road to be paved and constructed in accordance with the Nassau County Roadway and Drainage Standards from Musselwhite Road to approximately the eastern most boundary of Sandy Oaks Lane. Staff has found that application V18-001 fails to demonstrate consistency with the standards of review to find in Section 29-152(B)(1-3) of the Nassau County Code of Laws and Ordinances, as such, staff finds no justification or grounds on which the requested variance may be granted and recommends Conditional Use and Variance Board deny said application. The subject property is located northeast of the Town of Callahan, east of Musselwhite Road into the south of Davis Road. It's accessed by Davis Road, a County-maintained dirt road. Section 29.32 of the Nassau County Code of Laws and Ordinances, also known as the Subdivision Regulations, and this is a quote

verbatim from that section of Code. It applies to all lands in Nassau County when development is being sought; and, I will read it; "All subdivisions shall have direct paved access to the connection with a County-maintained road or street dedicated to public use which has been accepted for maintenance by the County or Florida Department of Transportation", and this is the pertinent part. "If the County-maintained road or street is not paved, the developer shall pave the County road or provide paved access from the subdivision, including rural subdivisions, to connect with a paved County road or street accepted by the County or the State." So, this rule applies to everyone, uniformly, across the County. There are two relief options built into these Code of Laws and Ordinances. Option 1, to which we're here tonight, is a variance request. You request a variance pursuant to 29-152(A)(B), the application is heard by the Conditional Use and Variance Board and it's subject to a demonstration of consistency with the review criteria defined in said section 29.152. Option 2, the applicant can move forward with an appeal of the Planning Director...the Director of Department of Planning and Economic Opportunity that I erred in a decision or termination of implementing said code. The applicant went with Option One and we're here tonight. So, as such, in order to find a recommendation of approval or denial, you have to look at the facts, looks at the evidence, and make a determination of whether or not the applicant has met criteria 1, 2, and 3, as defined in the applicable section of code. One of the main things to point out is it has to be a particular physical condition-shaped topography that causes an undue hardship on the applicant if the strict letter of the ordinance is carried out as in...this is in the code; (1) an undue hardship does not include a financial constraint; (2) as the conditions upon which the request for waiver are based are peculiar to the property in which the waiver is sought are not generally applicable to other property and do not result from actions of the applicant; and (3) the variance is consistent with the review criteria defined in Section 3.05(b)(2)(a-g) of the Nassau County Land Development Code. So, you've already heard a lot about the dueling engineers, if you will. 2008-2009ish, Mr. Douglas Seaman rendered an opinion that the road could not be paved. 2017, Mr. Scott Herring rendered an opinion that it could be paved; and, so, you have two dueling former County Engineers. So, the most prudent thing to do for all of us is to go a third party engineering firm; have them assess it, and issue a signed and sealed engineer's report making the determination of whether or not it was feasible to pave the road. The feasibility report was produced; it found that, yes, the road could be paved; not only could it be paved, but, it

would improve the conditions along the corridor. So, with that, moving forward, the project, which is the proposed...which has been discussed, Hawks Landing Road...or Hawks Landing subdivision, that's being considered for development by the applicant which will be served by Davis Road, can move forward as long as the County road, Davis Road, is paved in accordance with current standards. The bottom line, when you go through all the documentation, you look at everything that's been proposed...provided, the applicant failed to demonstrate that special conditions and circumstances exist which are peculiar to the land, structure and building involved, are not applicable to other land, structures and buildings in the same zoning district; and, also, failed to demonstrate that special conditions and circumstances do not result from actions of the applicant. Here's what it comes down to: (1) Signed, sealed engineer's report says it can be done. (2) There's 176 miles of unpaved County-maintained roads in Nassau County. This rule, to pave those roads if you want to use them to access new development, applies to all of them equally, uniformly. There is nothing unique about this situation. Furthermore, this is...the need for this variance or proposed need or perceived need for the variance from the applicant is one hundred percent the results of the applicant's actions. He has chosen to develop a piece of land that's in a rural part of Nassau County that is not served by public infrastructure. If it is not served by public infrastructure, it's the applicant's responsibility, based on the current Code as it exists today, to provide said infrastructure. And, that's the bottom line. If the decision's to develop in a rural area that's not served, 176 miles of County-maintained dirt road, the rule that applies in this case applies to all of them. So, again, finding there's no unique situation; there's nothing that differentiates it; and, the engineers...the only signed and sealed engineer's report that been filed and submitted for evidence states that the road can be paved. So, with that, I will turn it over and answer any questions.

8:34:14 Mullin - Mr. Chairman, Mr. Pope, just to be sure because I may have missed it, for the record, the Conditional Use and Variance requirements in the 3.05(B)(a-g), is it your opinion that they have not met those?

Pope - Yes, sir. In the body of...in the body of the staff report that we issued, our finding was that it did not meet A, B, C, D, or E of those and I can go through them one by one, if you like, but, in essence, it comes down to a variance...what's a variance?

It's a non-self imposed hardship as differentiated from mere inconvenience or an attempt to make more money.

Mullin - I just didn't ...I may have missed that.. I just wanted to make sure that the record was clear.

8:35:02 Gillette - Mr. Chairman, I have one question for staff if that's okay.

Avila - That's okay.

Gillette - Just so I know, what is the life of the permits for development? Are the the St. Johns permit active? Is the County approval process active?

Pope - No...no, sir, there's...

Gillette - So, everything's expired.

Pope - Yes, sir.

Gillette - So, if this were approved, the applicant would still have to go back and design, permit...there is no active Hawks Landing as...from an approval process.

Pope - You're absolutely correct, sir, there...there is no..

Gillette - It's a vacant piece of property.

Pope - It's a vacant piece of property...

8:35:53 - Gillette - ...as entitlements go.

Pope -coming to the DRC anew for review, and you're being asked to look at the application based on what was submitted on today's standards; today's existing regulations, and whether it applies...this variance applies and meets the conditions for issuance.

Gillette - So, we don't have an approved subdivision?

Pope - No, sir....

Gillette - Thank you.

Pope - ...and with that, I will turn it over to Mr. Dow Peters to address technical requirements of his report he issued.

Peters - Good evening, Mr. Chair, Board Members, I know it's been a late night and I'm going to try to be as clear and concise as I possibly can without getting in the weeds too much. But, I would like to provide a little bit of background as to what ...why I'm here and what I was scoped to do and everyone's talking about qualifications, so I guess maybe I'll throw mine around as well. I am a professional engineer in the State of Florida as well as in the State of Georgia. In 2008, we opened our company, Peters and Yaffee, here in Jacksonville. As a matter of fact, Mr. Seaman gave us our very first project here in Nassau County, the Miner Road Project. But since then, over the last ten years, we've worked with many different agencies - FDOT District 2, Lake City, District 3 in Chipley, District 5 in DeLand, of course, here in Nassau County. We are actively one of the continuing engineering services consultants. And, the list goes on. I can provide the Board with many recommendation letters in what we've done. 8:37:30 Peters - So, with that, what I'd like to do briefly; I'm not sure exactly what the posture is here, but, I'd like to kind of give you a brief overview of my report very brief and then maybe address some of Mr. Seaman's comments and concerns; so, back to the scope. We were contacted by Public Works and Planning to provide a feasibility study for the paving of Davis Road. And, I'll be honest with you...initially, knowing some of the background and some of this history, I wasn't all excited about it; but, after talking to Mr. Pope, he assured me that it was my opinion and my opinion only, and that's what this whole report is based on. So, with that, we all opinions, so what I wanted to do from the very beginning is to make sure that I provided the Board and this report factual data from what we've done historically here in the County and what's allowable. And, there are a lot things that Mr. Seaman and I agree on; some that we, I guess, can draw on and some I just downright disagree with what he's saying. So, as a quick overview, we did a lot of background information on the corridor, site visits, pulling a lot of data, right-of-way information, utility information, and so on and so forth. All that's documented here in the report. Let me get to the conclusion. So, after, we pulled in all the information, all the data, you know, I concluded that the road is ...it is feasible to pave the road. There will be some challenges, no doubt. And, I'm making this not lightly and we'll go through some of the criteria, but, I believe that paving the road will promote the health and safety and welfare of the traveling public for that immediate area. (1) The proposed conditions for Typical Section 1 and Section 2 can be accommodated within the existing right-of-way. I'll get to that detail because Mr. Seaman talked

at length about that. (2) All the minimum design criteria standards outlined in the Nassau County Roadway and Drainage Standards, Ordinance 99-17, was reviewed and considered along with the Florida Greenbook and the MUTCD, these are the guiding principles that would normally be associated with an RFP that came out of the County. (3) The existing utility conflicts are minimal with the exception of the relocation of a FPL power pole. There was a discussion about a septic tank; that's not in the paved area that we're talking about. (4) Wetland impacts can be minimized and potentially eliminated. Another concern Mr. Seaman talked on that. That's a...that's a product of every project. We need to deal with St. Johns River Water Management District and that's something that we would have to get down into details when we go through a design process. (5) And lastly, perhaps, the asphalt pavement will offer a more stable roadway surface free of loose material and free of washout areas. In addition, visibility will be increased with the reduction of debris, dust, and also signing and pavement markings will be added so the paving of the road will promote motorist awareness and increase the safety during daytime and nighttime conditions.

8:41:04 Peters - With that, let me move onto some of the topics that Mr. Seaman brought up. So, in order to accommodate the existing right-of-way, Mr. Seaman alluded to the fact that there's approximately a 30-foot wide available right-of-way with...at the beginning of the roadway adjacent to Musselwhite, and he's absolutely right. That's going to be a challenge. We provided a Typical Section One which accommodates a ten foot...two ten foot travel lanes, curb and section gutter area to tie down, sodding in some areas. That typical section has been used and approved in other roadway projects within the County. Now, does it fit within the typical 60-foot right-of-way? No, it doesn't. He's absolutely right. However, is it possible to push that through; is it possible to sit down with...with miss...with the Planning...excuse me...the Public Works Department and work through those details? I think it is. I think it makes sense to do that. And, we're talking about approximately 300 feet. I think those exceptions are warranted given the safety implications that will be, you know, a real...a real benefit. Mr. Seaman alluded to that we have...we're showing a...an 11 foot section; but, we're actually showing a ten-foot section. As a matter of fact, the Greenbook offers a little bit of flexibility in that pavement travel lane width. We've actually gone to nine foot, given the circumstances of the roadway, given the pleasure of the Department to grant that, so we can actually have a little bit more to work with. They talked about this

runoff area from the back of curb tying down to homeowners. Well, I would suggest that homeowners are dealing with a lot more silt, a lot more drainage issues than they would be with having a two-foot width sod strip. Again, I touched on the safety aspects of paving. You know, I couldn't imagine what's happening with emergency vehicles that have to go up and down the road to get to homes. I know that there's approximately 20 to 30 people that live on that road now. If we have more folks that live on that road, well then, the chances are we're going to have to have more of an EMT presence, you know, in a monthly, yearly process, so, how does that work? Mr. Seaman alluded to the fact that the ...that dirt roads, he's more favorable to dirt roads. Well, it's well documented that the Federal Highway Administration, local counties, municipalities, DOTs, St. Johns Water...Water Management District, they all recognize the fact that dirt roads aren't safe. That's why there's exceptions to paving them. That's why there's money out there to help counties, such as Nassau County, to pave roads. There's a certain inventory of roads right now that are under designed; that are dirt roads that are going to paved roads. So, I...I'd disagree with him about his likeness to paved roads. Mr. Seaman brought up the drainage challenge, and there will be a drainage challenge, no doubt; however, we look at what happened and what's designed at Crawford Road. I cited this in my report. We know that the road grade is going have to change. He's right about the base clearance. He's right about the fact that...that we're going to have to work through sum of grade changes. Look, that's what we do as engineers. Those are the challenges that we overcome, that we work through all day, every day. As a matter of fact, the Crawford Road Project presented a lot of challenges. They were...they did have to increase the roadway for awhile; and, actually, St. Johns, and it's not on their books, they said, "Guess what, you're out of the permit status now. We're not going to offer you an exemption with this permit." We cited that in the report. We're not going to be able to ask them for a permit...an exemption to the permit, excuse me. So, we're going to have to, you know, deal with that. So, roadside ditches are what was the fix in that project. Mr. Seaman alluded to the fact that it's not a good idea to have roadside ditches. Roadside ditches exist throughout this County and St. John has recognized that a feasible way to deal with TDML's and runoff. Mr. Seaman alluded to the Typical Section One. We kind of disagree on that. I think... he's...he's talking about having right-of-way. I'm talking about putting in a pavement envelop. Yes, there's only 30 feet there, but, I'm putting all of that, the Typical Section One shows all of that fitting within the...that exists...existing

roadway that folks are using today. Granted, that we may have to work through some, you know, some design exceptions with...the Public Works, but those things are a normal course of what we do. We agree on a Typical Section Two. I think we are okay with that. He touched on retention ponds, retention ponds, excuse me, and impacts to homeowners. That's down in the weeds stuff, you know, we can't provide the County or any engineering company can provide a County with roadway plans that flood homeowners. That's just not what we do. It's part of the design aspect. We're going to overachieve that. I talked a little bit about the fact that the permit that was available at the time suggested that there were some capacity in the initial pond that was designed. So, you know, there's...there's some things that can be done to overcome some of those drainage issues, but, yet, there's going be problems. St. Johns, I touched on the TDMLs; Doug didn't really didn't talk about that. We've seen relief. I think it's obvious that when we get silt and dirt and things in drainage systems, they don't work. So, paving ...paving roads help with that. So, that's a favorable thing for St. Johns and they are favorable to give some relief in to help with that. Mr. Seaman said it's no way possible. It's not possible. I contend that more complicated things have happened and more complicated things have been achieved. And, I guess I'll...I'll just close by saying that...that, I think the safety and welfare of the traveling public is more important than engineering challenges that we face in getting this road paved.

8:48:09 Avila - Thank you, sir, and for the record, we did go over the time. I assumed the Clerk let you continue figuring you were wrapping up. Mr. Murphy, since he is the County's witness, you may cross.

Murphy - Thank you.

Avila - ...and ask any questions of him. Would you like to?

Murphy - Yes.

Avila - If you can stay up here, please. We got a couple questions to ask.

Deputy Clerk - Mr. Mullin, is it ten minutes for rebuttal?

Mullin - I've forgotten now what it...not rebuttal. It's cross examination. It's in the ...rebuttal is ten minutes, I think...I don't know what I did with the thing now...

8:48:54 Murphy - I'd like us to begin the cross now?

Mullin - Five minutes.

Deputy Clerk - Five minutes? Okay, thank you. He thinks we're taking a five minute break, I think.

Avila - No, no, no, no, no...

Deputy Clerk - Oh...

Avila - Do you have a question, maam?

8:49:28 Ms. Utivion- I've just one very simple comment to make about this.

Avila - Maam, we're not there yet.

Mullin - Maam...

Avila - Maam, we're not there yet, I'm sorry.

8:49:34 Ms. Utivon - Pardon?

Avila - We're not there yet?

Lady - Oh, okay....

Avila - I thought you had a question though...a generic question.

Lady - Oh, no. Just a comment.

Avila - We're not there yet. We'll ...we'll ...we'll get there...I promise.

Lady - Thank you.

Avila - We'll get there. I promise. I promise, we'll get there. Mr. Murphy, you wanted to cross? Yes or no?

Murphy - Yes, whenever we're ready.

Avila - Make it happen, Captain!

Murphy - Okay. Our designated agent, he's an engineer. He's going to ask. (Louder) Our designated agent being an engineer is going to be asking questions on our behalf.

Mullin - Is he the designated agent?

Murphy - He is on this. Mr. Seaman.

Mullin - Okay.

Seaman - Okay...so, we have a difference of opinion. Can the road be built, can the road not be built. I agree, you can build anything if you put enough money into it and enough thought. Okay, so, one issue in the feasibility study that wasn't that wasn't brought out was where would the stormwater management facility be built. Build this road, got to put the stormwater somewhere. The question is if the feasibility study cannot miss that. Where would the runoff go? Where would any stormwater management facility be built?

Peters - Again, we're getting down in the weeds on that. Each roadway project does present its challenges. The first typical section obviously would collect and work its way either to the east on Musselwhite and we've identified in one of the exhibits the high points and low points and we think that if we raise the elevation toward the end of the Typical Section One, that we could then facilitate water moving toward the east....I said east earlier; I meant west. But, by and large, the roadside ditches, as it worked on Crawford Road, could also work here. That would also deal with some of TDMLs. It would also deal with some of the tinuation, and if the grades work and if there was a joint-use pond at the development; then, like I said before, there was a permit that was submitted that suggested that there was additional capacity there. I understand that is perhaps not approved. I get that, but, we're working with the information that we had. It's difficult for both of us to sit up here and talk about the engineering aspect when we get paid for a lot of hours and hours to figure these things out. So, I feel, based on the experience that we've had recently here in Nassau County, that we can make this work; that any engineering company can make this work...

Mullin - I think...I hate to interrupt, I think you've answered his question.

Peters - Oh, okay.

Seaman - Do you propose two typical sections; Typical Section 1 and 2; do either one of them as a Standard Typical sections according to Broward County standards...according to Nassau

County. Have either one of these two standards been brought in front of the Broward County Commission for approval? I'm sorry, Nassau County.

Peters - Again, this...our...our scope was to write the feasibility study and figure out how to pave the road. So, he absolutely correct in the fact that we haven't brought it for approval. These are based on experiences that we've seen in the past in working in the County. The second Typical Section is, in fact, a typical 60-foot right-of-way section with 11-foot lanes and roadside ditches.

Gillette - Mr. Chairman, if I might, I don't think we...going back and forth, obviously, the two engineers disagree. I don't think this is the venue in which to offer design alternatives for a roadway. One opinion is different than the other and I think we've established that. I think going and swapping sections and doing drainage and all this stuff is really not relevant to what, I think, we're supposed to be doing.

Avila - I concur.

Mullin - Now, Mr. Chairman, you can open it up for a

Avila - Yes.

Mullin - ...unless Mr. Murphy has any other witnesses.

Murphy - Yes, that's fine, thank you.

Avila - Okay...so, I need a motion to open the floor to public comment.

Gillette - So moved.

Zetterower - Second.

Gillette - Zetterower seconded it.

Avila - All in favor?

All Board Members - Aye.

Murphy - If you wouldn't mind, Mr. Amellio would like to address you briefly as a witness.

Amellio - I'm not looking to take long.

Avila - Just...

Murphy - Time out.

Avila - I think it's more appropriate as a rebuttal.

Murphy - Okay, we can do that.

Avila - So, let's ...

Amellio - Okay.

Avila - The public has been patient.

Amellio - Okay.

Murphy - We understand that.

Avila - So, is there anyone in the public... in the audience that wishes speak...wishes to speak for or against this; if so, please come forward now, be sworn in and make your statement. Now you may come up, maam.

Utovin - Thank you.

Avila - I told...I promised we'd get to you.

Lady - I can't hear any of you, so I'm sure I only got half the information. My only comment....

Deputy Clerk - Maam? Maam?

Avila - One...one moment. We need you sworn in.

Utovin - Oh, I'm sorry.

Deputy Clerk - Will you raise your right hand? Do you swear or affirm this testimony you're about to give is known as the truth, the whole truth, and nothing but the truth, so help you God?

Utovin - I do so swear.

Deputy Clerk - Please state your name and address for the record.

Utovin - My name is Gigi Utovin, I'm a resident of Davis Road right beside the Willow subdivision... of Willow area. If Davis Road, according to Mr. Amellio, is not capable of supporting paving and drainage, how is it capable of supporting more residents, more traffic? That road washes out terribly during every storm we have. It will wash out gullies half way across that road. That can't support more traffic. It will become impassable for emergency vehicles such as EMS, Fire and Police. That's it.

Avila - Thank you, maam. Appreciate your input. Sir, you...in the front row...you had someone to speak?

Deputy Clerk - Do you swear or affirm that the testimony you're about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?

Cecile Davis, I do.

Deputy Clerk - Will you state your name and address for the record?

Cecile Davis - My name is Cecile Davis, my address is 56952 Davis Road. I just have a brief comment. I have a rhetorical question. There's currently 11 families living on Davis Road and use it on a daily basis. This development would increase traffic to at least three times that amount. There will be more to come when currently sold lots....there are lots that have been sold but have not had homes build on them yet. When those homes are built, it will be even more traffic. There's still 135 undeveloped acres that are just waiting for land density ratios to be reduced plus the Davis family owns about 70 acres to be developed that lies past Sandy Oaks which is in the scope of what we're talking about right now. So, my question, it's a rhetorical question, you don't have to answer me....but, it's something to think about. Will future variances be given for the potential of 200 plus...additional homes based on this waiver? They're basing their request for waiver on a previous waiver so, are we going to build another 200 homes on Davis Road based on this precedent being established? It's rhetorical, you don't have to answer.

8:58:14 Mullin - Well, I can answer from a legal standpoint. Each variance stands separately on its own.

Davis - Okay.

Mullin....So, one being granted does not mean it's the precedent that all get granted.

Davis - Okay. But there fine with

Mullin - Yes maam.

Deputy Clerk - Do you swear or affirm the testimony you're about to give in the matter is the truth, the whole truth and nothing but the truth, so help you God?

Daniel Davis - I do.

Deputy Clerk - Please state your name and address for the record.

Daniel Davis - My name is Daniel Davis. I'm a resident on Davis Road. My address is 56977 Davis Road. You actually just heard from my mother. A little bit of brief history. Yes, the road is named after us. My dad, when he moved back onto the road, had it renamed Davis Road. My family has been on this property at the end of the road since, I believe, 1947. My dad's family lived there before he was born. He was born and raised there and has raised us there. I'm now raising my family on Davis Road. So, there's a very long history of experience on the road as far as testimony. Also, relevant for some of the comments I have, I am a licensed registered....licensed engineer in the State of Florida. My specialty is in soils and geotechnical engineering. For several years, I was a consulting engineer for the FDOT stabilizing roadways and other types of foundations. I'm not going to go into the weeds any more than the engineers that have already went through it. They've ...there's no need for one more opinion on the matter. What I actually wanted to talk about very briefly was the actual conditions of the road. We didn't hear a lot of that from the two engineers. They don't live it every day; particularly the first 300 feet of the road that's been so much of contention. It's very narrow. We don't have enough right-of-way. We live that every day. The road in that area for 300 feet, if there is an oncoming vehicle coming down that road, you can't pass. We...with the 11 families that are on the road now, we've developed a situation; we see each other coming, we all know, we have to stop. Somebody has to wait near the paved road or somebody has to wait down at the other end of the road and let people pass back and forth. Yeah, it does provide other concerns. The end of the road has become a school bus stop and so now we have traffic regularly stopped at the end of the road. It's a school bus stop because the

School Board won't allow a school bus to travel down the road because of the road conditions. It's not good enough for my nieces and nephews to...the road the school bus to travel down to be picked up. But, we're considering a subdivision on it and it's...it is a, you know, you have to think about it. Mr. Peters proposed a question while he was talking; you know, what would happen with emergency vehicles go down the road. Again, firsthand experience; I've passed a fire truck down the road. I was fortunate enough to have a four-wheel drive vehicle that I could enter into the ditch. In the particular case, the fire truck was parked. He was actually in a service call; he was stopped on the shoulder of the road; it was not possible for me...this was one of the wider sections of the road; it was not in the 300 feet, it was further down past the Willow Farms right before you would get to the entrance to Hawks Landing. So, it's not feasible to pass large vehicles. It's not passable...feasible to pass at any time construction traffic. Numerous issues would develop with that. And then, lastly, I'm not...this is part of the weeds I'm not going to dive into the deep, the maintenance of the road, so that the Board member realize, if you dove down into the details that you've got in there, they're proposing a maintenance contract for four additional pavings. The rate they calculated that on was for a road grader at \$25.00 an hour. That hardly pays for fuel costs for \$25.00 an hour much less maintenance on the machine, operating time, man and people. Will it cost the County more money? Absolutely, at four additional pavings. And, my final thought is the pavings itself. The road conditions on Davis Road change seasonally. Right now, it's actually optimal conditions. We have mild days, we do not have a lot of solar heat that hits the road. There's very little evaporation. The road moisture content of the soils is premium compaction. There's little ruts now and then from the rain storms but we're quickly coming into our drought season. That happens every year in May and June and July. And, during those time periods, the sand on Davis Road gets extremely deep. It is not maintained during this time. The road...you can't push sand around on top of the road and make it more drivable. Maintenance is, I understand, I'm wrapping up. Maintenance, just adding additional grading periods during the worst time; that is when the road is at its worse during the drought, during the sand. Additional gradings doesn't solve the problem, so...I appreciate your time.

9:03:39 Avila - Thank you, Mr. Davis. We thank you for that. That was good information. Any others to speak for or against? Seeing none ...oh, sorry.

Cary Davis - I'd like to say a couple words about it. Since I'm the Davis.

Deputy Clerk - Can you raise your right hand?

Mr. Davis - Yes maam.

Deputy Clerk - Do you swear or affirm the testimony you're about to give in this matter is the truth, the whole truth and nothing but the truth, so help you God?

Mr. Davis - Yes, maam.

Deputy Clerk - Thank you. Please state your name and address for the record.

Davis - I'm Cary Davis. I live at 56952 Davis Road. I'm married to that lady right there. We have been full time out there since '82, but, I lived on that road since 1949. I've driven on that road 53 years and, I can tell you, we've got wonderful neighbors, okay? I have no complaints about the neighbors, but, the traffic on that road is horrendous right now. I was coming home from church about a month ago on a Wednesday night and Rescue stopped to see the very first house on the east side of the road. It took them 20 minutes to get the fire truck, the rescue units, and the police cars out of the road so that I could go home. It is impossible to pass in that first 300 feet. It is totally unacceptable. The road...my son did a good job in explaining it; but, the County cannot keep the road from washing out. The road washes out every rainy season. Every drought season, we go in the ditch. He was pulling a trailer home with a tractor on it and Mr. Sawyer who lives on the road is handicapped. He could not get out. If it would have been an emergency, he probably would have not made it to the hospital because we had to unload the tractor and pull the truck out. The road is that bad. And, if these gentlemen want to go out there and drive it every day, they're welcome to. We have lived at the end of that road and put up with this; all these people moving in without the road being paved. The County did not spend all the money writing all these articles and these...ordinances...for it to have forgiveness on them so that someone doesn't have to spend a dollar. They drew them up for a reason. St. Johns County, you said. They forbid it anymore, right? So, why are we giving or letting people come into our County, build subdivisions, and not pave roads. It costs taxpayer dollars. I thank you all.

Avila - Thank you, Mr. Davis. Anyone else? I believe Mr. Amellio wanted to make some statements as a rebuttal.

Amellio - Yes, sir.

Avila - Please come forward, sir.

Amellio - Do I have to repeat my name all over again?

Avila - I think you've already been sworn in.

Deputy Clerk - Yes, sir, he has.

Amellio - I've listened to the testimony of the family and I understand what they're saying. They're talking about where they can't get around trucks; they can't get around emergency vehicles, and everything else. Well, whether you pave the road or not, the width is still the same. So, getting around it and if you have pavement up to a certain point, you've got the swale; you might still go off into the ditch and everything else. You know, we looked at this. When I first got this ...when I first bought the property, I was under the impression at the time that I would have to pave the road and you can look that up. It wasn't me that turned around and requested the paving waiver. Quite honestly, it was Gillette and Associates that called me and he said, "Mr. Amellio, there is no way that we could pave that road." So, I said, "Are you sure?" He said, "Yes, I've looked at it", and then he said he conferred; he met with Mr. Seaman and we met before the Board; it was a long discussion. Everything went on and, even at that meeting, Mr. Mullin who my attorney at the time, recommended that the paving waiver be granted. It was not my idea. I knew nothing about that type of thing. It was recommended by the engineers. Then, later on...when you go three years later so that people understand, okay, the same engineer...the same engineering report and what was said by Mister...Taco Pope was that Mr. Herring said that you couldn't do it. But, he did not mention that Mr. Herring also said on the same road that you could. Three years later, using the same engineering report of...of...of Asa...Gillette and Associates, so, you have two ...two approvals, two Boards of County Commissioners that went ahead and approved this based upon the same set of circumstances that this road could not be paved. You can look at the minutes for Willows Farms, they mention Hawks Landings, they mention the fact that there was a maintenance agreement....we came up and agreed in order to go ahead and try to maintain the road. We didn't make up the

amount of extra gradings. That was the County that came forward through Mollie Garrett, who was the assistant attorney at the time, so you know the history; she contacted whoever was in the County and said, "How many more gradings would you need? How much more would it be?" And, I said, "Fine, we will go ahead and pay all of those additional expenses. We'll take care of that." You know, the fact that the County right now is not maintaining the road up to standard is not the fault of the person who's coming in.

Avila - Mr. Amellio, I'm going to be very direct as is my style. That all doesn't matter anymore. Right now, we have to consider that in our decision. I understand where you're coming from. I empathize with your frustration....

Amellio - Right.

Avila - ...on a personal level...

Amellio - Right...and understand...

Avila - ...but we cannot take into consideration anything that happened before. We have to take into consideration what is in the statute and in the ordinance and what the criteria is now.

Amellio - Right, but let me ask you this. In...in..in.. the...with Mr. Yaffee and everything that he said, everything is to me, but I heard this, we could possibly do this...I could probably get to the moon if you give me long enough to build a rocket ship. You either have specifics on how to do or you don't have specifics on how to do it. The things that he's talking about are going around existing ordinances trying to find a way to do this or that. I understand that. You either know...if the Board is going to make a decision, it should make it on facts; not hypotheticals...

Avila - The only purpose of...we...we will decide on facts here but the purpose of the feasibility study is answering the question. If I'm ...if I'm mistaken, Taco, I want to make sure...can the road be paved, yes or no? The answer was yes. And, that is what we have to base it on. It doesn't matter how it's going to be paved.

Amellio - I understand that...but...

Avila - It is...it is a yes or no question. The answer was in the affirmative.

Amellio - All right...but you mentioned this. A feasibility study typically tells you the way you can and the way it can't. All I see in this feasibility study is that this...I gave an example to the...to the...

Mullin - Mr. Amellio, let me... I hate...as the Chairman said, the criteria that governs their decision is on the screen. You've got copies of it. You're aware of the criteria. Talking about feasibility reports; the experts said you can pave it. Period...

Amellio - But the....

Mullin - Your person, Mr. Seaman....

Amellio - Two experts did say that....

Mullin - It's the criteria, Mr. Amellio.

Amellio - Right.

Mullin - I'm just helping you out, the criteria...

Amellio - I understand that...

Mullin - ...it's what the issue is.

Amellio - ...but, you can have an ordinance but there's other criteria that in... in the County ordinances that say they contradict some of what is being said there. You can pick and choose the ordinance you want. I mean, can that road be paved or not? There are two Boards of County Commissioners, four engineers that have looked at this road and the CUVB here, this Board, have the right to overturn the decisions...the two prior County Commissions.

Avila - They're not applicable, sir.

Amellio - They're not applicable?

Avila - Not in the least.

Mullin - No, sir.

Avila - If...and I'll give you an example. The mother-in-law dwellings, we had two mother-in-law dwellings today. If we approved one and denied the other one, it didn't matter if we

approved the first one and denied the second one. They're two separate applications.

Amellio - I know...I understand that.

Avila - But, you're filing under your own application, your merits. Is there something that you can provide us that will help us understand where you meet these criteria.

Amellio - All right...let me.

Avila - In the one question that was already asked by Mr. Gillette earlier, and I'm going to ask it again of you, do you have an approved subdivision permitted...?

Amellio - I had...

Avila - Permitted, platted, engineered?

Amellio - No, and let me explain to you, sir, okay?. I did everything and we had everything done on the...on the community, okay? There was an approval issued on that community. We didn't move forward because of the problem that it took me because of a one to one zoning issue, was dragged me on to two years, okay? And then, it stopped me from developing. What happened when it came up to the day when I finally got the one to one approved, the Davis Road paving...the Davis Road issue came up; so, then, Gillette and Associates went ahead and engineered it and did everything...

Avila - We're back at....

Amellio - I understand that..

Gillette - Mr. Chairman, let's close the public hearing because we're not seeing anything new.

Avila - We're back at it, sir. I'm sorry.

Amellio - But, I just need to ask....can you....can you override the ...what two Boards of County Commissions have done? And also...there is legally....there is a plat. You may say that it doesn't....

Mullin - Mr. Amellio, let me... I hate tonothing was approved. Davis Road today is a dirt road. There is no approved

development for Hawks Landing on Davis Road today. What you're talking about is nine years ago...and the...

Amellio - Yes sir but why did...

Mullin -let me finish. And the developer of the property

Amellio - ...not get approved because not only accepted the documentation that we showed that said that we delivered a plat, a final plat, that should have been recorded by the

Mullin - Mr. Amellio, you're hear under today's ordinance. The conditions today. That's what you're addressing. What happened nine years ago, there's no evidence that anything was ever approved no matter what happened to who took the plat to the wrong place or did whatever. That's done. From a legal standpoint, you're here under...your application, 29-152 those provisions ...that's what you have to address. The Chairman's trying to help you out but I don't think you understand.

Amellio - I'm...all I'm saying is that I will go ahead and stand behind a maintenance agreement that picks up all of the additional costs to increase the amount of gradings on that road.

Mullin - I think, Mr. Chairman, I agree with Mr. Gillette...

Amellio -to take it up to a higher standard....

Mullin -I think....

Amellio - ...but you're not going to widen the road, you can't do that.

Gillette - I make a motion to close the public hearing.

Zetterower - Second.

Avila - All in favor?

Board Members - all ayes.

Avila - Thank you. Okay. Any other questions? Any comments from the Board? Any other comments from staff? None? Outstanding. Thank you. So, we're on to making a motion. Mr. Mullin, I ask before the Board today, is there anything else that you need to address to make sure that we are all clear on

where we're at. Is there anything that was kind of loose ends that need to be tied up before we move forward?

9:16:53 Mullin - Just one, the documents submitted in the record include staff comments. Mr. Pope's comments. I'm looking at the Clerk. Am I correct?

Deputy Clerk - I'm sorry. I gave her mine. There's a staff report for ten pages.

Mullin - Okay. And you have the Peters and Yaffee report?

Deputy Clerk - Yes, sir.

Mullin - So, you have both those reports for members of the Board? And you have now Mr. Seaman's testimony. The only report you have is Peters and Yaffee. The criteria are in 29.152 and Section 3.05(b)(a-g). That's the criteria should you be considering a motion to approve or not approve.

Deputy Clerk - Mr. Mullin, what evidence wasn't in today, he wants to take home. I did tell him it has to stay.

Mullin - You cannot take it home. It's part...

Murphy - No, we don't care. What we want is a receipt for it so this Board becomes responsible for it when they take it.

Mullin - Mr. Murphy, that becomes part of the record. That's Exhibit Two.

Murphy - And that's why I say I want a receipt so we can show it was here and done.

Mullin - That's fine...we'll give you a receipt for it.

Murphy - Give me a receipt and we have no problem.

Mullin - Okay, it's up to you. If you don't want it in the record, don't submit it.

Murphy - No, we're going to get it in the record and we want a receipt. I think I made that clear.

Mullin - Okay, we'll give you a receipt.

Amellio - We have other documents that can disappear, we want to make sure.

Gillette - I just want to fast track...just reiterate one more thing with Taco. So, the...or with staff in general, there is no Hawks Landing site plan that is approved today. There is no St. Johns permit that would allow them to start construction on this development. All new rules that they would subject to if this were approved, they would still go through the site plan process and be subject to all new rules that currently exist today.

Pope - I cannot attest to the St. Johns River Water Management District permit; but, I can tell you that there is no approved Hawks Landing subdivision, engineering plans or subdivision plat that is valid today and there's no approved, recorded final plat.

Gillette- And, I see...I'm not trying to start debate again.

Murphy - This is no debate.

Gillette - Permits do expire.

Murphy - Well, I just....

Gillette - Development rights expire.

Murphy - I just want to make it clear that we have a receipt for the total package being accepted and approved but the plat wasn't signed. That's the only thing. But we have it..

Gillette - Plats are vest developments and starting construction does. Those are the two elements that I don't think have been done. In my mind, that would vest a development and vest those 2009 rights that were supposedly proffered.

Taco - Had the final plat been executed, it would have been signed and recorded and recorded by plat book and page in the public records.

Amellio - May I saw something?

Mullin - I think they've closed the public hearing. Let me just say for...

Amellio - It...but it...for

Mullin - They've closed the public hearing, Mr. Amellio.

Murphy - This company delivered the plat..

Mullin - Sir, they've closed the public hearing. ..unless the Chairman wants to reopen it. One other thing I would say, the receipt we give Mr. Murphy, that would be Exhibit #1 because Exhibit #1 marked was never admitted into evidence by this Board. What's marked as Exhibit #2 would become Exhibit #1 and you would need a motion, Mr. Chairman, to admit that exhibit which would become Exhibit #1 into the record. But, we need a motion to do that.

Avila - So, we will be taking the 24 by 36 inch map of the ...what was the subdivision name?

Amellio - Plat...plat blowup...

Avila - I understand that. What was the name of the subdivision?

Gillette - Willows..

Zetterower - Willows Farms...

Avila - Willow Farms... a portion of the Willow Farms plat into the record as Exhibit #1.

Mullin - Let me just make it clear what Mr. Amellio and Mr. Murphy have presented on that board is not a portion of the plat. It is a representation on a board of the Willow Farms plat, so, it's not an official plat in any form or fashion. So, that's what you'd be admitting into evidence as Exhibit #1. And the Court Reporter would change that number on there to Exhibit #1.

Avila - Thank you, Mr. Mullin. I just want to be one hundred percent total clear, so you just way that so moved in accordance with Mr. Mullin's ...

Gillette - So moved.

Zetterower - Second.

Avila - All in favor?

Board members - all ayes.

Avila - Outstanding. Thank you. Now...I will entertain the motion for approval or denial of this variance application.

Hartley - Based on the record and testimony and Section 29-32 and Section 29-152(b)(1-3) of the Nassau County Subdivision Regulations, and Section 3.05(b)(2)(a-g) of the Nassau County Land Development Code, I find there's not competent substantial evidence that meets the criteria to approve application V18-001 and, therefore, my motion is to deny a variance for application V18-001 and the road must be paved.

Avila - Madame Clerk, please call the roll.

Gillette - We need a second.

Avila - I'm sorry...I get ahead of myself. I need a second to that motion.

Gillette - There it is.

Avila - Seconded by Mr. Brock.

Deputy Clerk - Board Member Zetterower?

Zetterower - Yes.

Deputy Clerk - To deny or approve? I'm sorry.

Avila - Yes is to deny.

Zetterower - I need a motion, yes, to deny.

Deputy Clerk - I'm sorry. I apologize. Board Member Brock?

Brock - Yes.

Deputy Clerk - Board Member Hartley?

Hartley - Yes.

Deputy Clerk - Board Member Gillette?

Gillette - Yes.

Deputy Clerk - Chair Avila?

Avila - Yes.

Deputy Clerk - Thank you.

Avila - By unanimous vote, E18-001 has been denied. Thank you, ladies and gentlemen, for your patience.

Pope - V18-001, not "E."

Avila - " V"...it's been a long night. Can I have a motion to adjourn please?

Gillette - Motion to adjourn.

9:23:58 Avila - Meeting is adjourned.