

Town of Hurt, Virginia  
Council Meeting Minutes  
April 5, 2022

Hurt Town Council held its monthly business meeting on Tuesday, April 5, 2022, at Town Hall. The meeting opened at 6:00 PM by Mayor Gary Hodnett with a quorum present.

## Roll Call

Members present: Mr. Collin Adams, Mr. Gary Poindexter, Mr. Donney Johnson, Mrs. Shirley Barksdale-Hill, Mrs. Kathy Keesee, and Mr. Luke Perdieu

## Closed Session

A motion was made to enter closed session to discuss personnel, prospective business, real estate, and consultation with legal counsel, as authorized by VA FOIA § 2.2-3711 A (1, 3, 5,7).

Motion: Mr. Poindexter                      Second: Mrs. Barksdale-Hill                      Passage: Unanimous

Council entered closed session at 6:00 PM and exited closed session at approximately 7:00 PM.

A motion was made to return to open session and to certify that only personnel and prospective business matters were discussed during closed session, as required by VA FOIA § 2.2-3712 (D).

Motion: Mrs. Barksdale-Hill                      Second: Mr. Adams                      Passage: Unanimous

## Invocation and Pledge of Allegiance

Invocation: Mrs. Keesee

Pledge of Allegiance: led by Mayor Hodnett

## Closed Session Outcomes

Mayor Hodnett asked if there were any outcomes from closed session. No comments.

**Other**

Mayor Hodnett stated there will be a decision made tonight on whether the property at 301 Prospect Rd. will or will not be rezoned commercial. Secondly, depending on what the outcome is, then it will be a decision as to whether any restrictions are placed on that property. Attorney Eller stated whether they grant the special use permit and what conditions might go with that. Mayor Hodnett stated whether we're going to grant the special use permit and the conditions that may go with that.

## Consent Agenda

Mayor Hodnett stated do I hear a recommendation to approve the March minutes and the budget expenditures? A motion was made to approve the March Minutes, the consent agenda, and this month's budget expenditures.

Motion: Mrs. Keesee                      Second: Mr. Johnson                      Passage: Unanimous

Mayor Hodnett stated are there any additions to the agenda? No comment.

## **Public Comments**

Mayor Hodnett stated we will move forward to the opening of the public comments and public hearing on 301 Prospect Rd. What we will do is take general public comments and then we'll move to the public comments on Prospect. Public comments on general: Mr. Jeff Blaesing, Mayor Hodnett stated you signed up first and you have 3 minutes. Mr. Blaesing stated I want to read something; this is the comprehensive plan for 2021-2025. The purpose of this plan is to present a series of goals, objectives, and strategies to guide decision making for the Town of Hurt, Virginia. These goals, objectives, and strategies are not laws, but our town ordinances for zoning, building codes, mechanisms for land development control, plan town services and facilities, along with decisions pertaining to capital and operating expenditures are a function of Town Council. Making decisions that conform to a Comprehensive Plan demonstrates to the citizens of Hurt that the elected officials and appointed officials have thought about the future of their town and are willing to plan for a future that is desirable. This plan is intended to serve as a policy guide for decisions about the town's future. Mr. Blaesing states in the residential district, it says R1 is composed of a quiet, low density, residential area, plus undeveloped areas where similar residential construction appears to be likely; the standards set forth for this district are designed to stabilize and protect the essential character, and are so delineated to promote and encourage the suitable environment for family life where there are children and to prohibit all commercial activities except very limited home occupations as defined in section 4-138. Mr. Blaesing states I find it incumbent upon all of you here tonight in the front of the room to know what this just said. This is the comprehensive plan that is reviewed every five years; it's been in effect for just over a year, and this is the guidelines of how it says how our elected officials are supposed to operate. Mayor Hodnett stated thank you Jeff.

Mayor Hodnett stated Mr. Winston McCormick you are next. Attorney Eller stated I need to clarify something before we go into all the comments, that is the issue of spot zoning, that might come up because spot zoning is where there's a single or very small number of parcels that are asked to be rezoned to a different use when they are surrounded by an area that is the same use of the one that they want to rezone such as this. It's slightly under an acre that is zoned R1 and surrounded by R1 zoning. Like we found out in the non-conforming use inquiry that we went through, there are legal and illegal non-conforming uses and there's illegal spot zoning and legal spot zoning. In the Supreme Court of Virginia, the main case that will help is the Morgan case; it produced a test for determining whether it's illegal spot zoning or not and it has to do with the purpose of the council or board of appeals or whatever the legislative body is. Attorney Eller states if the purpose is solely to serve the private interest of one or more landowners, then the ordinance represents an arbitrary exercise of legislative power, constituting illegal spot zoning, but if the purpose is to forward the wealth and further the welfare of the entire locality as part of an overall zoning plan, the ordinance does not constitute the illegal spot zoning even if a private individual or interest is simultaneously benefited. Attorney Eller stated what we are looking for tonight is to determine if there is any general benefit to the community in this potential rezoning. The people that comment might want to try to address that issue as to whether that is any general benefit to the town to rezoning this one parcel. Attorney Eller stated that it is spot zoning or not, depending on what we find out.

Mr. McCormick states I own the rental house over here that is 405 Church Street. Glenda, my office manager, received from the tenant on 3/16 that there might be a water leak, and I seen a big wet spot out there despite the rain. I checked and found a leak out near the old stump. I called the town to check on leak details, and I was told by the Town Clerk that we had a bad leak and had been sent 2 notices. If you notice on these 2 notices, our address is 29 Ricky Van Shelton Drive, which we signed on the application form. These notices were sent to 405 Church Street. Mr. McCormick states I have two of them here, the first notice is not a leak notice, it's a notification on town business. That was the first notice they gave me when I came over here and picked it up. I did not get it at my office. The second notice was a letter that was written on September 24th, 2021 and sent as a leak and was mailed on the 16th of February this year. If it was a leak, it didn't do me much good to get it 5 months later. The first billing that I received, and I got this from Joe, was for 11/10/21 and it was found in an unused box at 435 Church Street. I own that property, but nobody is living there, we don't even use the box. My guys over there see the box open, so they go over there and close it up, and it happened to be mail in there and ended up bringing it to the office and it was for \$149.27 which is about \$50 a month. The second billing is for 10/29/21-2/7/22 was \$313.45 that we received on 3/16 when Joe personally handed it to me over here on the property, because I had told him I hadn't gotten any kind of notifications on it. This is the application that Glenda signed over here at the office, and notice it is for 29 Ricky Van Shelton Drive. Mr. McCormick states I came to the Town office and asked for those two notices, and if you check the front of them, it has when they were sent out and it was no mail receptacle to either one or they were sent back to the town. Even though I appreciate you all sending me notices, you must get them to me, it does no good to send them to some place that there is no box at. I thought that was the purpose of me signing that letter at the office. On 3/17 picked up the water lines and found this leak and the next morning Joe, who has been very helpful, Joe bought me a meter reading that showed we had fixed the water lines, also showed all the leaks and when they were, of course 3 weeks from now, I'm sure that happened to be the one and that last page shows no leaks after I fixed the water line. I think if the bill had been sent correctly, we wouldn't have this big water bill. On 3/17 one of our workers noticed the mailbox had been opened and water had gotten in it, and we had gotten another notice. This is the notice that was handed to me from Joe, and it says the same thing, but I still had not gotten my bill. The final billing, I had got that was mailed to my office, was a notice that said I was delinquent, that one managed to make it through. What I am asking you all to do is reduce the bill back to what it would have been if I had gotten them notices because I could have fixed the water line. They were about \$50.00 a month then and I feel that would be a fair price to pay now. I appreciate the cooperation. Mayor Hodnett stated the house up here on Church Street, what is the address? Mr. McCormick stated, 405 Church Street. Mayor Hodnett asked if some of the mail went there. Mr. McCormick responded no, there is no box there, but I have put them up a mailbox, but it still should not go to them. I am paying the bill; it should come to me. If you send them the bill this month and they don't pay it, and use it another month and then move out, you are going to be looking for me with the bill. Mayor Hodnett stated another issue we have had with the Post Office is returned mail that comes back to us like what you are showing. We can go out and see a mailbox at that address and the mail is being returned to us as undeliverable. Mr. McCormick stated I put them a mailbox out there because he had a post office box and I told him to change the mail to that, but he still shouldn't be getting the water bills. Mayor Hodnett said we'll make sure we are getting everything to you. Mr. Perdieu stated to vouch for the mail, I didn't even get my water bill and I was delinquent too.

Mayor Hodnett stated Bob Majure you are next. Bob Majure stated hello everyone I am Bob Majure and I live at 120 Knollwood Drive with my wife Kate. I just wanted to talk about the cleanup we had a couple weeks ago and just thank everybody personally for all being there. It was a great turnout; I think we had over 84 people in the end, which was fantastic. Unfortunately, we are now seeing more trash. I have been trying to think about ways to curb it, one of the ways was incompetent to anti-litter campaigns. Another way, I was thinking doing clean ups more often maybe at the beginning of winter and the end of winter since we are worried about snakes being a potential issue. Bob stated I was just hoping that Council would be thinking about how we could potentially continue this effort, because it has been a lot of progress, a lot of momentum in place. I think we can continue to do really great work with this. Mrs. Keesee asked Bob if he put those litter signs up and down the road? Bob replied yes, he did. All council members thanked Bob for doing that. Mr. Perdieu stated that we've been talking and trying to figure out how to work this out and I know the Sheriff's Department is short staffed but, it is our goal to have inmates who are needing community service or whatever, we have them help pick up the trash. It doesn't solve the problem of littering. I don't like people coming out like the 84 people we had, like they're people that are not littering but, I know I don't want to be throwing stuff out of my window and then having to go pick it up Saturday with you. Mr. Perdieu states I don't like that solution just because it punishes the other ones for their actions. Mr. Perdieu stated to Bob that he appreciates what he's doing. Bob replied I appreciate that; it is tough I mean it's people that probably don't even live in Hurt. Bob states other thoughts I had, and this is a far-reaching thought, but if we were to put in a path down Hurt Road that people could walk along that have trash cans and if people are walking, I think the visibility of people being there would just deter most people from littering. There's always going to be bad people that are going to litter no matter what, but if they are seen doing it, most likely people will not do something wrong or against the law. I know it costs a lot of money, but if the Town of Hurt put a road from Prospect along the side of my property, down Hurt Road, and we put trash cans, that is the other potential way I think we could go about it, but that is I know very expensive.

Mayor Hodnett stated Paul Johnson you're next. Paul Johnson stated I'm Paul Johnson, I live at 609 Lynn St. in Hurt. A couple things I wanted to bring up, one is this ordinance of back to nature, makes absolutely no sense to me. We've got a grass cutting ordinance so you know if you have a back to nature, anybody could just sit there and say I'm letting my yard go back to nature. I would like to get y'all to go back maybe and readdress that. The second one is when you come over the railroad tracks onto West Spencer Rd.; every time it rains it backs up there because the culvert under the road is full of mud, so you know it makes an issue right there with water coming over the road. A third one, there's a maple tree on Lynn St. right when you turn off West Spencer; it's getting ready to come over the road and I didn't know what the town might could do with it, but it gets lower and lower every day to where now it almost hits the roof of my truck. Mr. Adams asked if he was talking about the water pooling up right here. Mr. Johnsons stated right across the railroad tracks and when you look at the culvert under there it is just completely full of mud, so the water has nowhere to go. Mr. Johnson stated the final thing is chickens. I understand people want to have chickens. The guy right beside me has chickens but, they get out all the time, they end up in my yard.

Mr. Johnson stated I mowed last night, and I feel like I mowed enough chicken feathers to have created a bunch of chickens. I don't know what the answer is, except maybe a quantity of how many chickens you can have to support but, when I look in a backyard and there's not one speck of grass then I think it's too many chickens. I know one time I've seen them out on Prospect, and I haven't since, but I don't know what the answer is but if y'all can maybe look. If something about that ordinance and maybe kind of like how you have in your ordinance that you got pigs, which I don't know who has pigs now, but it goes to the back of your lot, not 10 feet out the back door. If the coop that they're going to live in, it should be a reputable chicken coop to, if the roof is rotten and the sides are rotten and you're just throwing plastic over it, to me that's not a healthy condition for those birds. Mr. Johnson stated that's all I had to ask. Mr. Johnson stated oh and roosters, because the one next to us probably has 12 roosters. Mrs. Keesee asked if he knew what their address was. Mr. Johnson stated I am 609 so that would be 611. Mayor Hodnett asked if that was the one Tom Sawyer has been out to before? Mr. Johnson responded yes sir, that's what I got cussed out about.

### **Public Hearing**

Mayor Hodnett states now we will move on to the rezoning application at 301, the comment period for that. Let's try to keep it on the topic of 301 Prospect rezoning. Mr. Blaesing, you are up. Mr. Blaesing stated I'm glad John laid out what the Supreme Court says and how does this benefit our community. Again, and I had other things written down, but I'm just going to read article 3 residential district R1. Statement of intent, R1 district is composed of quiet, low density, residential areas, plus undeveloped areas where similar residential construction appears like in our code. Standard set forth in this district are designed to stabilize and protect the essential character of the areas, to promote and encourage a suitable environment for family life, where there are children and to prohibit all commercial activities except very limited home occupations as defined. Development is therefore limited to relatively low concentration, permitted uses are limited to single dwelling units plus selected additional uses such as schools, parks, churches, and certainly public facilities that serve the residents of the district. I think it's important that if we're going to take the time as a community to have elected officials that are going to write documents like that and like the one that I read previously about the comprehensive plan that is brand new basically and that it pretty much states clearly that it's incumbent upon you as Town Council members to know what that says and to act accordingly. We all claim we're for things like law and order, and we have the laws and the restrictions, and the guidelines set forth and documents that have already been written. If you do your diligence and you don't like what the document says, I don't think it's right to go in and do something whether it's intentional, or if you are not aware of the fact, to do something that you just want to do. I think it's important to know what these documents say so that all 1,130 people in Hurt are protected by the people that represent them. I feel very strongly that if you want to do something different than what is in the rules or in the guidelines then that then it's up to you to go through the proper procedures to change those documents that were written before and that to guide us as to where we're going. Otherwise, it has potential to be anarchy and if we set a precedent today, what do we do the next time. I can't quote what you said at the committee meeting, but you basically said let's do this but then you directed a question to Mr. Eller about how we don't want to do it again next time. How is that fair to the guy that wants to do it the next time if the guy previously got to do it?

That's why I think we need to follow the documents that we have given to us since they were the foundation of this community. They've been modified, but I think it's important as a community to stick to what our guidelines say, thank you.

Bob Majure stated so this one's not as pleasant a conversation, but I do want to speak up on this. My name is Bob and I live at 120 Knollwood Drive, I know that you asked us to say that last time, so I'll make sure I follow that rule. As the owner of that property, I am worried about the potential precedent being set here tonight with this rezoning decision. I do believe in rezoning for this property when it benefits those in the neighborhood and at the very least does not cause harm to those same people and their properties that surround this property we're talking about. I have not been able to determine how this will benefit the people that live in the surrounding area. I've been trying to figure it out, but I can say that it already appears to be causing harm. First, for those people who wish to use the sidewalk along Prospect Rd. and secondly for creating non-residential noise for those who live in the surrounding properties that had bought those properties expecting it to be residential. Currently, the sidewalk along Prospect abruptly ends at this property and then restarts at the next property edge. Additionally, there are vehicles parked there that appear to be taking up space where the sidewalk should exist. Both make it more challenging for someone to walk along Prospect safely. If this property is allowed to continue and expand, these vehicles and equipment would be louder than the potentially zoned residential views that would be there and operate on that property. This rezoning will give special treatment to the owner of this property, while undermining the existing standing rights of the people that live around there and own those properties. If this is approved, at the very least I ask that the town put restrictions to have these points I brought up addressed so that it does not cause harm to the neighborhood; thank you.

Pierre Richard stated I live at 206 Prospect, and I would like to say that Mike's been a great neighbor. I endorse his application. Basically, from what I read in the news; the experts tend to promote that all planning experts tend to promote mixed development. What I've seen is that you know we have these open hearings where people can express their concerns for example if somebody is moving in something nasty you know people can talk about it and hear about it. Certainly, if people have objections and they should be heard, but then I would say in terms of benefits of course, obviously just helping the tax base is a good idea. I'm speaking for and endorsing Mike's application. I think it is a good precedent and maybe more people are for bringing businesses that are not disturbing to the community. I had a chance to look over and of course some of the businesses that Mike could put on that location, and businesses that I would not necessarily endorse, and I think we saw that at the Planning Commission, but I hope Michael will forego installing a dry cleaner, floral shop, auto and home appliance services, hotel, or auto sales and service at that location; thanks.

Shirley Lanier stated I live at 724 Spring St, and I have a question about the VDOT; they had issues about the intersection and how safe it was going to be. If this is zoned or permitted, will these issues be corrected and done as they say? They said a light and different thing needed to be put there because it's dangerous. Mr. Adams stated this is a time to make a statement, we're not really supposed to go back and forth. Mrs. Lanier stated well all of mine are statements, like Blackstock stated he only had three employees and one part time, if it is zoned or permitted, is he going to be limited to a certain amount? There are all these vehicles that will be up and down the road, I see right now it's terrible looking.

Mayor Hodnett stated that will be taken up if the zoning is approved, so we can't answer those questions right now so you can continue. Mrs. Lanier stated well I have one more question, how about this heavy equipment moving in down there now, how much of this will be around down there now, that is going to be dangerous for children and for the school. Mayor Hodnett stated again, the same answer, if it's rezoned then those could be looked at with restrictions. Mayor Hodnett responded that what we've got to do is number one, determine if it's going to be rezoned and if it is then any restrictions that might be put on it. Mr. Perdieu stated these are all the things that we must consider, and that we have a list of recommendations already.

Mayor Hodnett stated, Michael you're set to go next but if you don't mind, I'm going to read the letter that you brought from Ella Goodman and then I also have one here from Don Husky so I'll read both and then it will be yours. Mayor Hodnett stated this is from Ella Goodman; my home adjoins the building located 301 Prospect Rd. I'm very happy with the renovations that Mr. Blackstock has made to the building. I have no concern with Mr. Blackstock using the building for his construction business. I do not wish for any type of fence or buffer to be placed between my property and the building located at 301 Prospect Rd. I enjoy being able to see Prospect Rd. from my home. Mayor Hodnett stated this is the lady that lives behind the building, Ella Goodman. Mayor Hodnett stated this is Mr. Don Husky. Mr. Husky states that R1 is a property that is for single family dwellings and primary residential community with R1. I just want to know what kind of commercial heavy equipment and vehicles are stored there and why it is it stored there, because someone didn't have somewhere to store their equipment and they decided it was okay and that everybody in town management or anyone in town or the mayor and the Town Council should not like it. Majority of the opinions in the Town of Hurt don't like this either and I've lived here since July 16th, 1968. The Town of Hurt is a good Town and is not a commercial Town and it should stay that way. These specific locations that allocated it to be reconsidered for the zoning ordinance. It is very important to me as a citizen residing at 104 Knollwood Dr., Hurt, Virginia to maintain the residential harmony of our town. In consideration for Knollwood Dr., residential does not mean some old place where a bulldozer can be put or whatever. It should not even be there to start with and whoever put it there should be required to move it move it by the Police Department or whoever enforces the law and ordinances. This is my opinion on both.

Michael Blackstock states tonight is the first I have heard on Supreme Court case spot zoning. I don't know if you want me to address that now or ask me questions about it now, John, or do it later in the meeting. Attorney Eller stated you're able to speak and say anything you want. Mr. Blackstock replied you stated that it was a Supreme Court case, we've talked about this spot zoning in earlier meeting back in January and at that time I decided not to get it rezoned and come before you all about the spot zoning, but now you stated to Gary Boggs the zoning administrator that we could get around this spot zoning. When I went and talked to Gary, that's what he stated that you said that we could get around the spot zoning. The community homes would be repaired by Blackstock Construction and many houses in the community have been rehabilitated by the company and improvements have been made to homes in Hurt. They have brought home buyers as far away as the west coast. Next week I'll be closing on a house that has been sitting for probably 10 years, the Brown home, and that family is coming in from the west coast to purchase that home.

Many homes in Hurt have been rehabilitated by Blackstock Construction and they have sold. Every project that I have ever started in Hurt that I have completed, and Gary told me that even this past Saturday, that if I was granted the rezoning and by the Town Council that provisions could be put against my business. Mayor Hodnett stated no, that's not what I said. Mr. Blackstock stated I'm going to clear it up, let me finish. Mr. Blackstock stated he said in retaliation for what's been done down at previous businesses because of the mess that was put down at Ricky Van Shelton Drive. I should not be a target because other businesses haven't, and I don't know how to put this, but other businesses don't have the curb appeal that the town's people want. Mayor Hodnett stated what I said was, that Council passed that arena down there without any restrictions, and that has come back to bite them with the stuff being stored down there, and Council most likely would have learned a lesson from that and they would probably be more likely to put restrictions on any kind of property coming into request the zoning change because they got burned on that one. Blackstock stated I agree. Mr. Blackstock stated in years to come the upstairs could be used, for example, a barber shop or beauty shop or other businesses that provide services to the townspeople. The employees that I have spend money in the Town of Hurt and the money is distributed throughout the town. Previous businesses at 301 Prospect have provided services such as hair salons, a grocery store, service station, and pottery shops. We have been through that in the last previous months it has been, I think I should have been given the Supreme Court decision on previous spot zoning before tonight's meeting. B & B Market is also still zoned R1 and it's in an R1 district. Blackstock stated I have a question for you John, has spot zoning been applied in Altavista in any areas? Attorney Eller stated I couldn't tell you. Blackstock responded nowhere in Town of Altavista has spot zoning been applied that you know of? Attorney Eller stated not right of the top of my head no. Blackstock stated the vehicles are backed up to the building at 301 Prospect Rd. and they don't interfere with the sidewalk. I did have one boy come in today and his vehicle quit right there at the edge of the property, and he was working on it this afternoon at 4:30 when I left. As far as heavy equipment, the heaviest piece of equipment that I got up there was a ditch witch that digs trenches at the property. I have a tractor, a new tractor, and I store that in a garage at 122 Prospect Rd. inside, so that ditch witch is the heaviest piece of property/equipment that I have. Mayor Hodnett stated before you sit down, I am going to ask you a question. The VDOT has exempted the property up there because of the low volume, correct? Michael responded yes. Mayor Hodnett stated the 50 users and all, so you know we're going to move forward and talk about zoning and whether they grant it or not, but I would like to ask you, since it's going to be a low volume user, we've got a lot of by-right uses here that are on the list, such as retail food stores, bakeries, and dry cleaners. Most of these, if they're not proffered out, could be used later, they would easily put you over the 50 mark for the threshold of in and out. What I'd like to do is ask you if we can proffer out all of these uses and stay with Blackstock Construction because if these were ever to come into play, they're going to put you past the 50. At that point in time, you're going to have to go back and fulfil the VDOT ordinance which is going to be expensive. Michael Blackstock responded correct, and I agree with you, but right now we have about four vehicles coming in and out each morning, no work is done on the property, so that would be considered as 8 trips. In the afternoon the vans are brought back to the property or the trucks, that's another 8 trips, so that is 16 trips a day as I speak. Blackstock stated I have the letter, as Shirley asked about, from VDOT stating the entrances now would be a low volume use for 50 vehicles or less.



It would have to be something like a beauty shop or a barber shop now that didn't have as many vehicles going in and out. If it ever was to be anything else on that list, it would have to come up to VDOT qualifications. If I went over the 50 vehicles in and out at that point, VDOT would have to come in and approve it, and as Mike Jones said, the engineer would have to approve the entrances and the entrances on the lower side. At that point it would have to come up to VDOT standards. I did also get a letter from Jason and in the previous five years there have been no wrecks at that intersection. Larry Morris is on the Fire Department, and he stated from what he remembered it's been one since he's been on the Fire Department at that location and that was due to inclement weather. Mayor Hodnett stated alright, so I'll go back, since we know and you just stated that VDOT would most likely have to step in because these would put you over the 50 threshold, why don't we just go ahead and proffer these out and say that these won't be there? Michael responded I do not wish to proffer any of these out, other than Peter asked me to proffer out, at the first meeting, he asked me to proffer out the laundry mat, I proffered that out and proffered out the funeral homes, but other than that, if it's ever on the list, then VDOT would have to approve the entrances at that time. Michael states he does not wish to proffer out any others but the two that have previously been proffered out.

Mayor Hodnett stated now we will take up the business of 301 Prospect as to whether Council wants to discuss the zoning to be approved or not approved. Tim, you worked with the County on spot zoning, and I think a couple of the council members would like to hear from you on that if you don't mind.

**Tim Dudley, County Supervisor**

Tim Dudley is my name; I am on the Board of Supervisors for the Stanton River District. Before we get into that, you know there's some folks here that are objecting and that you're against it and I understand it, you got a voice, and there's some folks here this for it and that's okay. Everybody should have a voice and I want to thank everybody for coming out, also thank everybody for cleanup day. I wish I could fix your chicken problem; there're enough churches in the area and I can promise you if you put something in there you won't have chicken problems. If they saw me going up the hill, they would throw trash at me and if they missed me, they would come back down the hill. I was on the Planning Commission for four years with the county, we did deal with some stuff. Let me say this to, Michael excellent job, the place looks good. I'm telling you the upgrade that you did to the building, looks good. Dudley stated they did ask me if I would elaborate a little bit on zoning as I was on Planning Commission for four years with Pittsylvania County. Michael's brother Elton placed me on the Planning Commission, for which I'm very thankful. I've learned a lot about the different businesses, industries, and different things that's come through the County. Zoning, we have cases that come through to have rezoned, we have cases come through to have special permit and special use permit. Special use permits go to the Board of Zoning Appeals, rezoning goes to the Board of Supervisors. We've had some cases, and I'm going to give you a personal case of my own and it's tough on me too. I'm going to give you money loss that happened to me. Our County has a Comprehensive Plan as this gentleman was speaking of as does the town as well; it has a Comprehensive Plan, and that plan is there for reason. That's a guideline and a direction and a guidance to go by.

Generally, on cases especially if it's considered spot zoning, which they had asked me if I would speak just a little bit about. Like I said, I'm not for or against it, I promise you. I'm with the County and I want to see people happy too, but spot zoning, I've got a personal case that happened at 284 Clover Road. You can write it down; that is my address. Quite a few years ago, my wife and I built a house and I think that I've shared this with Mr. McCormick as well. There's a house in front of me that I bought myself, and we determined later that it was pretty much eat up with termites. We didn't do our full diligence; I'm just going to be honest with you. The county said you probably just need to tear it down, so we tore it down; my brother-in-law Dedrick tore it down for us. Our desire, Sandra's and my desire, was to build a new duplex and we were going to have ramps, senior ramps, and different things and have two entrances because that single lot held a mobile home and house at one time. We went to Chatham, and this was prior to me being on any kind of commission whatsoever, so I went to Chatham, filled out all the paperwork. We had a house plan, duplex plan for that location, and so I took it around to all our neighbors because I knew generally in zoning all the neighbors would get a letter that is going to be connected with that location. I talked to the neighbors, and they were all for it and but then I did have someone that went around kind of behind my back and said you know, you don't want this, this is rental property and then they did determine that the duplex that we were going to build was called spot zoning. When it came time for us to show up, which was in the courtroom back then, Sandra and I were shot down and we lost \$50,000-\$60,000. With that, we decided not to pursue even building a house, because I'm just going to be honest and I'm going to say that it pissed me off to no end. I was very upset with the neighbors, and I said that the county can't do me this way; my house looks nice, and a lot of times you can't control things that's two miles down the road, but you can control something that's right in front of you and the way it looks. We were going to have a nice house, stack rock, we had plans everything, and they still shut it down, because it was considered spot zoning. It was not any in the area and that's where our diligence didn't pay off. I mean we just didn't do our diligence, but getting back to within the county on zoning, like I said I was on Planning Commission for four years, and they have a Comprehensive Plan just like the Town does and it's a guideline. Then when it comes to the night of the meeting for that zoning case, the county administration, all of them get together and say this is within our Comprehensive Plan so our suggestion would be to pass this on to the Board of Supervisors to go from there or if they felt like it was spot zoning then the same administration would come to our girls, Emily Ragsdale, and she's over zoning ordinances in the County. You can call her in Chatham; she would come and recommend not to be passed. There are some things that you can get around, proffers and maybe special use permits, and I hate it for the folks that's against it and for the folks that are for it. I'm sorry I wish we could all be happy, but the Town Council's got a responsibility of doing a vote, and they swore that they would stay within the Comprehensive Plan. I've seen some tough votes; I'll give you an example I spoke to, and this is a little something different, but I got a guy that got a ticket and it's been a while back, a citation and it's going to cost him. He is a good friend of mine and he said what can you do for me, and I said I can check with whoever wrote the citation because I don't want to give any names or anything, and then they get back with me. Well, they shot me pictures back and I've never asked Emily Ragsdale who is the director of zoning, I've never asked her not to do her job. I said do your job.

I've never asked any other director of the department not to do their job, because that's what the county pays them good money to do, so with that the board must decide. You have a Comprehensive Plan, I hope you've read it and understand it, and it's not an easy decision, and some of the cases are easy. Like I say, I'm not for and I'm not against. I am with the county, and they did ask me if I would just tell a little bit about what they do zoning wise in the County. I think our plan parallels close to the town's plan so with that I'm ready to leave. I don't want to talk any more than I have too. Dudley states Mike you've done a good job, I mean excellent job, the place looks good and folks if you like it or dislike it, thank you for showing up. Everybody should have a voice. Dudley asked if y'all needed anything else? Mayor Hodnett stated that's good, thank you.

Mayor Hodnett stated alright, we'll move forward with the discussion. Everyone heard what Emily Ragsdale had to say about it earlier and what the county position is. Mayor Hodnett asked Attorney Eller if he wanted to add anything to it before we go into discussion? Attorney Eller stated well what you really need to look at is those use regulations in C1, 4-82. I hope everybody got one. We just discussed the possibility of proffering some out and that was declined so that means all those uses, it clearly says no special use permit required. That means that no further approvals are required by the council; those are all by-right uses, and the property could be used for all of that. That is what the result of that will be, now whether that triggers some action by VDOT, you don't know that. It could but maybe it won't. It's up to the council to decide if council wants to allow all these uses to go in without any further permission by council. The other uses that do require special use permit are in section B, automobile, service station, billiard bars, bowling alleys, dancehall, video games, hospitals, arenas, and large scale solar, plus the new one we added, construction business offices, so all of those would have to come back to town to be used. We're looking at a special use permit for their construction offices for Mr. Blackstock as part of tonight's hearing. Bottom line, if you rezone it without the proffers then all those uses except the laundromat and funeral home would be wide open. Mr. Perdieu asked Attorney Eller if more uses are proffered out, say we proffered out everything, worst case scenario, in the future if someone wanted to open a little bakery right there, and they come back to have it rezoned and that added back in, is that breaking code? Attorney Eller responded that would be an amendment because the proffer is a sworn statement that goes with the ordinance that rezones the property and goes with it if the property is in existence. Those restrictions would apply, it would only be whatever is not proffered out would be allowed. In that case you would have to get that amended just like any other revision to the zoning ordinance. It can be amended, and you have a hearing, and it goes to the Planning Commission, have a hearing, advertisement, letters to the neighbors, so it could be amended to put things back, yes it could be. Attorney Eller stated so at this point you've got to choose to allow all these uses without further permission from the council or deny the whole thing. Attorney Eller stated because we have had those problems, all except for two. Mr. Perdieu states I would love to see this property continue to be used. I think that Michael you've done a great job, it looks fantastic. I'm trying to consider everything that I've heard. I was at the Planning Commission meeting. I've heard all pros and cons and heard everybody's strong opinions. I made a little pros and cons list right here just with listening to people talk, four people against it, two people for it. I personally, I'd love to see you have it.

I think it would do the Town good, but I'm looking at all the legal things and it's been an eye-opening experience and a learning experience I think for everyone on council to go through something like this. I feel like every time we get around a corner and we think okay we're going to have it now, there's another roadblock. I know you probably experienced some frustration with that as well like with the spot zoning. Within the past week we have gotten clarification on what that is and what that means. I share your frustration in that, but overall, whatever we do has to be legal, it must hold up in court, so that if someone comes back and tries to sue us, sue you, or sue anybody, they won't do the same thing if we don't let them, it must hold up in court and I think that's the most important. Mr. Perdieu stated in my opinion we look out, we do what's legal, we look out for what's best for the town, overall. Looking at all the different things in this C1, a hotel, motel tourist home, boarding house, and rooming house, I personally don't like the idea of seeing that right there on Prospect Rd. I live on Prospect Rd, auto sales and service, clubs and lodges, I know you've already proffered out the funeral homes, a dry cleaner, auto home appliance service, theater assembly hall, I just don't think those would fit that property with being less in there, not that I have a problem with those things being in town or being within walking distance of my house; I just don't think these fit that one property. I have a hard time moving forward with something like this, based off of what I've learned about the legalities and spot zoning. Spot zoning must be something that benefits the community. I must be able to see, in order for me to vote yes, I have to see that it benefits everybody in this room and everybody that didn't have time to come tonight, or sick at home, or for whatever reason that they couldn't make it down here, don't care, it needs to benefit the majority. I don't see with what I've been presented that all these things potentially, because I know you're not going to put a theater or a hotel there, most likely. Mr. Blackstock stated right, the 50 vehicle limits that. Mr. Perdieu stated but if we pass this, and in 20 years down the road you sell it, or you pass it on to your son and he sells it, we still pass it, it's still a C1 they can redo it, and they can put a hotel. I think that's a little concerning. Mr. Poindexter stated my thoughts are very much in line with some of the things that Luke is talking about. First off, the building does now look better than it has in many years, and I appreciate that very much. I'm a believer in aesthetics and public relations. The concept of it being used for something and not just sitting there deteriorating is something that I like and support. We all know that it has a lengthy history of being used as a business or some type off and on, although, there's some questions about the legality of some of that. Based on public feedback, there's a considerable amount of support for it. The thing that I'm seeing here though, is we're not dealing with a simple matter of whether to approve or decline an ordinary zoning request. There're complex legal issues with this. Mr. Poindexter stated I think before we can go too deep into talking about proffers and specifics for an SUP, we would first need to ascertain whether or not any approval of this is legal, is it legal or illegal spot zoning, and that gets into definitions and interpretations. It seems to me that the sticking criteria is, does it benefit the community as a whole, and if so how and to what extent, or does it benefit an individual or only a very small subset of the population. That is the question, and like I said a while ago I can support the concept, but the only way I can really get on board with this is, I want to know beyond any reasonable doubt that I'm not exposing either myself or my fellow council members as a body whole to unforeseeable legal problems or other debacles going down the road.

That's what I'm going to have to have to get on board with this, before we advance into the other part, I need to see that we're legal, that there's some margin, and that I'm not going out on a limb. Other than that, I like the concept, but we need to make sure that we're fully within. We can't just circumvent these case studies and case rulings that the State Supreme Court has done and say well we won't do A, B, & C, because you know we like such and such a person and we've known him, well that's wonderful, but that's not what the law says. I want to make sure that we're within that, you know sometimes we get into these things, and they may be popular or unpopular, but we've got to make decisions based on the law and not on emotions and personal opinion and social pressures and things of that nature. That is my thoughts at this point. Mr. Johnson stated I agree with both of what you guys said, we just have to do it legally. Mrs. Barksdale-Hill stated that Luke said it very well, and I have said from day one that I was all for it, but it had to go down to the right legal path, and from what we are understanding, this would open us up for some serious legal repercussions. If someone else decided they wanted to do this, what would we do? Make an exception for them? It seems like we just opened up two things that would lead to legal problems and repercussions according to the ordinance and the guidelines that we're supposed to be following. It bothers me that this has happened in this town, and my claim was to find out every one of these businesses and places that exist, are there more, and address it as a whole and make sure that everybody is within our legal guidelines. That's what I requested and from what I understand we don't have; this is a unique situation, we don't have all of that going on, so we just want to stick to the rules while we've got them here. Mrs. Keesee stated each of us were sworn in, and Mike you've been on town council before, and we swore that we would uphold the law. Any decisions we make have nothing to do with you; we appreciate you; we appreciate the things you have done for the town; we like everything going forward, but then in the end it must be a legal decision of council. Mr. Poindexter stated keep in mind when we are setting precedents with anything, that always comes with a risk factor. It's what do you do the next time and the next time; what do you do about the potential domino effect, if you will, from that point forward. Mr. Perdieu stated I firmly believe that it has been in commercial use since before it was zoned. I think the biggest injustice is that it was wiped over with a R1 designation from the get-go, but what it looks like if we go back and undo that, it looks like its bad on us, not just personally, but as a town, and potentially even has some repercussions on the county. I don't want to see that be a dead property. I don't want, if we don't do this tonight, I don't want to see you have to move out, because you can't use it for what you want to do, and it go back to what it was and it sit vacant for the next however many years, and me have to think back to this night and the way I voted and the way everybody else voted, and think that we did that, we killed that property, and no one will survive and you can't sell it, and I don't want that to happen to you; I really don't. Mr. Perdieu stated I want you to be able to use it for whatever you want to be able to use it for, but I don't know how to do it. I don't know how to make it legal. Mr. Blackstock stated I want to ask the attorney a couple questions if that's ok. Mr. Blackstock asked Attorney Eller, everybody is concerned about the legality of the property if we decided to move forward and change it to C1, is it legal to change it to C1 in your opinion? Attorney Eller responded that he is not the legislature; the council is, but what I said at first

was, that if the purpose of this rezoning is to benefit the community as a whole as well as you, then it's legal, but if it's only benefiting you then it is not legal. The council makes a finding; is there a benefit to the community as a whole? If so, it is legal spot zoning, because it is good for the community as a whole as well as you. That's a finding vehement. Mr. Blackstock stated if I'm willing to take out any of these proffers, to me, the way I look at it, VDOT was taking out a lot of these proffers by the 50-vehicle limit per day, would you all like to go down the list and we can agree to disagree on what the 50-vehicle limit would be? Mayor Hodnett stated my question to you was if you leave them in and then decided to go and do one of these, then it was going to put you and your business over the 50 limit, and that was the question, because we don't know what you might do with the property, if you don't proffer these out, you could pick one and just pick one at random and say hey I decide I want to do this, well that's going to put you over the 50 limit and then you are going to have to conform, you will lose the low volume user and have to do a full conformity with VDOT. Mr. Blackstock stated some of these right now, with the 50-vehicle limit and Blackstock Construction automatically you could take out because its not enough road frontage there to do a new VDOT entrance. You couldn't have a hotel there, which was one of your concerns, you couldn't, it's not enough road frontage there to conform to VDOT's current standards. Mr. Perdieu stated one thing that I think, and hadn't been said, and I don't know if this has ever happened, you could sell the property and someone could buy it, and they could tear the building down and they could rework it and work with VDOT and they could get a VDOT approved entrance, it would be tight, but I think it could be done, and then you open yourself back up to this. Mr. Perdieu stated I had a crazy thought, and hear me out when I say this, its heavy compromise for you and for me, if all this building in allowed in a C1 and say you proffered out everything on this list, all 26 of these things, you proffered out all of them except for office buildings, Attorney Eller stated well you wouldn't proffer out public utilities or you couldn't have power, Mr. Perdieu stated okay sure, so 25, except office buildings so that would be 24, and you didn't store stuff on the premises like your equipment and didn't store a whole bunch of trucks and stuff like that, I don't have a problem with that but I'm just saying, that would take you out of the construction office designation, then you wouldn't need a special use permit, does that make sense, that's my understanding, correct me if I'm wrong John. Mr. Perdieu stated if you did that, you wouldn't even have to go through the second part of this meeting to get a special use permit, you could keep your office there, keep your guys because they meet there in the morning, because to me that is an office, I may be wrong and I may be going out on a limb here on my own, but I think, and we still have a problem with spot zoning, but it would be a whole lot easier to deal with all the other issues that come along with it, if that was the case, I don't know what you all thoughts are on it, but that's just me trying to compromise and make everything work. Attorney Eller stated well the application says it's not just an office, it's a headquarters or something like that. Mr. Blackstock stated headquarters for Blackstock Construction with the equipment that I have there in place, somewhere to store it. Attorney Eller stated right, so that will be an office plus all the equipment. Mr. Perdieu stated but he can take that out and make an amendment to his request and take those things off. Attorney Eller stated so then he would just have an office. Mr. Perdieu stated think of these skyscrapers that have these construction offices in them, they don't store stuff out in the back.

I mean he's doing the same thing, on a smaller scale, and I don't know if that will work, I'm trying to figure out a way to make this happen and it be legal, and he gets what he needs to use the building and find somewhere else to store his lumber. Mr. Blackstock stated well as it stands now, with no retail, its no way to have a retail sale, such as a jewelry store with that 50-vehicle limit, because you would never stay in business with less than that per day, or count with Blackstock Construction taking up 16 trips, so that would leave you with 34 trips, that would leave you with 17 customers a day. Attorney Eller stated so proffer that one out. Mr. Blackstock stated I am willing to go down and proffer whatever out that couldn't. Mr. Blackstock stated okay I am proffering out these, number 1 a retail food store, its no way it could be that, because you wouldn't stay in business as well as number 2,3, 4, number 5 I would like to leave in for a florist shop, number 10 I would like to leave in, that would be a service to the Town's people. Attorney Eller stated what about 6,7,8,9? Mr. Blackstock stated you can take out all of those, those are all stores, that auto and home appliance services that could be something as little as Eddie Walthall working on appliances, I'd like to leave that one, that would be a service to the town. The theater and assembly halls, you can take that out, 12, the bank can be taken out, 14 can be taken out, 15 can be taken out, 16 can be taken out, 17 can be taken out, leaving in 18, 19, 20 can be taken out, you wouldn't be able to pay the preacher, 21 can be taken out, 22, 23 has already been proffered, 24 it could be a small club, that could be left in, 25 can be taken out, 26 needs to be left in, I think that will take care of it. Mr. Poindexter stated that is short list now, we have the florist, and barber, appliances, and office and office supplies, a small club, and public utilities. Mayor Hodnett stated my question would be a small club, what is that? Mr. Poindexter, I have some unease about that because there's a lot that could mean, sometimes big things go on in small clubs that are not the kind of things that you want. Mr. Blackstock stated it could be a routine or masonry lodge. Mr. Perdieu stated, and they usually do fit in residential areas. Mrs. Barksdale-Hill asked and what about the parking? Mr. Perdieu stated that is their problem. Mrs. Barksdale-Hill more than 50 people? Mr. Blackstock responded that it would still go back to VDOT. Mayor Hodnett stated, I mean I if I were looking at it, I'd be against the clubs. If I were in your shoes, I would proffer out clubs. Mayor Hodnett stated because it might be a boy's club. Mr. Perdieu stated yeah, you don't want a gentlemen's club. Attorney Eller stated if we go and redid this one, then you will have to have a special use permit. Mr. Blackstock stated it might be boy scout club or a girl scout club. Mayor Hodnett stated but that is what I am saying, it could go either way, a gentlemen's club, or something else. Mr. Blackstock stated I'm having a hell of a time getting a business license for Blackstock Construction, I know that wouldn't go in there. Mayor Hodnett stated I know, but you're looking at if you leave, it's on the books. Mr. Blackstock said take it out, I'm too old for a gentleman's club.

Mr. Poindexter stated this is good progress, but we're still in an impasse on the question that John was alluding to a while ago of whether this is legal or illegal spot zoning. We've got to establish what benefits that community collectively, not 1,2,3, or 5 individuals as opposed to 1,300. Mayor Hodnett stated you've got to look at the business that's going in, which is construction; you can't take these into account because they are nonexistent. The business that you are looking at is construction, so you've

got to decide as council is this beneficial to a single person or a couple of people as opposed to the community as a whole, which is pretty much described as whole which is 50% of the Town. Mr. Poindexter stated this is where it gets iffy, in establishing community benefit, and that is what we have to do. The aesthetics are a great benefit, but that one alone is not going to be enough to stand up here, we got to show that it benefits the community as a whole, it does more good than damage. Attorney Eller stated well you will get some increase in your tax base, that's one thing somebody mentioned, what else did people comment that it would benefit? Mr. Adams stated that Michael mentioned he was helping the condition of the Town. Mr. Perdieu stated more employees in the town. Attorney Eller stated if you can identify some benefits. Mr. Poindexter stated some of his customers are town residents. Attorney Eller stated you just have to state them, identify them, then that is how you would make something stand up in court, you got to have a benefit. The whole community, and if the council discusses it and comes up with some benefits that they find that would be good for the whole community, then you have met the requirement and you wouldn't be subject to illegal spot zoning, because under the law, the decision of the council is presumed to be correct, and there has to be a very high level proof to upset them once you go to court, but if you didn't have any reasons why it's a benefit to the community, then it might be upset, but if you find some reasons why it's a benefit, given the fact that almost all the detriment has been taken out by these proffers. Then it might be it would stand up. Mr. Perdieu stated I'm just making a list of benefits, so we are on the same page. I got tax revenue from the business, helping facilitate jobs in the town, home services and repair for citizens, I know Mr. Blackstock said he rehabs homes, and I just know that goes a lot with what Mrs. Keesee is trying to do or been trying to do. Mrs. Barksdale-Hill stated I wonder if he could add in, and this is just something to add in, discounted services or free services to seniors. Mr. Blackstock responded I do that, I went on a service call this week for \$40, and another thing that I thought about, that you were doing, when I was going by waving at you in the mornings when y'all was feeding the children, I wrote a check from the business for feeding the children. Blackstock stated I am doing quite a bit of work for the Methodist Church and New Prospect Church in our communities. The Fire Department has always had free snow removal, New Prospect Baptist Church has always had free snow removal, never charged them, that is an obligation for 600 people. Blackstock Construction has never sent New Prospect Church a bill for pushing snow. Mr. Perdieu stated that's seven. Mr. Poindexter stated I'm feeling a little bit better now as we have been in a mode of revitalization for some time, and this is an example of revitalization, because a useless building has been improved and will be used for the aforementioned and more. Attorney Eller stated yeah, I really think it's important that the proffers have been greatly enlarged to reduce what can be put there, as I say that takes away a lot of detriment and it makes it easier to look at the benefit. Mr. Poindexter stated that was a big issue for me, was that lengthy list of what-ifs there. Attorney Eller stated right, so you don't have that. This is going to be a sworn statement that you have to sign Mr. Blackstock, what the proffers are, I will have to draft that and whatever happens you are going to pledge tonight and sign it when it's ready, right? Mr. Blackstock responded yeah, that's correct.



Mr. Perdieu stated, I'm the one keeping tally, I'll read them out to everybody, we have 8 benefits, tax revenue from the business, jobs in the Town, which we all agree that's a good thing, home services for citizens and rehabbing, he rehabs home and takes bad homes and rundown homes and fixes them up and sales and that's good for the Town. It's good for everybody in the Town, he offered discounted services to seniors, benefits multiple churches in multiple ways, snow removal for the Fire Department, he revitalized that property, which we all agree was an eyesore, and that goes along with the town clean up, that's eight things. I think that's a significant benefit that Mr. Blackstock and his business offer to our town. Mayor Hodnett asked but do those 8 things take up 50% plus of the town? It says a town as a whole. Mr. Blackstock stated it is 600 members at New Prospect Baptist Church, that is over half the town. Mr. Perdieu stated I'm sure they aren't all citizens, but that's a lot of people. Mr. Adams stated, I will say this too, I know everybody knows Michael is a friend of mine, so I'm kind of biased so I should probably just remove myself from this, but if any of us in here, or any citizen in Hurt needed some help, from a chainsaw to a tractor, I guarantee you if you ask him and he'll help you. Mr. Adams stated I also would like to remove myself from voting, because I'm a friend of Michael's. Mr. Adams asked can I do that John? Attorney Eller responded yeah, if you feel you can't be unbiased, yeah. Mr. Adams stated I think I should, I just wanted to put that out there because he's offered help to me several times. Attorney Eller stated you can recuse yourself. Mayor Hodnett asked, Michael how many of those 600 people at New Prospect Church live in the Town of Hurt? Mr. Blackstock responded between that church and the Methodist church and the Fire Department every household in the town is served by the Fire Department. When the Rescue Squad was in the building beside the Fire Department, we pushed that lot to and never charged them, so every household benefited in one way or the other by Blackstock Construction pushing that snow at the Hurt Volunteer Fire Department. Because that house caught on fire and it snowed and the members couldn't get in, they had to get the trucks out; every household would have benefited by Blackstock Construction, including yours. Attorney Eller stated well the taxes are town wide, everybody in the town benefits by receiving taxes and that's one thing that's going right. I don't know that it has to be a majority, that it has to be 601 out of 1200, this is more like in general to the community but as long as the council can state the benefits and they consider them like you are, then you are carrying out your duties. Mr. Blackstock stated add a number 9 on that list, is when we had them straight line winds that Friday night before Uncle Billy's Day, I went down Spring Street with that tractor and removed trees and debris. Russell Morris had insurance, his insurance company did pay me for removing his tree off of his house, but I don't remember getting paid from anybody else, and didn't ask for it. The Fire Department was out in full force on that weekend, and I was out, and my brother was out helping me, and we went straight down Spring Street and was helping the neighbors. Attorney Eller stated well I don't know if every good turn that somebody does can be a separate benefit. Mr. Blackstock stated it's the equipment. Mr. Perdieu stated but what I'm hearing is if Blackstock Construction benefits the town, it has not only happened in the past, but it is ongoing. Attorney Eller stated the presence of it in general, and the different things that it can do and has done, that's one, if there is a lot of things, but they are all in one category. Mr. Perdieu stated I'm not trying to break you over the whole, I'm just trying to make this work. We've got to do our part to make this thing work. Mayor Hodnett stated, so you say we are at one benefit now. Attorney Eller stated and taxes.

Mayor Hodnett stated so 2. Attorney Eller stated well I thought he had more than that. Mayor Hodnett responded, oh I thought you said all of those that the construction company did was one. Attorney Eller stated well he pushes the snow, helped with the straight-line winds, so that's kind of what the presence of the construction company in town and the equipment that is available, and his willingness to use it, that is a substantial benefit. You don't have to have a certain number, you just have to have a significant benefit, and if the council considers what you have been discussing is significant benefits and that they reach the community as a whole, then you could find that there is a community benefit, as well as a benefit to Mr. Blackstock. That's what the case says. Mr. Perdieu stated you are a lawyer and you're prosecuting against us; someone says we have been unfair, and we spot zoned this property, what would use against us? Attorney Eller responded what I would do is to stop me, would be doing what we are doing. That is careful consideration of the benefits, name them and they are in the minutes, if we had to go to court to defend it, this is what we would say, here are the benefits, we know about that case and we looked at it; we found the benefits or if we didn't find any benefits, then you wouldn't do it, but you are finding the benefits. Mrs. Barksdale-Hill stated this kind of information that we are stacking up now would cover the next person that wants to spot zone somewhere, they would have to come up with the same type of thing? Attorney Eller responded yeah, but every case is going to be different. Mr. Poindexter stated every case is going to be on its own merits, not on the basis of precedents. Attorney Eller stated but overall, somebody might say well this guy got to do it, and I'm not and that's not fair, but if you look into and see what all went into the decision it would have not necessarily been unfair because of the careful consideration, so the more you talk about it, the more careful you consider these benefits and the more likely it will stand up. The term is in the code in the court cases is if the issue is fairly debatable, if there are arguments on both sides, then the presumption of correctness by the council stands up, once you make that decision it is carefully considered. If you are going to quote "spot zoning", go make it legal by coming up with these community benefits. Attorney Eller stated it is clearly spot zoning, there is less than one acre surrounded by a lot of R1, but they are legal, sounds like maybe not. Mr. Perdieu stated Mr. Blackstock's willingness to proffer out a lot of these things makes this much easier to swallow. Attorney Eller stated yeah that opened the door, because if you had all of those wide open, don't have to ask Council for any permission, then that property would be out of control. Mr. Poindexter stated that just about be what the French call a carte blanche. Attorney Eller stated yeah but you don't have that, you're looking at the benefits, so to me what is considered a careful decision would stand up. Mr. Poindexter stated just so we can all see our way forward, if we do move forward with this procedurally how do we make sure that we cover ourselves, do we need to, for example, only vote on the rezoning then a separate deliberation and vote on the SUP and the conditions thereof? Attorney Eller stated yeah, you can't consider the special use permit until the rezoning is approved. Mr. Poindexter stated that's what I thought, but I wanted to dot the I's. Attorney Eller stated that the rezoning is not going into effect until the written sworn proffers are signed; that's going to be part of the deal. Attorney Eller stated and Mr. Blackstock says he's going to do it. Attorney Eller stated so you can say it's effective upon execution of the sworn proffers; if you were going to make a motion, and in the motion, you might state the benefits and the fact of the proffers were also entered into consideration.

It would make it harder and harder to challenge, and less likely for anybody that would want to. Mayor Hodnett asked Council how do you want to move forward? Attorney Eller stated if you want to go back and take a look at those benefits again and maybe a couple of them are just doing good things, combine them, or even make it a benefit being the presence of the construction company and equipment in the town and willingness of the owners to use it for the benefit of the town, somebody might say that.

A motion was made that we do move forward with changing to zoning from R1 to C1 at 301 Prospect Rd., effective upon receiving this one statement from Mr. Blackstock of all the proffers we proffered out and that's to only allow in the C1, Barber and Beauty Shops, Auto and home appliance services, Office buildings, Office supply stores, and Public Utilities and that is after careful consideration by the Town Council for the benefits to the town, which we had found roughly 8, to be tax revenue from the business, to keep jobs and create jobs in the town, citizens have a source for home services and home repair in the town, Blackstock Construction does rehab homes, and they turn homes in need of help, need of work into a nice looking place, they've offered discounted services to citizens and to seniors and I'm going to leave that as a separate one. I took two and combined them, because it's a construction company that's willing to help the town in many ways with their equipment and their expertise and labor, they revitalized the property, and that goes with our town cleanup efforts, and I added this one, it prevents a dead property, I'm worried this property is going to become a dead property if this doesn't happen.

Attorney Eller stated you said the ones that could be permitted, and really, you're going to permit not only public utilities but the signs, the fences, maybe you ought to say the numbers of all the ones proffered out or in, why don't you say the ones that are out. Mr. Perdieu stated I will make amendment to my previous motion; the authorized users that are out are, #1 retail food stores, #2 bakeries, #3 dry cleaners, #4 laundries and laundromats, #6 wearing apparel stores, #7 jewelry stores, #8 drugstores, #9 fabric shops, #12 theaters, assembly halls, #13 banks, #14 music shops, #15 restaurants, #16 furniture stores, #17 hotels, motels, tourist homes, boarding houses, rooming houses, #20 churches, #21 libraries, #22 hardware stores, #23 funeral homes or mortuaries, #24 clubs and lodges, and #25 auto sales and service, those are the ones we have proffered out. Mrs. Barksdale-Hill stated I can't leave without saying what's bothering one council member, the heavy equipment and someone else stated the sidewalks, I just wanted that out there that it is still a concern. I know if it was any business in the world, the sidewalk would probably still be an issue, but the heavy equipment, Mike, what can you do? Mr. Perdieu stated wouldn't the heavy equipment be covered in the SUP; you can make a recommendation and restriction in there? Mayor Hodnett responded yea. Mr. Blackstock stated the heaviest piece of equipment is the ditch witch. Attorney Eller stated well I think that's right that, would be addressed and any conditions that are put on the special use permit, it's not going to be ignored. Mayor Hodnett stated, Mr. Blaesing we wouldn't normally do this, but since this is such a hot topic, we will let you speak. Mr. Blaesing asked is there still equipment parked over behind Knollwood Dr, that there not according to the ordinances, is that where the equipment is? Mayor Hodnett responded there is stuff on Knollwood Drive, yeah. Bob Majure stated to Mr. Perdieu, Luke you mentioned one thing, if you were a lawyer and you would argue against this, the only one that I could see that this specific location of this property that would be a benefit that you couldn't argue about this specific location becoming

commercial, is the increased tax revenue, but choosing this specific location it does not specify that is going to benefit the people directly around them. You could argue that he could have chosen any other property that was right against another commercial zoned property and that would be better suit, so I really don't see the legality, other than that one thing about tax revenue, I feel like you all are opening yourselves up. Mr. Perdieu stated I hear you, and I think part of my thoughts, I can't speak for anyone else, is that while it's not zoned commercial and it doesn't even qualify for a legal non-conforming use, because of all the different uses it had, and it's had some lapses in use. It has been for the majority of its life a commercial building, and I think that is my justification, but I do agree there are other problems. Bob stated I'm playing devil's advocate; you are worried about swearing your name that you will stand up in court. Mr. Perdieu stated I'm with you, if I vote yes, my name is on the line too; they can sue me first. Attorney Eller stated that you have 30 days from the day it goes into effect and file your complaint to the Circuit Court, anybody doesn't like this decision, they can challenge it. Kim Johnson stated I have a question, there's concern about the heavy equipment on private property, I'm assuming that the heavy equipment that you're questioning is on the property that he owns, am I correct? Mr. Blaesing stated it is zoned to not be able to do that. Kim stated okay, we live next to, Mayor Hodnett stated hold on let's stay on the zoning and you didn't sign up. Kim responded I am, but you didn't let me finish, Mr. Perdieu stated I would like to hear what you have to say just please make it quick. Kim stated I'm trying to understand the difference, we own a tractor it's covered and it's in the shed, what's the difference between us being in a residential area, with our tractor and lawn equipment, and the ditch witch? Attorney Eller stated he's operating a business, are you operating a business Mrs. Brown? Kim responded no, we clear snow for free, that's what I was asking. Mayor Hodnett stated we have a motion, does council have any other discussion or debate?

Motion: Mr. Perdieu

Second: Mr. Poindexter

Passage: 3-2

Yea – 3 (Barksdale-Hill, Perdieu, Poindexter; Nay – 2 (Johnson, Keesee); Abstentions – 1 (Adams)

Mayor Hodnett stated it carries to a three to two vote, and for anybody in the audience as John said a while ago, if you don't like the decision, you can certainly appeal it with the Circuit Court, so that's where we're at.

## **SUP**

Mayor Hodnett stated now, we're at 8:50; we have to take up the special use permit. Mr. Poindexter stated it may be about as far as we get tonight. Mr. Adams asked until John gets him to sign the paperwork, we're not legally done with the zoning, right? Attorney Eller stated it will all have to be tentative until that's done. Mayor Hodnett stated, but he stated he would do it, so if we move forward with an SUP, if he doesn't sign the form, the SUP doesn't fly, obviously. Mayor Hodnett stated, I mean while we're here, I'd like to knock this thing out and be done with it. Mayor Hodnett stated so moving forward to the SUP, John? Attorney Eller stated well, you've got the right to, if you have a construction business, that's a use that is allowed now, and C1 zoned, and you have to get a special use permit in order to operate it, and Blackstock Construction and Properties LLC is filing the application for the special use permit, so now it's before the council. Normally in a special use permit situation the council might consider granting it, but they have the right to apply conditions on it that the applicant must follow in order to continue to operate this business. I guess that's where we are now, if the council wanted to put any conditions on this operation.

Mr. Perdieu asked if we needed to have a separate hearing for the special use permit, or a separate public comment period? Attorney Eller responded I don't know what the intent of the ones who spoke, were they speaking to both or were they withholding their comments on the special use permit until now? Mr. Perdieu stated, are you saying we should have one? Attorney Eller responded I don't know. Mayor Hodnett stated I mean I'm assuming that Council is going to make a motion that we do apply a special use permit with restrictions. Attorney Eller stated I guess you could, if anybody signed up, if they have any additional comments to make those directed on the special use permit, but if they are for the rezoning, they're probably for the applicant getting a special use permit, now if they are against it, maybe they don't want it. Mayor Hodnett asked, does anyone have any comments on a special use permit? Mrs. Barksdale-Hill stated some of those questions on here, that were answered are a little vague, it almost feels like there still so open-ended, you've looked at them, right? Mayor Hodnett responded that's a form Mike filled out, his answers. Mrs. Barksdale-Hill stated yeah, so the first one, it has it cannot predict the future businesses on the property, but we've already kind of addressed that with limitation on this. Then on the 3rd one, the number of employees in the future is uncertain due to the work or the supply chain. I'm just picking up that all of them are very open-ended and a little vague here, I don't know what we can do about that, because not only are they open-ended, they're also correct as far as you can't predict the business exactly where it's going, you can only possibly put limits on it. Now number four, about the four vans, four trucks, it's literally listing the equipment and possibility of more equipment to come, so those are the things that I feel like is such a gray area. It's not issuing a legitimate limit on the special use. Attorney Eller stated well this is only an informational thing, it's not binding the conditions that you place on the special use permit, they would be binding, so if you wanted to say, can't have more than four vans, four trucks, a ditch witch and three trailers, that's what you could put on the special use permit. Mr. Adams stated these are Michaels answers. Mr. Adams stated alright #7, decking boards can be stored outside the back of the property, only building materials, if that's what he says, that's the only he's going to store on the property, to cover us from potentially, which I don't think Michael would ever make a mess, anyway only decking boards will be stored on the property. Attorney Eller responded yeah, well this might be looked at as vague and it's not binding, if it becomes part of special use permit, it is binding. Mayor Hodnett stated everybody on council, well I won't say everybody, but sent in suggestions for restrictions and conditions, they were summarized in the email that went out yesterday by John, and you've got a list of those, I'm assuming everybody has them and has read them. What you've got to decide, are you going to apply a special use permit, and then what are the conditions associated with the special use permit, and there's a list here of 9, 10, and 11. Attorney Eller asked is the one you're looking at titled land use conditions Blackstock Properties, LLC? Mayor Hodnett responded yes, that's the current one. Attorney Eller stated now I didn't write these myself; I didn't come up with these, I just took what was told to me and put them in proper form.

Mayor Hodnett stated alright, I'll read them, and you all can discuss them, number one, property condition: the property should be well maintained at all times so that residential property owners will not suffer a diminution of their land value, enjoyment of use, aesthetics of their neighborhoods, or quality of life. Mr. Poindexter stated well it's obvious due to this nature of what this is and the situation with it, and the debate over it that's understandable for both sides, that condition is a no-brainer, in my opinion, that's got to be maintained aesthetically and otherwise so as not to become a liability to the neighborhood. Mr. Poindexter stated did you want to read all of them or talk about them as we go?

Mayor Hodnett stated I would like to read them all and talk about them all at one and pass them as a bank if we can. Mr. Adams stated well I think that first should definitely, in my opinion be in the special use permit, absolutely. Mrs. Barksdale-Hill stated you don't want something that is going to ruin the value of people's property. Mayor Hodnett asked can we go through them as pass them as a bank? Attorney Eller stated well, if somebody wants to change one of them, they should be able to discuss it, you have to read them all, because you have to see the whole picture. Mayor Hodnett stated we will read them all and then go back and discuss them. Attorney Eller stated the part I don't agree with is passing them as a bank, without discussion. Mayor Hodnett stated ok property use, the property and building will be primarily used for office space, storage for small business related materials, and a meeting place for workers and clients, #3 number of businesses allowed, premises are limited to 1 licensed business on the subject property, #4 allowed entrance and parking, the Tanyard Road entrance is the only entrance that can be used for both the upper and lower floors of building, the entrance on Prospect Rd. shall not be used for entry, egress, or parking due to traffic safety concerns, due to the limited area of parking and the close proximity to Prospect Rd., the town has notified the property owner of the hazardous conditions created by vehicle use of the Prospect Rd. parking area, #5 inspection, the property owner will be responsible for ensuring that all applicable federal, state, and local laws and regulatory requirements including applicable VDOT commercial entrance requirements are complied with at all times, the property owner agrees to allow town personnel to inspect this property to ensure compliance with federal, state, and local law ordinances and regulations, #6 compliance with VDOT, commercial entrance regulations, VDOT commercial entrance regulations do not apply to this property so long as the daily trips in and out do not exceed 50, should the average daily trips exceed 50 on a constant basis i.e. over a period of 30 days, property owner should bring the property entrance into compliance with the VDOT regulations within 60 days after notice to do so from the town and electronic traffic counter will be installed by the town at the Tanyard Rd. property entrance to confirm the 50 trip counts to assist the owner and maintaining the exemption from VDOT commercial entrance regulations, #7 maintenance and storage, extensive equipment repair and maintenance shall not be performed on the property simple routine maintenance such as changing oil, fixing a flat tire, etc. is allowed, #8 fence required, a privacy fence must be constructed on with three open sides and the lower level of the property, the fence must be a minimum of six feet tall and a maximum of eight feet tall, the fence shall ensure that the items inside the fence are concealed from public view, fence material and placement must be approved by the town's Public Works Director, #9 hazardous materials and fuels, storage of gas, diesel, kerosene, or any other fuel should not exceed 25 gallons on the property, this is excluding fuel use for building utilities, heating generator, operations, etc. no hazardous materials of any type other than fuel mentioned above should be allowed on the property, #10 legal compliance, the property owner will be responsible for ensuring that all applicable federal, state, and local regulatory requirements, business license, as well as conditions imposed by the Town of Hurt are complied with at all times with this property, the property owner understands that failure to comply with these laws, rules, ordinance and conditions may result in a notice of violation that could result in revocation of the special use permit, #11 right to modify, alter, and amend SUP, either property owner or town may seek modifications to this special use permit with notice and hearings per

Town Code. Mayor Hodnett stated that everybody has a copy, so council #1 property conditions, I think Gary you've already said that you think that that should be apart, any other discussion on that one? Mayor Hodnett stated, I'll take the silence that there is no other discussion. #2 property use, the property and buildings will primarily use for office space, storage for small business-related materials, and a meeting place for workers and clients, any discussions? Mr. Johnson stated I agree with that. Mr. Perdieu stated how does that effect his vehicles and equipment, if that is included in property use there is no allowance for parking a truck, I'm kind of playing devil's advocate. Mayor Hodnett stated well it says that Tanyard Rd. is the only entrance that can be used. Attorney Eller stated it ought to say vehicles, the way that reads, you wouldn't be able to put a car. Mr. Perdieu stated right, and at the same time, I know Mrs. Keesee had a concern for heavy equipment and so have a lot of other people, that be in place to address that, I think. Mrs. Lanier asked how he is using Tanyard Rd. when the vehicles are parked in front of the house there, it's no entrance coming from there to the front. Mayor Hodnett stated excuse me, they are discussing it, it's not back and forth. Mayor Hodnett stated alright, back to #2 property use, we're going to add vehicles, right? Attorney Eller stated I think we need to; I don't see anything about vehicles at all there. Mr. Poindexter stated you would have to add that to have a vehicle. Mr. Perdieu asked how much does your ditch witch weigh, just to get an idea? Mr. Blackstock stated, I would say 15,000 pounds. Mr. Perdieu asked what does your tractor weigh, 10,000? Mr. Blackstock stated it is a 70 horsepower, 20,000 pounds on it, would cover everything I got. I don't have a loader anymore, and it wouldn't be anywhere to load, and a loader would make too much noise. You always got oil leaks with a loader, so I would never have a loader on that property. Mr. Perdieu asked should we put a weight limit on the size of the equipment that can come in or out. Attorney Eller stated you could do that. Mr. Perdieu asked Mrs. Keesee what she thought? Mrs. Keesee stated yeah, I would feel better about that if we did. Mr. Perdieu stated 15,000, I have a large backhoe for my business, and it weighs right at 15,000 pounds, it's got rubber tires, it doesn't tear the road up, it's easy to move in and out with a large pickup truck. I don't think that would be detrimental to the road, or people driving on the road or kids walking up and down the road or going back and forth to school, school buses. I don't want something like a bulldozer out there because I don't think it would be good for the town. Mrs. Keesee stated, Mike how do you feel about that? Mr. Blackstock stated I agree, I don't think a bulldozer should be on that property. Mr. Poindexter stated so 20,000 would cover it, is 20,000 agreeable to everybody? Attorney Eller stated how much does a bulldozer weigh? Mr. Blackstock stated 44,000 pounds, I don't have any now. Mrs. Barksdale-Hill stated your backhoe, the same one you used at my house, is that the same you use now? Mr. Blackstock stated yeah. Mr. Perdieu stated yea I think 15,000, and I mean, I would be surprised if your tractor weighed 20,000. Attorney Eller stated okay we are going to add vehicles and equipment weighing not more than 15,000 pounds. Mr. Blackstock stated 20,000. Attorney Eller stated well I've heard 15,000 and 20,000, do I have 25, which one is it going to be? Mr. Poindexter stated well 20,000 that is ten tons that's going to cover most anything that is going to go with this. Mrs. Barksdale-Hill stated we are trying to limit it though. Mr. Perdieu stated we got to weigh the pros and cons. Mr. Adams stated he's got a big backhoe that's 15,000, I mean I would think 15,000. Mrs. Barksdale-Hill stated I don't think anything bigger than that backhoe ought to be out there. Mr. Poindexter stated alright 15,000. Attorney Eller stated okay 15,000. Mayor Hodnett stated number of businesses allowed,

premises are limited to one license business on the subject property. Mr. Perdieu stated I agree with that. Mr. Poindexter stated I don't see how, I can't see multiple businesses working on a property that size, and the issue in question here, is one business in question, and it needs to be limited to the scope of that, in my view. Mrs. Barksdale-Hill and I'm like this, skipping back to two, one business, one owner, that one owner, when he's done then it can't be passed off to someone else with this. A brand new, that's what number 2 says, a brand-new special use permit, if the business changes hands. Attorney Eller stated normally if it's the same business and it meets all the conditions it could be transferred. Mrs. Barksdale-Hill asked even the special use guidelines? Attorney Eller stated yeah, as long as all the conditions are met and it's the same business. Mr. Perdieu stated I don't see a problem with that, he could pass it on to his son. Mrs. Barksdale-Hill stated so with number 2 where it says the special use permit will only apply to the current owner and it will become null and void upon closure. Mr. Poindexter stated that is the older version. Mr. Perdieu stated that was the one in the folder, there is a newer version that came out in the email. Attorney Eller stated yeah, we took that one out. Mayor Hodnett stated it went out in an email to everybody. Attorney Eller stated if there are no further conditions, the special use permit can be revoked, so is 3 a yes? Mr. Perdieu stated we are waiting on copies. Attorney Eller stated make sure everybody has the one that says land use conditions for Blackstock properties LLC, that's how it starts out, the other one has got restrictions. Mayor Hodnett stated well while they are running copies lets go on to #4, allowed entrance and parking, the Tanyard Rd entrance is the only entrance that can be used for both the upper and lower floor of the building, the entrance on Prospect Rd. shall not be used for entry/egress or parking due to traffic safety concerns due to the limited area of parking in close proximity to Prospect Rd. The town has notified the property owner of the hazardous conditions created by vehicle use on the Prospect Rd. parking area. Mr. Blackstock stated I do ask you to put into consideration that Jason's report came back, and there has not been an incident at that intersection in 5 years. Mr. Poindexter stated that Prospect Rd. presents a problem, on one hand it is an oddity the way that building is, the proximity, and it is an issue because it is an interruption of the sidewalk there, as has been discussed. It's close to the road, and I think there are some VDOT issues with that. Mayor Hodnett stated the VDOT issue is it's not a defined entrance into the building; they need a 30-foot driveway to get to a parking lot, so they have concerns about that. Mr. Poindexter stated we have to operate within the boundaries of their specs anyway. Mr. Adams stated there never has been a sidewalk in front of that building. Mrs. Keesee stated no it never has. Mr. Perdieu stated it needs one. I don't know if you are limiting that the front parking lot can't be used for parking, there is no point, in my opinion to forcing him to put in a sidewalk, because no one is going to be parked there anyway, you can just walk straight across the parking lot. Attorney Eller stated it doesn't say anything about putting a sidewalk in. Mr. Perdieu stated I know but if we could, the sidewalk thing has been brought up several times, I thought about adding that as a restriction, that a sidewalk has to be added, whether the town does it or he does it, I don't know. The building was too close to the road for the sidewalk, if you can't use it for parking, people could walk across it easily, that's my point. Mayor Hodnett stated yeah why would you need a sidewalk. Mr. Perdieu stated I don't think you do. Mr. Blackstock stated if the building has been there since the 50s and it's never been an accident in front of that building that anybody in Hurt, other than that one due to inclement weather, can come up with.



Bob Majure stated it may be easy for a person that is able to walk a lot easier across that parking lot, but what if you are in wheelchair? Kate Majure also stated, you are limited and ability of walking, because you can see that is a driveway, so it is about 6 inches lower than the sidewalk that resumes on the next property. There is nothing there, there is no ramp for someone who had reduced mobility, or a stroller, or a wheelchair that would be able to easily access the sidewalk, so it's not really a sidewalk, it's only a sidewalk if you have two completely functioning legs. Mayor Hodnett stated thank you. Alright how do you want to consider it, do you want to consider since it's not going to be used as a parking area or storage area, putting in a sidewalk? Mr. Perdieu stated I don't know if it is necessary, the building is old and doesn't have to meet ADA requirements, and I am not saying that is a good thing, that is just a statement. I've got a building in Altavista that I own, and it doesn't meet ADA requirements and I fought and fought to try and get a wheelchair ramp in there and I couldn't because it was getting impeded because it's a 100-year-old building. I don't know that it's something we need to address. Mayor Hodnett stated how do the rest of you feel about it, speak now or forever hold your peace. Mr. Johnson stated I am good without the sidewalk personally, if you are not going to be using the parking lot. Mrs. Barksdale-Hill stated I'll admit, and I just want to say it, because it is on my mind, that was my pet peeve, I wanted a sidewalk there, but then again, I also said there has never been anything there, so it was just one of those additions that I thought would be nice. Mr. Adams stated well actually let me add something else to that, if you put a sidewalk in and have an entrance and exit, he could actually park a couple of vehicles in front of the building, if you put a sidewalk in. I'm just putting that in there, if you have an entrance and an exit on the side in the curb. Mr. Perdieu asked parallel park? Mr. Adams responded yeah, just park parallel to Prospect Rd. Mayor Hodnett asked on the road? Mr. Adams responded no, have an entrance into that parking area. Mayor Hodnett stated, VDOT requires a 30-foot entrance into a parking area. Mr. Adams stated put it in there. Mayor Hodnett responded it's not 30 feet there. Mr. Poindexter stated it's not enough room. Mayor Hodnett stated it's no way it's enough room. Attorney Eller stated they weren't required, but that's only if he goes to 50, isn't it? Mayor Hodnett responded no, that's got nothing to do with the 50, that is a separate issue. Mr. Blackstock stated what other businesses had to install a sidewalk in front of the business, in Altavista, the Town of Altavista does it correct? Attorney Eller responded yeah, they do the sidewalks, but a lot of times when you have a new, that's because the town sidewalks have been there forever. When you have a new subdivision it's almost always required for the developer to put in sidewalks, and the infrastructure for all of it, but that is not the case here, you got the existing property. Mr. Adams stated so just leave it and no parking in front of the building if that's what you want to do. Mr. Blackstock stated well VDOT's recommendation they sent, and speaking with them, they were expecting the front of the building and the side of the building to be used for ingress and ingress. Mayor Hodnett stated that's not what he told me, Jay Craddock said that it was a parking lot on the street and wasn't an entrance into a parking lot, and he had a problem with that. Mr. Perdieu stated I might be getting ahead of ourselves, but #6 says that he has to comply with VDOT commercial entrance regulations. VDOT commercial entrance regulations do not apply to this property so long as a daily trips in and out do not exceed 50, should average daily trips exceed 50 on a constant basis i.e., period of 30 days property owner shall bring the property into

compliance with VDOT regulations within 60 days after notice to do so from the town and an electronic traffic counter will be installed by the town at the Tanyard Rd. property entrance to confirm the 50 trip counts to assist the owner and maintaining the exemption from VDOT commercial entrance regulations. If we say he has to comply with commercial entrance regulations and put it for both Prospect and Tanyard with the restrictions that he has to use Tanyard then we don't have to sit here and hammer out what VDOT says you can and can't do, am I right, its up to him to make sure he is legal on his entrances. Mayor Hodnett stated but VDOT has a problem with the front entrance. Mr. Perdieu stated so if they have a problem with it, then he's not in compliance so he can't use it. Mayor Hodnett stated yeah, so I thought that's what we were talking about, not going to be able to use it, but you guys were talking about putting a sidewalk in there. Mr. Blackstock stated you read the however in that last paragraph from Jay Craddock; it says however if the proposed use will generate 50 or less vehicle trips per day, the entrances would be considered as low volume commercial entrances, this means they are not required to meet the requirements of access management regulations, except, they must have adequate stopping. Sight distance, I checked on this and the stopping distance is adequate for the posted speed limit of 35 mph, if the town feels that the proposed business will generate more than 50 vehicle trips per day, the existing entrances would not be considered adequate, according to the access management regulations. We've already declared it would be less than 50 vehicle trips per day. Attorney Eller stated that's what I was thinking, if we stay under 50 then, Mr. Poindexter stepped in stating it's a non-issue. Mr. Blackstock stated it's not an issue for the front or the back. Mr. Perdieu stated that it says entrances. Mayor Hodnett stated I'm just telling you what Jay Craddock told me. Attorney Eller stated well he says and his same letter that Michael is reading from, it says the main issue with the entrance off Prospect Rd. is there's really no defined entrance and there's not enough depth to create one. It's basically a parking lot that butts right up against the road and there's no space between the parking area and the intersection of Tanyard Rd. That would be the problem if the regulation is applied, but the last paragraph says they don't if it's less than 50 trips. So that's VDOT, if it's considered by the council that having a lot of trucks going in and out of the front entrance is dangerous then it's a prerogative of the town to limit parking. Mr. Blackstock stated, I'm telling you from experience for the last six months that we've been going in and out of that business property, coming out on Tanyard Road is more dangerous than going out on Prospect Rd. because people when they turn at the intersection to go down Tanyard, they are cutting the corner or coming across the corner from Dogwood Lane and coming straight across, well you only got from the entrance of Tanyard Road to the stop sign, I would say you got 60 feet, so you are trying to get out in the road and you got cars dotting across from Dogwood and cutting the corner off of Prospect coming down Tanyard. Attorney Eller stated that's exactly why they have those commercial requirements, that require to be farther away than 60 feet. That's exactly why they have them, but they got the 50-day exception. Mr. Blackstock stated you can see when you are coming off Prospect, you can see to your left and right and what's coming off Dogwood. Attorney Eller stated yes, that's why they have those regulations; they do have that exception.

Mr. Poindexter stated well it sounds like to me then, that based on what John has read from Jay, that legally it's not an issue. Attorney Eller stated with VDOT regulations, it's not. It's still within the town's prerogative to determine the way it is up there, that the room in the front is not a place to park, perpendicular particularly, parallel was brought up, maybe you could get a couple to come in there and park parallel, that's a possibility, now I'm not supposed to be leading the discussion here. Mr. Adams stated if you want to put a restriction on it, then why don't you say, I mean that's a pretty wide area right there, you could probably put five vehicles in there straight in the building, why don't we say no more than three at a time in the front. Mr. Blackstock stated because it's safer to come off Prospect Rd. than it is to come off Tanyard Rd. In fact, I am the only one that really parks there, on the van that goes in and off Tanyard, because I told them to pull in. I've asked the employees, and sometimes they don't do it, but to back the vans in so when they pull out, they'll be able to see both ways. That would be a good requirement if you allow me to use that front parking lot, where the vehicles have to be backed in so when you are pulling out you can see both ways. Mr. Perdieu stated I do like that, I mean I've heard that when you are backing a vehicle into a parking space, you were backing into a controlled environment, so he's backing off the road, and backs them into that parking space, that's a controlled environment, backing out into the road is an uncontrolled environment. Mr. Poindexter stated it's far riskier. Mrs. Barksdale-Hill stated well the insurance agent says that more accidents occur when you are backing out into a spot. Mr. Poindexter stated I like that; I think that's reasonable to allow the parking in the front with the requirement of backing in. Mike Jones states you have to consider the ability of the driver, sight wise, a cautious driver, and do we have enough space, as you know anything that Mr. Blackstock does on that property could bring liability to him, so if an accident occurred because the vehicle was backing up and pulling out, then there would be a civil suit potentially between him and the driver that was involved. Is it an overriding public safety concern? It is a concern. I wouldn't say it's overriding; I think this would probably be a good thing for VDOT to weigh in on, in terms of is Tanyard Rd. a real issue in VDOT's eyes, because if you got cars cutting across Dogwood and all cutting it up, that's a potential for not only Tanyard but entering into Prospect. It's all a matter of risk acceptance, how much risk does Mr. Blackstock want to take and his drivers backing in. How will people be able to back into that property, will they pull in and then back into the building? Mr. Blackstock responded yes; I think it'll be safer to require that the vehicles have to be backed. Mike Jones stated that is risk acceptance and his vehicles hitting his building, but again that's his choice. Mr. Blackstock stated I'd rather it hit the building than somebody else. Mike Jones stated exactly, VDOT does have a concern about it, the lack of entrance and distance between it, that's a VDOT issue, that's a liability that and he'll have to accept. That's a decision for the policymakers. Mr. Adams stated what do y'all think, make/let him back them in? Mr. Johnson and Mr. Perdieu both stated they think it is a good idea. Mr. Perdieu stated there is a concern with the tight area of the front but Mr. Blackstock's input on using the Tanyard Rd. entrance, and he's observed firsthand and that it is more dangerous in his opinion, that's valuable input, and I can see how that could be a problem, it's not an ideal situation. Mrs. Keesee asked if we should put a limit on how many vehicles are actually parked there. Mr. Blackstock stated it's room there for I would say 7 vehicles in the front backed in. Mr. Perdieu asked is that how many spots you have now? Mr. Blackstock stated yes. Mr. Perdieu asked if we should limit it to 5? Mike Jones stated the other question you're facing, when you put a parking lot, you have to restrict it, if you want to put restriction

on, so how many people do you want to allow. Mr. Blackstock can't control a citizen who just wants to turn around, he has absolutely no control over that. Mr. Blackstock stated this week pulled around the Tanyard Road, it was two, a man pulled around and a woman pulled around following him in the back exit behind the building. Mike Jones stated imagine this may or may not increase the number of trips, depending on how good the drivers are and back; because they crossed the threshold, that is a trip. Now someone who turns in anytime of the day or night, that is a trip, again he can't control, best he can do, is he can put a gate up after hours or put signage up or both. Mr. Blaesing stated I'd like just to comment, everybody's talking about how he is going to abide by all these, but he is potentially in violation of another town code on another property, and I don't trust the fact that he is going to follow through on any of these things, when he's already in violation of another. We're putting a lot of trust in the man who already has an issue on a violation, potential violation in the town code. Mr. Perdieu responded that's why number 10 is in here, that property owner understands that failure to comply with these laws, rules, ordinances, and conditions may result in a notice of violation and could result in revocation of special use permit. He's not received any violations the property. Mr. Perdieu stated this is about this, if we put these restrictions on him and he does not follow them, we can revoke this, and he's lost all his fraction. Mr. Blaesing stated I like what Mr. Jones said about every egress and ingress is counted, not just the ones that are for his business. I own the Flower Mill and I have 5-6 people every day coming in and it's posted no trespassing and beware of dog and that doesn't make any difference. People pull in, I've got people pulling in and taking a dump in my parking lot, you wouldn't believe it, but according to Mr. Jones those get counted as well, it's not just his right, his ingress, it's all. Mayor Hodnett stated right and we're going to have to keep up with entries off of Tanyard and entries off of Prospect because of the 50 thresholds. We're going to have to have a mechanism, we talked about putting a counter at Tanyard, we are going to have to have a counter up there if you open that parking up. Mike Jones stated there is a design alternative to this, but it is expensive, you can block off Prospect Rd. entrance, you could cut a road on the side of the building if there's enough space for vehicles to turn into Tanyard and drive up to and park in front of the building, that would give them no access to Prospect, but they would have to come and go. Since it is a small number of people, with very little incompetent aspect, that could be a solution if that was something you wanted to make of SUP condition or if Mr. Blackstock wanted to do it on his own. Mayor Hodnett asked is it enough room between the building and the fence? Mr. Blackstock stated the setback is not enough on either side, and with the topography on the south side, you already having drainage issues on Tanyard Road down below, coming out in the road at Gary Boggs's; the pipe runs up under that property on the second lot, the flat lot beside Ella Goodman's, it's a pipe that runs perpendicular to the property under the ground that comes out on Tanyard. Mayor Hodnett stated so how are you going to keep up with it, how you going to monitor it off of Prospect? Mr. Perdieu stated we are going to have to do a traffic counter on both, I mean ultimately, it's his responsibility that he meets the requirements. A traffic counter will make it easier to prove that he's doing what he's supposed to. Mayor Hodnett stated staying in compliance. Mr. Perdieu stated I don't like the traffic counter idea but I just I don't know how you get around it. Mrs. Barksdale-Hill stated a camera. Mr. Perdieu stated we could put a camera or two cameras on one corner of the building and it would catch everything. Mr. Perdieu stated then you have

to have someone sit there and count. Mayor Hodnett stated yeah who's going to do that, if you put a counter out there then you go read it once a month. Mr. Johnson stated that's the only option you got is a counter. Mr. Adams stated you could put a counter on a road, which is wide enough for one vehicle to go back and forth across it but when you got an entrance that is from the end of that sidewalk to Tanyard Rd. is how far, 100 feet, how you going to count vehicles right there? Mayor Hodnett stated so you say don't worry about it. Mr. Adams stated well you can't count vehicles unless you are going to run a counter all the way across the front of the building out there, how you going to count them? Mr. Blackstock stated the radar is going to run in front of that building too. Mayor Hodnett stated so we don't worry about Prospect, put a counter on Tanyard, no enforcement mechanism whatsoever. Mr. Perdieu stated so if becomes a problem, Mayor Hodnett stepped in stating how do you know if it becomes a problem? Mr. Perdieu stated would have to keep track of them if somebody has a wreck there. Mayor Hodnett stated if it's a 50 threshold a wreck has nothing to do with it, it's the in and out. Mayor Hodnett stated alright number #5 inspection. Attorney Eller stated what are we going to put on #4, Mayor Hodnett stated I don't have any idea. Attorney Eller stated vehicles parking at the entrance of Prospect Rd. shall be backed in with the front facing out due to traffic safety concerns, due to the limited area of the parking close proximity to Prospect Rd. Mr. Perdieu stated and only 5 vehicles and signs posted. Attorney Eller stated maximum 5 vehicles. Attorney Eller stated what is the sign going to say? Mayor Hodnett stated no parking. Attorney Eller stated forward parking only. Mr. Blackstock stated I generally go out and meet the customers at their house unless there's somebody just coming by that wants to talk. Customers don't come to the shop. Mr. Perdieu stated an employee only parking sign, and no turn arounds. Attorney Eller asked so are you going to have a sign? Mayor Hodnett stated employee only parking. Mr. Perdieu stated no turn around. Mayor Hodnett stated I don't know about y'all, but I don't want to stay all night, let's keep this thing moving. Mr. Poindexter stated I did not imagine this one was going to be such a stickler. Mayor Hodnett stated #5, the property owner will be responsible for ensuring that all applicable federal, state, and local laws and regulatory requirements including applicable VDOT commercial entrance requirements are complied with at all times; the property owner agrees to allow town personnel to inspect the property to ensure compliance with federal, state, and local law ordinances and regulations. Attorney Eller stated who wouldn't like that? Mayor Hodnett stated I'm sure somebody doesn't. Mr. Poindexter stated to me that's something you have almost any case like that, that's another no-brainer. Mayor Hodnett stated #6 compliance with VDOT commercial entrance regulations, so we pretty much tossed this one, except for the electronic traffic counter will be installed by the town at the Tanyard Rd. property entrance to confirm the 50 trip counts. Mr. Poindexter stated we covered that in #4, didn't we? Attorney Eller stated no we didn't cover it in #4 at all, you talked about it, you talked about a counter and ended up without a counter, right? Mayor Hodnett stated well we don't know what we got, I'm assuming the counter is still in on Tanyard, we are just not going to, not on Prospect that is a free ride up there. Mrs. Keesee stated so just start #6 with an electronic traffic counter will be installed on Tanyard. Mr. Perdieu stated but I think but it needs to stay in compliance with VDOT commercial entrance and regulations if they cannot adhere to the 50 trips a day. Attorney Eller stated well the only controversial thing about 6 is are you going to have a counter?

Mr. Blaesing said at both locations? Mayor Hodnett responded no they decided they are not going to do one at Prospect. Mr. Blaesing stated well that counts out half the 50 right there. Mayor Hodnett stated that would seem logical. Attorney Eller asked if that one was okay, number 6? Mayor Hodnett asked Council if #6 was okay? All Council agreed. Mayor Hodnett stated love the enthusiasm. Maintenance and storage, extensive equipment repair and maintenance shall not be performed on the property, simple routine maintenance changing oil, fixing flats, is allowed, that's like a no brainer. All council agreed. Fence required, a privacy fence must be constructed on all three open sides at the lower level of property, the fence must be a minimum of six feet tall and a maximum of eight feet tall, the fence shall ensure that all items inside the fence are concealed from public view, the fence material and placement must be approved by the town's Public Works Director. Mr. Perdieu stated my only concern about this one, is one of the sides is Tanyard Rd. side, correct? Is he going to have a gap where he can enter and exit, or have a gate? That's the only thing that is unclear to me about that. Mr. Blackstock states I think that creates a danger for, coming into and out of the, especially on the Tanyard Road side, also ask you to consider the letter from Mrs. Ella Goodman that is the nearest resident, and she has stated in her letter that she does not wish to have a fence, she has been a good neighbor. Also, between Wyatt and I on the south side it is a 4-foot, 42-inch chain linked fence dividing the properties. Mayor Hodnett asked what do you want to do council? Mr. Adams stated a privacy fence, you can't see through it, but he's got a point, if you pull up to the road, you trying to see out and see if anything's coming. Mrs. Keesee what if we make it a point where you'll be able to still use the privacy fence but be able to clear coming in or out? Mr. Adams stated you mean make it so far off the highway where you can see? Mrs. Keesee stated right. Attorney Eller stated so you just have an extra wide gap, then that would just be a width of the vehicle, that could be 30 feet. Mr. Perdieu stated if you dropped in the middle of it, so you can see. Mr. Poindexter stated you know fences have a way of being a two-edged sword, some people really like them to conceal views, other people think fences themselves are obstructing; we run into that with roadside fencing to cover up messy places. Mr. Blackstock stated I talked to both neighbors, Wyatt, and Mrs. Goodman and neither one of them want a fence. Mr. Poindexter stated since this is what it is, as opposed to it being a salvage yard or something that as an aesthetic issue, do we need the fences as bad as we need these other things, and I'm just asking that as a rhetorical question? Mr. Perdieu stated we do have the right to modify it either way would go. Attorney Eller stated are you talking about trying to make it not so it's unsightly, we could go back to two, you got the storage for small business-related materials, vehicles, could you say that materials have to be covered, so you don't see them, and then with the cars and ditch witch to look at. Mr. Perdieu stated if you did something like the materials covered and a privacy fence will be erected at the written request of adjacent property owners, so if Mrs. Goodman passes away and whoever moves in next really don't like it, they write him a letter, he has to put up a fence? Attorney Eller stated that's going to be an enforcement issue and kind of messy. Mr. Blaesing stated I find it interesting that he's concerned about the women that have properties next to him there, but the woman who lives on Knollwood Drive that looks out of her kitchen window and sees his equipment behind her property, he doesn't seem to

extend any concerns for her. Mr. Blackstock stated this is about 301 Prospect Rd. I would agree to not have any building materials stored outside, if I didn't have to have a fence, all the decking materials can be stored inside. Its hard to get a 40-foot ladder in the building or the extension ladder in and out the building, but no building materials will be stored on the property or the exterior of the property, if I'm not able to use the upstairs for another business then I have that upstairs the store building materials. Mr. Perdieu stated I mean also say its stored inside, if he wants more storage space, he can put up a shed or lean-to or something so that everything stays covered. Mr. Adams stated I'm okay with that, so scratch the fence. Attorney Eller stated so we add on to #2 that no building materials will be stored outside of the building, right? Council stated yeah. Mr. Poindexter stated and then we drop the fence. Attorney Eller stated we drop the fence, #8 goes out. Mayor Hodnett stated hazardous materials and fuels, storage of gas, diesel, kerosene, or any other fuel should not exceed 25 gallons on the property, this is excluding fuel use for building utilities, heating generator, operations, etc. and no hazardous materials of any type other than fuel mentioned above should be allowed on the property; that's pretty easy. Council all agreed. Mr. Perdieu stated paint isn't considered hazardous right? Mr. Blackstock stated that paint is considered hazardous, he has already looked that up, but I don't have 25 gallons. Mayor Hodnett stated #10 legal compliance, the property owner will be responsible for ensuring that all applicable federal, state, and local regulatory requirements, business license, as well as conditions imposed by the Town of Hurt are complied with at all times with this property, the property owner understands that failure to comply with these laws, rules, ordinances and conditions may result in a notice of violation that could result in revocation of the special use permit, all Council agrees. #11 right to modify, alter, and amend SUP, either property owner or town may seek modifications to this special use permit with notice and hearings per Town Code. Council all agrees. Attorney Eller stated I'll write that up with the changes, we have to vote for it.

Attorney Eller stated we have been through them all so we can vote on them as amended.

A motion was made to issue a special use permit for the proposed construction business at 301 Prospect Rd with the conditions discussed as amended. amended.

Motion: Mr. Poindexter

Second: Mr. Adams

Passage: Unanimous

Mayor Hodnett stated considering the time we're going to continue this meeting on Thursday at 6:00 PM, this coming Thursday (April 7). Mayor Hodnett stated thank you for coming. Kate Majure asked if closed session would be at 6:00pm? Mayor Hodnett stated no, open session at 6:00PM.