

STAFFORD COUNTY PLANNING COMMISSION MINUTES
January 4, 2012

The meeting of the Stafford County Planning Commission of Wednesday, January 4, 2012, was called to order at 6:30 p.m. by the Planning Director, Jeffrey Harvey, in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Rhodes, Hiron, Apicella, Boswell, Hazard, Howard and Schwartz,

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, McClendon, Blackburn, Ennis, Hornung, Knighting, Lott, Magwood and Santay

ELECTION OF OFFICERS

A. *Election of Chairman*

Mr. Harvey: The first order of business will be the election of a Chairman of the Commission. I'll ask for nominations for the position of Chairman. Once the nominations are complete, the Planning Commission will vote in the order in which the nominations are received. Following the election of the Chairman, the Chairman will then preside and conduct the election for Vice-Chairman, as well as the Secretary.

Mr. Howard: Mr. Harvey, I'd like to make a motion to nominate Mr. Michael Rhodes for Chairman.

Mr. Apicella: I'll second that.

Mr. Harvey: Do we have any other nominations? Seeing as we don't, may we have a vote on the motion and second, please? All in favor say aye.

Mr. Howard: Aye.

Mr. Boswell: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Hiron: Aye.

Mr. Schwartz: Aye.

Mr. Apicella: Aye.

Mr. Harvey: All opposed? Congratulations Mr. Chairman... the meeting is yours.

Mr. Rhodes: Thank you Mr. Harvey. Now I entertain nominations for the position of Vice-Chairman.

Planning Commission Minutes
January 4, 2012

B. *Election of Vice-Chairman*

Mrs. Hazard: Mr. Chairman, I would seek to nominate Scott Hirons for Vice-Chairman.

Mr. Rhodes: Okay. Nomination is... any second?

Mr. Howard: I'll second.

Mr. Rhodes: Second Mr. Howard. Are there any other nominations? Hearing none, I will now call for the vote. All those in favor signify by saying aye.

Mr. Howard: Aye.

Mr. Boswell: Aye.

Mrs. Hazard: Aye.

Mr. Hirons: Aye.

Mr. Schwartz: Aye.

Mr. Apicella: Aye.

Mr. Rhodes: Aye. Any opposed? Pass 7-0. Congratulations Mr. Vice-Chair.

Mr. Hirons: Don't be late.

C. *Election of Secretary*

Mr. Rhodes: I will now entertain nominations for the position of Secretary.

Mr. Hirons: Mr. Chair?

Mr. Rhodes: Yes Mr. Hirons.

Mr. Hirons: I would like to nominate Holly Hazard for the position of Secretary.

Mr. Rhodes: Thank you. Is there a second?

Mr. Apicella: I'll second that.

Mr. Rhodes: Having the nomination and second, are there any other nominations for Secretary? Hearing none I'll now call for the vote. All those in favor signify by saying aye.

Mr. Howard: Aye.

Mr. Boswell: Aye.

*Planning Commission Minutes
January 4, 2012*

Mrs. Hazard: Aye.

Mr. Hirons: Aye.

Mr. Schwartz: Aye.

Mr. Apicella: Aye.

Mr. Rhodes: Aye. Any opposed? Seven-zero; good start. Thank you, Mrs. Hazard. There we go. Next on the item is to entertain any declarations of disqualification. Are there any items on the agenda for which someone needs to identify disqualification? None? Very good. So, we will now proceed with the first item of business on unfinished business; Mr. Harvey.

DECLARATIONS OF DISQUALIFICATION

UNFINISHED BUSINESS

1. **Zoning Ordinance Amendment; Farmers Market (Time Limit: January 19, 2012) (In joint Committee with Agricultural/PDR Committee and Planning Commission)**

Mr. Harvey: Thank you Mr. Chairman. This item has been in discussion in a joint committee of the Planning Commission and Agricultural Commission, and Mrs. Hazard is a member of that committee. I'd ask if Mrs. Hazard has a report.

Mrs. Hazard: Yes, thank you. We had a great meeting last... the end of December, and we had a member from the Economic Development team also join us. We made great progress on where we actually think we're going to go. We will be having one more meeting on January 10th at 10 a.m. on the... in the First Floor Conference Room to really finalize what we will be bringing to the Commission, but we have one last meeting on January 10th.

Mr. Rhodes: Okay, thank you. Mr. Harvey, what is the requirement by January 19th?

Mr. Harvey: Thank you, Mr. Chairman. The requirement for the Commission to take action on January 19th is for the Commission to give a recommendation to the Board of Supervisors on how the Board may want to proceed with a Farmer's Market in the County. Initially, there was discussion about creating a new ordinance to allow them by-right in certain zoning categories, and that's been a subject of discussion with the joint committee. At your next meeting, I anticipate Mrs. Hazard will be giving a report of the committee, and that can be discussed at the Planning Commission level for your all recommendation to the Board.

Mr. Rhodes: Very good. Thank you, Mr. Harvey. Okay. Then that moves us to I believe, unless there are any other comments, that moves us to the second item, the Tyler Estates Preliminary Subdivision Plan.

2. SUB2501460; Tyler Estates Preliminary Subdivision Plan - A preliminary subdivision plan for 6 single family detached units, zoned A-2 consisting of 12.39 acres located on the north side of Ramoth Church Road between Freedom Lane and Powhatan Trail on Assessor's Parcel 38-11

Planning Commission Minutes
January 4, 2012

within the Hartwood Election District. **(Time Limit: January 25, 2012) (History - Deferred at November 2, 2011 Meeting to November 16, 2011) (Deferred at November 16, 2011 Meeting to January 4, 2012)**

Mr. Harvey: Mr. Chairman, Mrs. Ennis will give a recap of this application. It had been presented to the Planning Commission previously, and it was deferred to this meeting at the applicant's request.

Mr. Rhodes: Thank you.

Mrs. Ennis: Computer please... computer. Thank you. On November 2, 2011, staff presented Tyler Estates. The applicant is Daniel Payne; he's with Marquis Properties. The subdivision is located on the north side of Ramoth Church Road west of Freedom Lane. It consists of 12... approximately 12 acres, and it's zoned A-2, which is Agricultural, which is a minimum of one acre. They are proposing five lots within the subdivision. The property lies within the Hartwood Election District, and Mrs. Hazard requested to have it deferred, questioning the slopes to the engineer. And that's where we are today.

Mr. Rhodes: Thank you. Mr. Harvey, if I might ask, have the two new members of the Planning Commission received anything on this one today?

Mr. Harvey: No, Mr. Chairman. I apologize for that. I should have taken the effort to provide that to them prior to this meeting.

Mr. Rhodes: No, that's fine. I wonder... we didn't ask for this Mrs. Ennis, but is it possible to go over this a little bit further? I don't know if you would have...

Mrs. Ennis: Sure, I have the PowerPoint loaded. I can just do it over.

Mr. Rhodes: If I could ask for the indulgence of the Planning Commissioners, if we can just go ahead and go over that, that'd be great.

Mrs. Ennis: Sure.

Mr. Rhodes: Thank you, Mrs. Ennis. I'm glad you got that.

Mrs. Ennis: Computer again please. Okay. As I stated, the applicant is Daniel Payne, he's with Marquis Properties. The engineer is Mark Branca with Branca Development. The date of the application was May 16, 2005. The TRC date was October 25, 2005. It's on Assessor's Parcels 38-11; it is located on the north side of Ramoth Church Road west of Freedom Lane. It's on 12.39 acres, and it's zoned A-2, Rural Residential, with a minimum of one acre per lot. They are proposing five single-family dwelling lots, and it lies within the Hartwood Election District. This is the aerial map. The parcel was split by Ramoth Church Road, calling it like a de facto sub, and that is how this property was created. As you can see, the blue lines are the existing property lines which created a very odd-shaped lot to begin with. And that's what we had to deal with; that's why that's the existing lot lines. Again, this is the Zoning Map, our current Zoning Map, and you can see that it's all agricultural surrounding the properties. And this is the proposed preliminary subdivision. And, where you can see what they are doing is they are taking the existing...this was a family subdivision to begin with, for the

Planning Commission Minutes
January 4, 2012

new members. It was a family subdivision that they took and made it a single-family. They took it from family subdivision, out of the family subdivision, and once they do that, they had to come in with a new preliminary plan. And when they came in with the preliminary plan, they had to take it... the Private Access Easement that was approved years ago and make it a State road. So, underneath this road they have a Private Access Easement that they'll be vacating. The one family subdivision lot will be staying, and that's how they're going along with the road as it is. And so again the existing topo is what the engineer had to deal with because it was split by Ramoth Church Road. And again, the access from Ramoth Church Road through the existing ingress/egress on lots 11B and 11P. The easement is being vacated... Oh, I repeated myself, sorry. The easement is being vacated and replaced with the State maintained road. Although the plan was submitted prior to the SSAR, which is a VDOT requirement, this plan meets VDOT's current requirements. So, they are underneath the SSAR requirements. To reduce the impact on the wetlands, lots 4 and 5 have proposed to share a driveway. Parcel 38-11 is located inside the Urban Service Area and a waiver was granted in July of 2006 by the Board of Supervisors for mandatory sewer connection. They are served by public water and private septic systems. They are utilizing two bio-retention filters out there for Stormwater Management. They are providing 2.5 acres of open space within the subdivision. We did recommend... staff did recommend approval of this, and again at the November meeting it was asked to be deferred to have a better look at the plans for topo. The slopes were in consideration and she wanted to get further explanations on the soils and the slopes. Any other questions?

Mr. Rhodes: Questions from staff?

Mr. Howard: Mr. Chair?

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: Mrs. Ennis, the waiver that was granted, were there any other waivers granted to this particular parcel? And the reason I'm asking...

Mrs. Ennis: No.

Mr. Howard: ... it occurred to me when you had the slide up, do the side lot lines meet the Subdivision Ordinance requirements?

Mrs. Ennis: The side lot lines are existing, so with the existing topo we cannot apply that side lot line rules. It would exist... I mean we would make it apply to the lots that he's creating. So, the existing outside lot lines, we would not apply that side lot line rule as... that has not been out practice of what we do because we, those existing boundary lines, we...

Mr. Howard: So, it's typical that you would conform with the existing boundary lines when the adjoining property is abutting an established, I guess, lot.

Mrs. Ennis: Yes. Yes, so the five lots that they're creating, we made them make them perpendicular to the road, or meet the side lot line rule.

Mr. Howard: Okay.

Planning Commission Minutes
January 4, 2012

Mrs. Ennis: But the extending boundaries...

Mr. Howard: Some of the rear boundary lot lines are not conforming because they're adjoining properties that were already existing.

Mrs. Ennis: Just the side lot line rules. It still meets the 5:1 lot shape ratio and the lots and everything. It is just that yes, the side lot line rules.

Mr. Howard: Okay. Thank you. Great.

Mrs. Ennis: Thank you.

Mr. Rhodes: Any others questions to staff? Mr. Apicella?

Mr. Apicella: You indicated that it's A-2 Rural Residential Zoning and so they can do one development unit per acre but they have, what was it, two and a half acres of wetlands?

Mrs. Ennis: Open space. Yes, they chose to... it is not a requirement because you only have to put open space in clustering subdivisions. So, they weren't required to have open space, but they decided to protect the wetlands, to put it in an open space, where they will then have to create an HOA to maintain that.

Mr. Apicella: Okay, thank you. So, would they have to, absent the public... the open space... would they have to set aside a certain portion that is associated with wetlands that would not be part of a building lot?

Mrs. Ennis: No, they did not have to subtract it out for the A-1 property.

Mr. Apicella: Okay. So, the bottom line is that A-1, A-2 zoning...

Mrs. Ennis: To figure out the density, is that what you are trying...

Mr. Apicella: Yes, so they could have up to basically 12 development units. That's all I wanted to find out.

Mrs. Ennis: Yes. Thank you.

Mr. Apicella: Okay. Thank you.

Mr. Rhodes: Okay. Any other questions of staff? Do we have questions of the applicant? Does anyone...?

Mrs. Hazard: I have two.

Mr. Rhodes: Could we ask the applicant to come forward please? If you could, please state your name.

*Planning Commission Minutes
January 4, 2012*

Mr. Moran: Yes. My name is John Moran. I'm representing Branca Development and we are the engineer that's representing Marquis Properties.

Mr. Rhodes: Thank you. Mrs. Hazard?

Mrs. Hazard: Sure. First, thanks for meeting with me to... on going over the topography because there are some, even identified by Mr. Howard, but to some it's a challenging lot I'm sure from your perspective. Are there, I guess first, are there any comments you would like to make? I just have two quick things.

Mr. Moran: No, it was pretty much covered... she pretty much covered it. Except I think the waiver, I believe for this the drainfields was 2010, wasn't it? You said it said six on there.

Mrs. Ennis: Yes. I got 2010.

Mr. Moran: It was 2010 when the Planning... Supervisors approved that.

Mrs. Hazard: Just to clarify especially because it sounds like the ingress and egress there was a lot going on with this particular subdivision. I thank you first, for putting the letters on the back page so we could really understand where it was going. The letter that talks about Mr. Goodpasture, it was Dear Mr. Goodpasture and it was about the contract of making sure there was sufficient, I guess for the sight distance. Has that been...? If you could sort of... you and I have talked about it, but just to kind of clarify for the record what that was required for.

Mr. Moran: It is now, I'm not totally sure on all of it because see this property was picked up in a foreclosure auction and it was named Tyler Estates; it was purchased from Frank Tyler. It was my assumption those two parcels out front they had to get the easement in...right in before they could move forward. And then they were working with Mr. Tyler after that for the remainder of which they will have to get prior to construction, which they may have to get additional grading easements when they put the road in from some of the adjacent properties.

Mrs. Hazard: But based on how I have read this letter, too, that they have covered themselves, that if there are requirements that are going to be further needed that there is, either in this contract or whatever, that it's still going to be a viable project... that there has been the correct negotiations done.

Mr. Moran: That is true.

Mrs. Hazard: Everybody wants it to be viable, and not get far down the line. The only other question I had is, it does appear that it's in the Airport Impact Overlay Zone. Was that... is that correct? Or maybe that was to Mrs. Ennis.

Mr. Moran: I'm not totally...

Mrs. Hazard: It says Zone H.

Mr. Harvey: Yes, Mrs. Hazard. That's the horizontal zone. That's essentially the area where aircraft may be circling for their pattern to land, so it's not directly impacting a flight pattern.

Planning Commission Minutes
January 4, 2012

Mrs. Hazard: Okay. As long as we weren't in the direct flight path, I was going to then at least suggest...

Mr. Moran: No, it's across the road from that.

Mrs. Hazard: That was where... I'm looking at where it was. It didn't seem like it, but it was on the plan, so I just wanted to make sure that I made sure that I understand that but, other than that I know you had a challenging time to get these lots in there, you and I have spoken.

Mr. Moran: It can all work; it's just making it all fit in there and so forth.

Mrs. Hazard: Exactly. But again, I'd like to thank the applicant and Mrs. Ennis for walking through this one; it was not the easiest one to shoehorn in there, I understand.

Mr. Rhodes: Are there any other questions for the applicant? Okay, thank you sir. It's back to the Planning Commission. Mrs. Hazard?

Mrs. Hazard: Since this is in the Hartwood District, I would move for approval of SUB2501460 Tyler Estates Preliminary Subdivision Plan.

Mr. Rhodes: Okay, we have a motion.

Mr. Howard: Second.

Mr. Rhodes: Seconded Mr. Howard. Any discussion? Mrs. Hazard?

Mrs. Hazard: Essentially it appears that the applicant has met all the requirements that have been set forth and has provided the letters and appears to meet all the requirements required by Stafford County.

Mr. Rhodes: Thank you. Mr. Howard?

Mr. Howard: No. You know, my concern was answered, just about the side lot lines and if there were any other waivers granted based on the fact that they did not look conforming to the sketches provided, but certainly that was explained by Mrs. Ennis.

Mr. Rhodes: Okay. Thank you. Are there any other comments, any other members? With that I will call for the vote to... recommending approval of SUB2501460 Tyler Estates Preliminary Subdivision Plan. All those in favor signify by saying aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Planning Commission Minutes
January 4, 2012

Mr. Hirons: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? Passes 7-0. Thank you very much, and thank you for the efforts. Let's see... the item number 3 is still in deferral. Correct Mr. Harvey?

3. Zoning Ordinance Amendment; Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) (**Time Limit: October 6, 2010**) (**History - Deferred at June 16, 2010 Meeting to August 18, 2010**) (**Deferred at July 21, 2010 Meeting to September 1, 2010**) (**Deferred at September 1, 2010 Meeting to October 6, 2010 Meeting**) (**Deferred - Requesting additional time from Board of Supervisors**)

Mr. Harvey: That's correct Mr. Chairman.

Mr. Rhodes: Okay. Thank you. Next will be new business if you'll allow the new Chair to screw things up and get out of order. I would like to just take a moment to welcome our two new members to the Planning Commission, two and a... I think a 12th too, since you did have a couple of meetings Mr. Apicella. But there is a new composition... the Commission with Mr. Schwartz and Mr. Boswell's joining us. And we just certainly thank you for being willing to take the invitation to be appointed by your Supervisor and willing to take the time to join us every couple weeks and do the homework with the stacks of paper and you're going to go through the same joy we have all done which is figuring out what to do with all that stuff as it starts to quickly accumulate with you. But you'll find we have a tremendous staff that is very responsive trying to adapt and adjust to whatever approaches we may take of this and they'll be a tremendous asset to you, and I'd suggest you reach out to them and certainly with any of us, and any questions you may have we'd be glad to help with that; but welcome to both of you. Thank you for joining us. With that we'll go on to new business item number 4, Moncure Valley Preliminary Subdivision Plan. Mr. Harvey?

NEW BUSINESS

4. SUB1100240; Moncure Valley Preliminary Subdivision Plan - A preliminary subdivision plan for 118 single family detached units, zoned R-1 consisting of 53.08 acres located on the west side of Bells Hill Rd approximately 1900 feet north of its intersection with US Route 1 on Assessor's Parcels 30-18, 30-19, 30-19A, 30-20, 30-21, 30-22, 30-22A and 30-22B within the Aquia Election District. (**Time Limit: March 30, 2012**)

Mr. Harvey: Thank you Mr. Chairman. Please recognize Paul Santay for the presentation.

Mr. Santay: Computer please. Thank you Mr. Harvey. Good evening Mr. Chairman, members of the Planning Commission. I present to you tonight item number 4, Preliminary Subdivision Plan SUB1100241, Moncure Valley. Just some application information here for you all. The owner listed as James and Karen Moncure. The applicant is also the engineer; his name is Anthony Venafro from Smith Engineering. The original date of the application dates back to July 11, 2011, and our Technical Review Committee date was on August 10, 2011. The property is located on Assessor's, well I guess I should say, Tax Map 30 because there are multiple Assessor's Parcels as you can see there. The location is on the west side of Bells Hill Road across from Woodmont Court, just south of Azalea

Planning Commission Minutes
January 4, 2012

Woods. The size of the parcel is about 53 acres, and it's zoned R-1, Suburban Residential. The number of lots proposed are 117 single-family, and the election district is in the Aquia Election District. You'll notice now the location map; the shaded portions of the map are the property in question. To the left of the shaded portion is the interstate, and the right side of the shaded portion is Bells Hill Road, running from the bottom south to top of the north side. Again, the same photo except the aerial view, again noticing the interstate on the left-hand side of the page. And, finally, the zoning map with all the corresponding zoning surrounding the property in question. Some background information... this plan was originally approved as a Cluster Subdivision Plan on June 27, 2011, for 119 single-family residential lots. The Preliminary Plan, as I said before, was submitted on July 11, 2011, followed by an initial submittal of a waiver request on September 9, 2011. I will be getting to that later on in the presentation. And based upon correspondence from Stafford County Department of Parks and Recreation and the public schools... Stafford County Public Schools, there is no interest in the usable open space that is provided or shown on the plan. Site information... the existing site conditions consist of multiple structures used for residential and agricultural purposes. They do intend on servicing or being serviced by public water and sewer. The approximate open space is a little under 25 acres, and they will be utilizing Stormwater Management with one retention basin and two infiltration trenches. Surrounding communities include Azalea Woods, Woodmont, Moncure Estates, and Belandres. The next slide shown here is the overall Preliminary Subdivision Plan. I apologize for some of the clarity issues... this is probably the best I could do on such a small sketch. But again you will notice on the lower half of the page, that is Bells Hill Road from left to right, left being the south, right being the north-hand side and to the top of the screen it would be the near the end of the cul-de-sacs would be the interstate. As I had mentioned before, with the submittal of the Preliminary Plan, the applicant is also requesting a waiver of Section 22-156 of the Subdivision Ordinance. This is referring to block length; I believe that is attachment number 8 in the staff report. Yes, attachment number 8 in the staff report. But basically according to Section 22-156, no residential blocks shall be longer than 1,200 linear feet from intersection to intersection. And the road in question that the waiver request applies to is Orchid Lane, which is between Doria Hill Drive and Corin Way, and the proposed length for Orchid Lane is 1,325 linear feet. The next sketch here was provided by the engineer. The darkened road to the south there, that is... what did I mention that was? Orchid Lane, I apologize... Orchid Lane. The left side of that road is Doria Hill Drive and the right... I'm sorry... the left intersection at the end of Orchid Lane would be where it intersects with Doria Hill Drive and the intersection to the right at the end of Orchid Lane would be Corin Way. You could see the, I believe it is the bottom half of that road there shows what would be 1,200 feet and the top half of that road is the 1,300... 1,325 linear feet. And again that is what their waiver request is for. We had met with the applicant numerous times. We had a lot of meetings and discussions with them. Staff has been provided with justification for the waiver request. A revised street layout would move the location of the useable open space, and disturb approximately 5,000 square feet of additional tree cover, and cause encroachment into some environmentally sensitive areas if they are to comply with the 1,200 square feet. The revised street layout would also cause unwanted street segments that are not usually acceptable to VDOT standards. I can go into more detail about that later if you wish. And also, the proposed entrance of Doria Hill Drive onto Bells Hill Road is better suited for future development of the parcel across the street on Bells Hill Road, which would be Tax Map 30-94. There are no current plans right now for that parcel to be developed, but it always is a good thing to keep that in mind for future development. Staff recommends approval of Moncure Valley Preliminary Subdivision Plan subject to the approval of the waiver request for Section 22-156 of the Subdivision Ordinance. And I would be happy to answer any questions that you may have.

Planning Commission Minutes
January 4, 2012

Mr. Rhodes: Yes, an initial question I have is, what is required for the approval of the waiver request?

Mr. Harvey: Mr. Chairman, the Subdivision Ordinance specifies that the Planning Commission may grant a waiver of any provision of the Subdivision Ordinance. It's basically at the Commissions' discretion whether you feel it's in proper character for the proposed neighborhood and surrounding communities.

Mr. Rhodes: Okay. So, if and whenever we decide to proceed on this, if we should choose to, then we would need to act on the waiver request first, and then act on the overall...

Mr. Harvey: That would be my recommendation.

Mr. Rhodes: Okay, thank you. Are there questions of staff?

Mr. Apicella: Mr. Chairman, I have some questions.

Mr. Rhodes: Yes, Mr. Apicella?

Mr. Apicella: You've indicated that it's R-1, Suburban Residential Zoning.

Mr. Santay: That is correct.

Mr. Apicella: If this were a normal subdivision, meaning not cluster subdivision, how many developing units could they have?

Mr. Santay: I know the minimum lot size when a subdivision in R-1 is clustered is 8,000 square feet. Mr. Apicella, I probably don't know the math on it if it was not a clustered subdivision, what the number of lots would be. I may have to defer maybe to Jeff or possibly consult the engineer on that, but I'm not exactly sure. Jeff, maybe you could... looks like you might have the answer.

Mr. Harvey: Doing the quick math it equates to about 79 units.

Mr. Apicella: Okay. And so under their Cluster Plan they're asking for 117?

Mr. Santay: When the Cluster Plan was approved back in June, they were approved for 119; now that the Preliminary Plan has come in, they've reduced it down to 117 proposed.

Mr. Apicella: Okay. And if my math is correct, based on a 3:1 ratio that's currently possible under a cluster subdivision, they could have up to 148 units?

Mr. Santay: I believe that is correct. There is a site tabulation on the plan. I know it's... based on the math too, that number is familiar, but again I would need to pull out my calculator. Yes, thank you... 148; thank you.

Mr. Apicella: Okay. I think you also indicated that the plan calls for 25 acres of open space?

Mr. Santay: That is correct.

Planning Commission Minutes
January 4, 2012

Mr. Apicella: Is there any space being allocated for recreational uses?

Mr. Santay: Yes, the requirement under a cluster subdivision is to provide at least one acre of useable open space. They are providing that. As far as the actual use of what that open space is going to be, under certain circumstances you may find tot lots or soccer fields or something like that, but that is usually left to the engineer and the applicant and the owner to discuss and decide on what they would prefer to see in that useable open space.

Mr. Apicella: Okay, and the... I'm not sure if I have this acronym correct if it's CPRA or CRPA... they have some areas that fit under that category, as well wetlands. What is happening with that area or areas?

Mr. Santay: That is called... considered Critical Resource Protection Area. I assume, based on the initial studies, that there was more or less a perennial stream or some kind of wetlands involved in that area, and they have according to the plan remained outside of that area with the proposed lots. And again that goes back to one issue with the waiver request. If they were to redesign the road under the standard conditions in the Subdivision Ordinance that they may need to encroach into that RPA... into that CRPA.

Mr. Apicella: Okay, just a couple more questions. You've verified again that the... both the school system and the parks department have given their... been given a chance for right of first refusal...

Mr. Santay: That's correct.

Mr. Apicella: And they've indicated no interest in any portion of the property.

Mr. Santay: That's correct.

Mr. Apicella: With regard to the block length requirement of 1,200 feet, can you explain why and how that's currently the standard?

Mr. Santay: If I were to take an educated guess on that, I would think maybe for traffic control reasons. You know... possibly the longer the road without any intersections for stop signs and such you may have some speeding motorists, maybe some safety issues as well too. So I would again probably refer to Mr. Harvey on that question and possibly the history of why that's in the Subdivision Ordinance, but that would be my first guess as to why that remains at 1,200 feet.

Mr. Apicella: Okay. Can you help me out Mr. Harvey?

Mr. Harvey: I can answer in general terms Mr. Apicella. Often you will find in standard planning practice that there are block lengths recommended in Subdivision Ordinances. There's multiple factors to consider, some of which Paul elaborated on as far as traffic flow and continuity in neighborhoods. Also, for water and sewer planning you like to create loop systems, especially for water planning because it allows us to maintain higher water pressure if you have a loop system. So, by having a series of blocks it allows you to create a loop system, versus a number of dead end lines. But specifically for Stafford, this regulation has been in place for more than 20 years. I can't speak to

Planning Commission Minutes
January 4, 2012

exactly why it's 1,200 feet, is the specified block length, but in general terms it's comparable to what we've seen elsewhere in planning practice.

Mr. Apicella: Okay, thank you. Can you, either Mr. Santay or Mr. Harvey, tell me and the Commission, if the County has ever waived the block length requirement in the past, and for what reasons?

Mr. Santay: Mr. Harvey and I... I think we had discussed this at one point in time, and I don't believe off the top of our heads if we could think of anytime where this particular waiver request of block length was granted. I might be wrong on that.

Mr. Harvey: I can't recall in recent years; in past years we've had a number of waivers that were granted for agricultural or rural subdivisions. And then there was also a change to the amendment because at one point in time the block length was 1,200 feet regardless what zoning category. But we saw it became problematic for the rural subdivisions where you have three acre lots and one acre lots with larger lot frontages, so therefore it was ultimately changed to be 2,500 feet for rural subdivisions.

Mr. Apicella: Can you think of any compelling reasons not to grant the block length? I think it's what... 125 feet?

Mr. Santay: Yes. They were asking for the additional 125 feet. Initially the applicant and engineer had submitted their first waiver request, I believe, in September. Mr. Harvey and I and some staff had discussed some of the options on that justification; we asked that at this time we were not sure we were comfortable enough to bring that waiver request to the Planning Commission. We asked that the engineer possibly provide us some more information. They've done so, and we feel comfortable enough that we can go ahead and recommend approval of the waiver request.

Mr. Apicella: And based on your opinion and your experience, the reason why they're asking for the block length extension to mitigate potential tree clearing and other environmental damage, is potentially a good reason why we would want to consider the waiver.

Mr. Santay: That and also the impacts that would have to the road design. I think there are some few... there are a few other justifications that they did provide. For example, one of them was although pipe stem lots are allowed in Cluster Subdivisions, they would rather stay away from pipe stem lots; they feel it's a better idea to not provide that to homeowners. If they were to redesign the road to fall within the block length, they would have... they would be, based on the lots that they're allowed to do by-right, they would propose pipe stem lots. So they would prefer not to do pipe stem lots and they felt that that was another reason for the justification of the waiver.

Mr. Apicella: Okay, my last question with the panel's indulgence. From a staff perspective, and again based on your experience and the spirit and intent of the Cluster Subdivision Ordinance as it currently exists in Stafford, do you feel like they meet those objectives?

Mr. Santay: Absolutely.

Mr. Apicella: And you see no compelling reasons not to approve this project?

*Planning Commission Minutes
January 4, 2012*

Mr. Santay: Based on my review of the plan and since taking this on from the beginning, there's no reason why it would not be.

Mr. Apicella: Thank you.

Mr. Rhodes: Other questions of staff?

Mrs. Hazard: Mr. Chair... go ahead.

Mr. Rhodes: Mr. Hirons?

Mr. Hirons: Back to the waiver, do any other organizations within the County or State get involved in that waiver? Did they provide any recommendation, either VDOT or Fire Marshall, whoever you can think of, or Utilities?

Mr. Santay: VDOT did not... we did speak to the... our engineer in the Transportation Department here at the County, who we talked... who is very familiar with VDOT regulations. I believe we did mention something to the VDOT office about the waiver request, and they had brought up the fact that they don't initially like to see certain street segments that would because if they had to comply with the 1,200 foot block length, but we... there was no need to obviously get any official determination from them because it is a waiver of the Subdivision Ordinance, which is a County requirement. So it would not need any sort of State approval or any other agency approval.

Mr. Hirons: The reason I ask was they speak to the fact that the... if they did not have the waiver the intersection they may possibly create or the existing intersection wouldn't meet VDOT standards. So I was just wondering if they provided any input at all, whether official or unofficial.

Mr. Santay: No, they did mention also in speaking with our traffic... our engineer in the Transportation Department, and I know it doesn't necessarily relate to the future development of the parcel across the street, but I believe there is a certain distance where VDOT does not like to see entrances so close together. And if the parcel to... on the other side of Bells Hill Road were to be developed, that they would significantly have to change the location of their entrance, if Moncure Valley were to fall within the 1,200 linear feet of block length. So, you know, it'd be... the way they have it proposed as shown on the plan, if there were ever future development on the other side of Bells Hill Road, it would line up pretty nicely.

Mr. Hirons: Okay and that waiver process again is through us, correct? We grant the waiver?

Mr. Santay: That's correct.

Mr. Hirons: Okay, thank you; that's all I have.

Mr. Rhodes: Mrs. Hazard?

Mrs. Hazard: Well, we're sort of going beat up the waiver request, but I think we've covered everything. But as part of the TRC, the waiver request was fairly an integral part of this plan going

Planning Commission Minutes
January 4, 2012

forward, so any of the usually... usual cast of characters of Fire and Rescue, VDOT, Utility, public... they're all sitting at that TRC.

Mr. Santay: Absolutely. It was a comment that was made and discussed at TRC. Now what the... the final decision to apply for the waiver request was not decided by the applicant or the engineer at that time, but they knew that they were beyond the block length and something needed to be done, whether it was change the plan or apply for the waiver.

Mrs. Hazard: Right, I mean so there was an opportunity for the parties that potentially could be impacted to...?

Mr. Santay: Yes that's correct.

Mrs. Hazard: Because my concern of course would be if Fire and Rescue had some huge issue, I think you would be aware of it by now. My second question is, I did see in the letter from... let me make sure I've got it highlighted correctly... I think it was a letter to you from VDOT. They had about recommending that the note be added prior to approval of the Preliminary Plan that there'll be no grading or disturbance within the I-95 right-of-way. I'm not certain, but I will tell you I have... I saw in the plans there, I guess it's the number 30, that a VDOT Land Use Plan will be required prior to the start of any construction within the right-of-way. Has that issue or comment been resolved to your satisfaction?

Mr. Santay: Yes, and I think we would not have received a letter from VDOT if they weren't completely happy with what was shown on the plan.

Mrs. Hazard: But I guess how... I guess I read that they thought there would be no grading or disturbance within the I-95, and on the plan it says that they know that they'll need to get a permit if it was going to be done. I just want to make sure there was no inconsistency...

Mr. Santay: I would assume that that was to get a permit on any existing right-of-way on Bells Hill Road, not right-of-way for the interstate. I might be wrong on that, I may need to defer to the engineer on that, but...

Mrs. Hazard: Okay.

Mr. Santay: ...to my knowledge there won't be any grading of any kind on the interstate.

Mrs. Hazard: Okay. I mean I may just raise that, just to make sure there is no inconsistency...

Mr. Santay: Absolutely... absolutely.

Mrs. Hazard: ... between VDOT's request. I do like to keep them happy to that extent. I would also just like to say, in general I thank you for including in the packet about the graded slopes and the information about that, because that is something I was concerned about or at least had asked some questions about, so I thank you for including that. Thank you.

Mr. Howard: Mr. Chair?

*Planning Commission Minutes
January 4, 2012*

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: A couple of questions and this could be for Paul or Mr. Harvey. What are the allowable reasons to encroach a Critical Resource Protection Area?

Mr. Santay: I know utility, water and sewer lines, I believe, Mr. Harvey, but I'll let you take the podium on that one.

Mr. Harvey: Yes, road crossings are also allowed in RPAs; those are permitted activities.

Mr. Howard: No, no. A Critical Resource Protection Area, not an RPA.

Mr. Harvey: Yes, that's the same thing.

Mr. Howard: Okay. Well I'm going to... that's my second question. Can you define the difference between the Resource Protection Area and a Critical Resource Protection Area?

Mr. Harvey: By our County ordinance, it's recognized as a Critical Resource Protection Area but often times we revert to more slang or colloquial terms and call it just an RPA, instead of the critical part of it.

Mr. Howard: Okay. So, typically we can encroach on a Critical Resource Protection Area for utilities and/or for some type of road improvement or issue, and you see that all along I-95. As an example, in the Commonwealth of Virginia there's areas where VDOT had to, you know, encroach on Critical Resource Protection Areas in order to have I-95 as effective as it is today, and probably will need to do more of that as they expand the hot lanes, but... so that's correct, right?

Mr. Harvey: Correct...

Mr. Howard: And in this case I think the applicant is trying to avoid that... from disturbing that at all. Is that correct?

Mr. Santay: That's correct.

Mr. Howard: Okay. And the other issue on the waiver request is to align with what where they believe the intersection from the property across the street will likely end up, because there's probably some type of curbing or some type of gravel opening there today. Is that correct?

Mr. Santay: Well, the property across the street, Mr. Howard, is not... there's no plans of any kind for future development. I would just think that it's good planning practice to assume that at some point down the road you would think that some owner would look at the potential development of that property, and the way they have the Moncure Valley shown now would be an ideal location for having a better entrance.

Mr. Howard: And then I was in the same place Mrs. Hazard was on the comment that VDOT did provide. Is the applicant willing, and have you had conversation with the applicant, if they would add that comment onto the GDP that's before us?

Planning Commission Minutes
January 4, 2012

Mr. Santay: The Preliminary Plan? I don't that would be a problem to...

Mr. Howard: I'm sorry, the Preliminary Subdivision Plan.

Mr. Santay: I don't that would be a problem to obviously put a... if it's not on there already, I would assume it's somewhere in there but if it's not then that...

Mr. Howard: I couldn't find it, but again I can't claim I read every line either, so.

Mr. Rhodes: We can have the applicant come forward and confirm that in a moment, whenever we're done with staff.

Mr. Howard: Okay. Thank you.

Mr. Rhodes: Any other questions for staff? Just to... that there's no horse too dead to be beaten again... there was one version of one of your comments in your staff presentation. I know there was the one about where the road would come out to Bells Hill, but there was also the statement something along the lines of inappropriate street segments that are not acceptable to VDOT. What was that referencing?

Mr. Santay: Thank you, Mr. Rhodes; I know I mentioned that in the staff report. I don't think I detailed that. Allow me one second here to flip through the staff report. Attachment 7 was the letter from Smith Engineering I believe addressed to Mr. Howard... at that time he would be Chairman... going through the justification for the waiver request and I believe it is... I believe it's number 2... no. I can't seem to find it right at this time on the staff report, but as far as street segmenting...

Mr. Rhodes: Is it the map that's Attachment 7, Page 4 of 6?

Mr. Santay: Yes.

Mr. Harvey: Yes Mr. Rhodes.

Mr. Santay: Yes, you can see there that basically...

Mr. Rhodes: I just didn't know what I was seeing here so...

Mr. Santay: VDOT would like to have more than one house located on a street segment, you know, from intersection to intersection. The way they would have to redesign the property, and I believe I'm stating this correctly... maybe the engineer could clarify when they... if they come up.

Mr. Rhodes: Okay, thank you.

Mr. Santay: If they were to comply with the 1,200 square foot or 1,200 linear feet block length, they would be forced to put a lot location... I'm sorry, one house location on a street segment, and VDOT naturally does not like that idea, and would normally ask for, you know, plans to change or something to be done. I know somewhere here in the staff report... I apologize it's not coming to me. Oh, I'm sorry, here it is; I just found it. On Attachment 7, Page 5 of 6, number 1 does talk about the property

Planning Commission Minutes
January 4, 2012

across the street on Bells Hill Road. If you continue further, the last sentence on page 5 of 6 basically states, conformance to the maximum block length of 1,200 feet will force a northerly shift of the future intersection of approximately 130 feet. And then on page 6 it continues, due to VDOT intersection spacing requirements 300 feet... well, no, that wasn't it either. I apologize; I must be wrong Mr. Rhodes, it was on here somewhere but I can't seem to find it.

Mr. Rhodes: Okay, maybe the applicant can...

Mr. Santay: Well... I'm sorry number 5. The result and layout to meet the maximum block length may propose two street segments which would only have one dwelling unit fronting on their respective street segment, which is generally not acceptable to VDOT. There we go, I apologize.

Mr. Rhodes: Okay.

Mr. Harvey: Mr. Rhodes, the significance for staff is that cluster subdivisions are required to have roads that are to be ultimately maintained by VDOT, so to approve a design that could not be taken over by VDOT for maintenance would not be permitted. That's why staff felt that the waiver was specifically justified for this...

Mr. Rhodes: Okay.

Mr. Harvey: ... reason, but also for other reasons as well.

Mr. Rhodes: So, from that I take... I'm making the assumption that you, other than this configuration, you didn't see other viable reconfigurations, and therefore you are supporting the longer...

Mr. Harvey: That's correct. Staff met with the design engineer and he gave us alternatives, which one of which you see in your report.

Mr. Rhodes: Okay, thank you. Any other questions for staff? Are there any questions for the applicant? Would the applicant like to come forward to make any comments?

Mr. Howard: Well, I do have a question for the applicant if the...

Mr. Rhodes: Very good. Then if the applicant could come forward please.

Mr. Howard: ... if (inaudible) comment if it hasn't been entered or not.

Mr. Rhodes: Is there anything that we're missing?

Mr. Howard: And obviously any other information they want to provide.

Mr. Rhodes: Certainly. Sir, if you could state your name for the record.

Mr. Smith: Good evening Commissioners. My name is Blake Smith of Smith Engineering, the applicant on the project; happy to answer any questions.

Planning Commission Minutes
January 4, 2012

Mr. Rhodes: Very good. Mr. Howard.

Mr. Howard: So, the question was VDOT sent a letter on October 17th indicating that they recommended a note be added prior to the final approval and signatures of the Preliminary Plan, that there will be no grading or disturbance within the I-95 right-of-way. It doesn't seem like that's your plan.

Mr. Smith: We are not proposing any disturbance in the I-95 right-of-way. It's limited access right-of-way and we would have to get approval out of Richmond if we were to do anything like that, and there's really no reason to in this case and that's... so... (inaudible).

Mr. Howard: Would you then concede to add that comment on your Preliminary Subdivision Plan?

Mr. Smith: Absolutely, if it's not already there.

Mr. Howard: Okay.

Mr. Rhodes: Okay.

Mr. Howard: Thank you.

Mr. Rhodes: Thank you. Other questions for the applicant? Are there any other points you'd like to raise that maybe staff didn't?

Mr. Smith: No. I'd like to thank Paul for, and Mr. Harvey, for doing such a good job on working with us so closely.

Mr. Rhodes: Great.

Mr. Smith: It's been a pleasure.

Mr. Rhodes: Okay. Thank you very much. Sir?

Mr. Moncure: Mr. Moncure, the applicant. I'd just like to say staff and the engineer for that matter have been fantastic. They've worked together fantastically and I'd like to note that I did not disturb your dinner at Ruby Tuesdays.

Mr. Rhodes: Yes...yes, that's right. I saw you sitting over there.

Mr. Moncure: But...

Mr. Rhodes: I only had seven minutes to eat that though, if you noticed.

Mr. Moncure: I saw you with your family and running off and I was so tempted, but I didn't. But... Mr. Schwartz, I have been hanging on to a picture of your house for about 10 years that I'd like to give to you at some point, so... I brought with me. I appreciate all the questions, thank you.

*Planning Commission Minutes
January 4, 2012*

Mr. Rhodes: Good. Thank you.

Mrs. Hazard: I guess...

Mr. Moncure: Congratulations to Chairman, Vice-Chairman, Secretary... Roy, you look good up there... Steven.

Mrs. Hazard: Mr. Moncure, could I just ask one thing? We have a secondary thing dealing with cluster subdivision and it talked about there has been some concerns sometimes in the open space, the useable open space, that there has been some concern working with the applicant to make sure that it's actually used for recreation. Based on all that I have read in here, it says that it's going to be a tot lot. But because that concern was raised actually in a separate packet that we'll be dealing with, I just feel like let's just ask. Your intent is to make some amenities for that, useable amenities, for the cluster subdivision, I think tot lots, what's on here, but just to check.

Mr. Moncure: I feel that that would most likely be the appropriate thing, but I'm really open to whatever. As far as... you know, also in that block length waiver, there's a lot of engineer talk. But just so you know, the lady that owns the property across the street is an elderly lady that helped me and my family when we needed it. Part of this plan is to make it so that if she ever wanted to, or her children wanted to, do something one day they're not met with an obstacle caused by my development, and in fact, I did do a layout for her so that she could see it. That was... that's the part that doesn't get talked about.

Mrs. Hazard: So, at least she's aware of this, which at least makes me feel better, too...

Mr. Moncure: Oh, absolutely.

Mrs. Hazard: ... on a waiver that impacts potentially adjoining... it doesn't appear that potentially...

Mr. Moncure: She's one glad lady.

Mrs. Hazard: Well, good at least she's aware.

Mr. Moncure: If I could approach?

Mr. Rhodes: Okay. Any other questions for the applicants? Okay. Very good, so I'll bring it back to the Planning Commission. Any other comments or discussion?

Mr. Moncure: Thank you.

Mr. Apicella: Mr. Chairman, I'd like to recommend approval of the requested Block Length Waiver, which I believe is a request of 125 linear square feet.

Mr. Rhodes: Yes, it was. Okay, is there a second?

Mrs. Hazard: Second.

*Planning Commission Minutes
January 4, 2012*

Mr. Rhodes: Okay. Motion and seconded, is there any comment? Any further comment Mr. Apicella?

Mr. Apicella: I believe based on the situation placed on the ground and the, I believe, noble and desirable intent to mitigate the environmental impact, if the block length were not approved, as well as the road conditions necessitate that particular block length based on what we heard from staff and those are the reasons why I would recommend approval of the Block Length Waiver in this case.

Mr. Rhodes: Thank you Mr. Apicella. Mrs. Hazard?

Mrs. Hazard: Really just to echo the same. It appears that the CRPA or the RPA, whatever we're going to call it, it has less disturbance there. It appears that there will be a continuation of the trees there and that there would not be unnecessary demolishing of good shrubbery and trees. And I do actually applaud that because I would like to submit that that's something we want to be doing. And also the other utilities fire, nobody really seems to have an issue with that, so that also goes to me towards approval of this particular waiver and this particular circumstance.

Mr. Rhodes: Thank you Mrs. Hazard. Any other comments?

Mr. Howard: Yes, Mr. Chair?

Mr. Rhodes: Mr. Howard.

Mr. Howard: I think this is a good example of, you know, we have ordinances, we have them for good reasons. And the 1,200 linear feet... I remember when we discussed that initially and to Mr. Harvey's point there's really not magic behind it but is the standard and it's a standard that we ask not to be exceeded and there's a lot of reasons and rationale why you wouldn't want to exceed the 1,200 linear feet. But again, this is an example of where an applicant has come before the County and the County staff has done a good job of vetting the issue, as I would call it. And also there's a TRC process where a Technical Review Committee gets together with the applicant and with staff and members from basically every department that Stafford County has to have a chance to sort of have a bite of the apple in terms of what's important from a Fire/Rescue, Sheriff's, Transportation, and all the other departments that we have in the County, as well as VDOT has that same opportunity to come to that meeting and they do and participate in discussion. And I'm sure that this was discussed quite a bit because we don't typically see them, as Mr. Harvey indicated, but in this case it does seem like it makes a lot of sense. It seems like the issue was well thought out and I think a very good solution and also very forward thinking.

Mr. Rhodes: Thank you, Mr. Howard. Any other comments? I would just comment that I think the members here and the staff here in the process has tried hard to challenge very strongly the possibility of a waiver because it's not something we want to do very often; it's certainly not something we want to set a lot of precedence for, and I appreciate the deliberate nature of staff to work through that in that manner and leave us with some fairly good transportation options associated with this. The connections to each property should they ever be developed, that are fairly forward and applied and the very direct intersections that exist in there, so I appreciate the efforts to go forward on that. And with that I'll call for the vote. All those in favor of the motion to approve the waiver request of Section 22-

Planning Commission Minutes
January 4, 2012

156 of the Subdivision Ordinance for this proposal of the Moncure Valley Preliminary Subdivision Plan, please signify by saying aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hirons: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? None, passes 7-0.

Mr. Apicella: Mr. Chairman?

Mr. Rhodes: Yes, Mr. Apicella.

Mr. Apicella: I would like to recommend approval of SUB1100240, Moncure Valley Preliminary Subdivision Plan, with the... I believe the applicants agreed...

Mr. Rhodes: Confirmation, yes.

Mr. Apicella: ... what's the right terminology... with the applicants' agreement to put on the General Development Plan that there will be no grading or disturbance within the I-95 right-of-way.

Mr. Rhodes: There's the motion. Is there a second?

Mr. Hirons: Second.

Mr. Rhodes: Second by Mr. Hirons. Any comments? Mr. Apicella you have... there's the motion, you have the mic.

Mr. Apicella: Mr. Chairman, I've taken a hard look at this particular project. I believe it meets both the spirit intent of the current Cluster Subdivision Ordinance. I think it's, again, a well thought out plan and it does go a long way to preserving open space. And I think it's a good solid plan that's been well vetted by the staff which they again recommend approval as do I.

Mr. Rhodes: Thank you. Mr. Hirons, as a seconder?

Mr. Hirons: Yes, Mr. Chairman, just to echo Mr. Apicella's comments. I think it is a well thought out plan. I think that's a good way to put it. As I understand it, this property is the family property of the applicant who have... the family that's been here for a couple of years. They know quite a bit about this County and I'm sure it's fairly bittersweet that they have to go through this process and taking this

*Planning Commission Minutes
January 4, 2012*

on, but they've done a very good job to, I think, pass on the legacy of their family to the future residents of Stafford County.

Mr. Rhodes: Okay, thank you. Any other comments? I would just submit that it's rather unique when we have one come before us and that we can set through a session, address any discussing comments and actually be able to entertain a motion to approve at that first presentation. But this certainly seems to be a case where all have done their due diligence. The staff has done great work, and it's going to be one of those unique instances. So, with that...

Mr. Howard: It's got to be the new Chair.

Mr. Rhodes: Yes, I think we're moving things on. With that I will... all those in favor of the motion to recommend approval of SUB1100241, Moncure Valley Preliminary Subdivision Plan with the caveat or confirmation that that sided notation is not in the GEP it will be listed in there, signify by saying aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hirons: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? None, it passes 7-0. Thank you very much all. Alright, it's 7:30.

Mrs. Hazard: Look at that...

7:30 P.M.

PUBLIC PRESENTATIONS

Mr. Rhodes: This guy runs a meeting, let me tell you. Okay, it is now 7:30, which is the time that we set aside for public presentations. If there should be anyone present that would like to speak on an item, any item, other than the two that are listed for public hearing, and those two are the amendment to the Zoning Ordinance dealing with proposed Ordinance O12-04, Definition of Specific Terms to provide a definition for Wetland Mitigation Bank, or item number 6, amendment to the Zoning Ordinance, would the Board of Supervisors refer proposed Ordinance to us that would amend and reordain the Stafford County Code Definition of Specific Terms to amend the definition of recycling center to recycling facilities. If you have comments on anything other than those two items, this is the time that we have set aside for you to come forward and make those comments. You will have...

Planning Commission Minutes
January 4, 2012

we've set aside three minutes for each speaker, and at a certain time at the end of those three minutes you would be signaled and would be asked to wrap up. So if there's anyone who would like to come forward for any of those... any other item other than those two cited, please do so at this time. And there we go, okay. And so now we are onto the public hearings portion, and we have item number 5. Mr. Harvey?

PUBLIC HEARINGS

5. Amendment to Zoning Ordinance - The Board of Supervisors referred proposed Ordinance O12-04 to the Planning Commission. Proposed Ordinance O12-04 would amend and reordain Stafford County Code, Section 28-35, "Definition of Specific Terms" and Section 28-35, Table 3.1, "Table of Uses and Standards," to provide a definition of a Wetland Mitigation Bank and to allow a Wetland Mitigation Bank as an allowed use in the A-1, Agricultural and A-2, Rural Residential Zoning Districts. **(Time Limit: January 17, 2012)**

Mr. Harvey: Thank you Mr. Chairman. Please recognize Mike Lott for the presentation.

Mr. Lott: Good evening Mr. Chairman, members of the Planning Commission. My name is Michael Lott, I'm an Environmental Planner with the Department of Planning and Zoning. The presentation...

Mr. Howard: Computer please.

Mr. Lott: There we go. How do I move these again? The mouse...

Mr. Harvey: Scroll down.

Mr. Rhodes: I'm glad to see there's somebody else with my technological capability. I just can't do this stuff. Mr. Howard, a man of many talents.

Mr. Lott: Ordinance O12-04, the Wetland Mitigation Banking Ordinance, would amend the Stafford County Zoning Ordinance to allow Wetland Mitigation Banks as a by-right use within the A-1 and A-2 zoning districts. The ordinance would also provide a definition for Wetland Mitigation Banking as well. The two sections of the Zoning Ordinance to be amended are Section 28-25 the Definitions of Specific Terms, as well as Section 28-35, Table 3.1, the Table of Uses and Standards. The definition of a Wetland Mitigation Bank as provided in the ordinance, states that, "A wetland mitigation bank is a wetland area that has been restored, established, enhanced or preserved, which is then set aside to compensate for future conversions of wetlands for development activities, and is subject to the approval of state and federal regulatory agencies". I'll get this right eventually. There are a number of conditions that have to be met before a Wetland Mitigation Bank can be approved; it's a very rigorous process. It takes two to three years to get a Wetland Mitigation Bank approved through the Inner Agency Review Team. As you may remember, the Inner Agency Review Team is comprised of the... primarily with the Department of Environmental Quality and the U.S Army Core of Engineers. Those are the two agencies that issue wetland permits for impacts to wetlands that occur through development. And there are a number of other agencies that are involved as well, like the Fish and Wildlife Service and the Game and Inland Fisheries at the State level. And the different kind of conditions that have to be met prior to approval of a Wetland Mitigation Bank are, you know, doing the necessary studies that have to be done like wetland delineations and historic preservation studies,

Planning Commission Minutes
January 4, 2012

endangered species surveys, they do title searches to make sure that there aren't already conservation easements or any other issues that might potentially disqualify the site. They study the local jurisdiction's Comprehensive Plan to make sure that there aren't any potential conflicts. They meet with the Inner Agency Review Team on site to discuss the site and get some preliminary feedback. Then they sort of develop a perspective that gets submitted to this team and the Mitigation Banking Instrument for approval. As we've discussed previously, also there's conditions that are identified in the Wetland Mitigation Banking Instrument that have to be met prior to the release of credits for sale, such as they have to record either conservation easement or restrictive covenants that have to be recorded prior to the release of any credits for sale. They have to post financial assurances to the bank for the construction mitigation activities. They have to establish an escrow fund for the long-term catastrophic and monitoring and maintenance; in other words, if anything major happens to the site that there are funds to restore it. And they also have to identify a long-term steward of the property. Again, for future releases in sale those are tied to meeting the performance criteria that are identified in the Mitigation Banking Instrument. They have to, you know, approve like getting the construction plans approved and through the process, and there's an annual monitoring on the bank that must go on for usually up to 10 years, etcetera. Just again to reiterate with the local jurisdictions how this has been dealt with in local jurisdictions. Spotsylvania County does allow Wetland Mitigation Banks within all their zoning districts, but they do require it to go through the CUP process. Loudoun County allows it as a by-right activity within their more rural zoning districts. King George, Culpeper, Fauquier, and Prince William County all allow it as a by-right activity and those jurisdictions the Zoning Administrator determined that Wetland Mitigation Banks were similar enough to an agricultural activity that they just allowed them to occur without making any specific modifications to their Zoning Ordinance to provide a definition or list them as an allowed use. Staff does recommend approval of the Ordinance. Again, this is based on sort of the rigorous review that it must go through with the Inner Agency Review Team; that it's also consistent with the Comprehensive Plan which recommends that environmentally sensitive lands such as Wetlands be protected by the establishment of conservation easements which are an important component of a mitigation bank. Also, there are no... currently no stream or mitigation banks within Stafford County, so when there are impacts to streams or wetlands within the County that occur as a result of development and they're required to purchase credits from Mitigation Banks, those credits are being purchased outside of Stafford County, because there is no... currently no option to purchase them within the County because there is no Wetland Mitigation Bank here currently. So, any... you know, we're not basically getting the benefit of mitigation because it's occurring elsewhere. Another important thing to consider is that the Wetland Mitigation Bank... you know, the restoration, creation, and enhancement of streams and wetlands that occur benefit the water quality in Stafford County. The bank that is being proposed in the County would restore over 600 feet of buffer, along about a mile of Potomac Run, which would in... but exclude cattle from within that buffered area, and would improve the water quality along Potomac Creek. Also banks can, particularly this bank, also preserves habitat for Federally and State listed endangered species, a Small Whorled Pogonias, which is a rare orchid species within the County that would... part of an easement would encompass where that species is known to exist. After that, I'm open to any questions.

Mr. Rhodes: Any questions of staff?

Mr. Howard: Go ahead Mr. Apicella.

*Planning Commission Minutes
January 4, 2012*

Mr. Apicella: For us laymen, including the other new members and I'm a semi-new member, can you just explain what is a Wetland Mitigation Bank?

Mr. Lott: Just literally as the definition says, it's an area... typically they occur on old farms where there, you know, the wetlands streams have been degraded over time. As a result of the agricultural activities, often wetlands on the site will be drained to allow agricultural crops to grow more easily. What the mitigation bank then would do is come in and essentially restore either the wetlands or the streams. They may enhance those that are there now to sort of bring them up to a more functional level. In the case of the one that's proposed at the Hampstead Farm, it's primarily a Stream Mitigation Bank. That section of Potomac Run is about a mile long within that farm, and it essentially has been farmed for probably over 150 years. There are currently no trees along Potomac Run, so that bank would then essentially restore that buffer along the stream, as well as restore the stream since there have been a lot of erosion issues over time, and we'd restore that stream to a more natural condition. And as conditioned for doing that then they are given a certain number... you know, the Inner Agency Review Team... within the Mitigation Banking Instrument identifies a certain number of credits that they can sell, and you know those... the ability to sell those credits is based on meeting the performance criteria that's identified in the bank. So, if within Stafford County for, say, the Development Project they impact so many square feet of wetlands or so many linear feet of stream, the DEQ or the Army Corps of Engineers will require them as per mitigation often now to purchase credits from a Wetland Mitigation Bank. And the number of credits they buy would be related to how... what the degree of impact they have at the site where the development is going. I don't know if that's...

Mr. Apicella: So, that's essentially trading one area that would become a wetland for another area where wetlands have been disturbed?

Mr. Lott: Yes. The Federal and the State government have basically a policy of what's called No Net Loss of Wetlands, so essentially that's for any wetlands that are lost they have to be compensated for elsewhere. They used to sort of promote wetland restoration and creation on site, and they've gone away from that towards this Wetland Mitigation Banking option. Often the ratio of credits they have to purchase are greater than the other impacts that you have, you know, essentially... basically... because the function and values of the wetlands that you've lost may not be equal to those that are currently being enhanced, so you often have to purchase greater to give you your credits for the wetland impacts you have. But yes, sort of to meet that goal of No Net Loss of Wetlands.

Mr. Apicella: And you indicated that there are no Wetlands Mitigation Banks in the County currently?

Mr. Lott: No.

Mr. Apicella: Again, for us new members, how did this issue come before us? Why is it ripe at this point in time?

Mr. Lott: It was because we received a letter from... there's basically the applicant that wishes to establish a Wetland Mitigation Bank in the Hartwood area along...within the Hampstead Farm property. They sent a letter requesting us to look at the issue whether Wetland Mitigation Banks are allowed as a by-right use within our County. At the time, we decided it would be preferable to basically clean up the ordinance and list it as a by-right use within the agricultural areas, rather than

Planning Commission Minutes
January 4, 2012

just, you know, not identifying it all, as what certain other jurisdictions had done. That's how it came; as a request.

Mr. Apicella: And so, if a Wetland Mitigation Bank is formally established, it goes through this review process that involves I believe not just the locality, but the State and Federal organizations as well. What protection status does it get... that area that's part of the bank?

Mr. Lott: You mean when... it's put under essentially a restrictive covenant or conservation easement in perpetuity.

Mr. Apicella: So, it's protected for forever.

Mr. Lott: Protected forever, essentially. I mean obviously there... if this need arises for some purpose, you know, you might be able to alter the easement in some way, if there was a need to. But it's essentially intended to be in perpetuity to meet the goal of No Net Loss of Wetlands.

Mr. Apicella: As I've got in front of me the table of... Table 3.1 District Uses and Standards for A-1 and A-2 zoning areas, there's a wide diversity of by-right activities that are allowable anywhere from buildings, a bed and breakfast, campgrounds, agriculture. In terms of the intensity of use, how would a Wetland Mitigation Bank compare to other... these other uses?

Mr. Lott: I mean there wouldn't be any structures. I mean it's not a physical bank where there's a structure built on the site. I mean, there will be some land disturbance required to restore the stream of Potomac Run. They'd have to bring in their... intending to bring in their grading plans that would be reviewed by County staff... you know get that... for basically E&S review, Erosion and Stormwater Review.

Mr. Howard: Mr. Lott, I think he's asking what are the permitted uses once the Wetlands Mitigation Bank is established?

Mr. Apicella: Well, that's one question, but I...

Mr. Howard: That's one...Okay.

Mr. Apicella: I guess...I'm using it as a measure of comparison, in terms of long-term intensity, it would seem to me that it's very minimal...

Mr. Lott: Very minimal, very light.

Mr. Apicella: ... compared to these other by-right...

Mr. Lott: Compared to a by-right subdivision, yes, it would be very light.

Mr. Apicella: Right.

*Planning Commission Minutes
January 4, 2012*

Mr. Lott: And they'll still be allowed to farm the portion of their property that's outside of the easement, but other than that, you know, it'd basically be left in a more... in a natural condition, just restored back to a more natural state.

Mr. Apicella: So, again, kind of springing off of what Mr. Howard was saying, what other... you mentioned the farming. Is any... are there any other uses or restrictions that would apply once it's designated?

Mr. Lott: You mean there'll be restrictions within the easement area that would be identified in the restrictive covenant so the easement is basically limiting to, you know, its natural condition. But outside of that easement, you know, the property owners can continue to farm, have the cattle on their property; they'll just be excluded from the area within the easement.

Mr. Apicella: Can you think of any reasons why we would not want to authorize Wetland Mitigation Banks as a by-right use?

Mr. Lott: No. Personally, I see it as beneficial to the County in terms of preserving environmentally sensitive land and improving the water quality within the County.

Mr. Apicella: So, it could be another tool in the toolbox for preservation and conservation?

Mr. Lott: I think so. You know especially with in light of the TMDL process that we're going through right now with the federal government in terms of looking at all the ways to improve water quality and just be vague. This is just another thing that would help towards that goal.

Mr. Apicella: Thank you.

Mr. Rhodes: Okay. Any other questions for staff, at this point? Mr. Hirons?

Mr. Hirons: But today, there's no restriction on someone applying for a CUP for Wetland Mitigation Bank on their property, correct?

Mr. Lott: No.

Mr. Hirons: Okay. And have we ever...we've never had an application for one?

Mr. Lott: No.

Mr. Hirons: In the jurisdictions, do you have any metrics on the jurisdictions that you had in your slide, the folks that had a CUP requirement or by-right on who has... had application, who hasn't, how many exist in those jurisdictions?

Mr. Lott: Well, I know... sure. I mean the four that did not... I know... Essentially all of them have Mitigation Banks except I do believe that Spotsylvania County, the only one that requires a CUP, does not currently, as far as I know, have a Wetland Mitigation Bank. All of the others, Culpeper, Fauquier, King George, Prince William, Loudoun, all have Wetland Mitigation Banks currently. I'm not saying that the CUP process in Spotsylvania is why they don't have one, that... there it is.

*Planning Commission Minutes
January 4, 2012*

Mr. Hirons: Yes, I don't necessarily disagree with that. That might be the cause, because my next question is what would the cost be to a homeowner or landowner if they came to apply for a CUP for a Wetlands Mitigation Bank?

Mr. Lott: I don't know exactly the fee. Jeff may know; it's over \$10,000.

Mr. Harvey: Yes, the application fee would be variable based on the acreage. We have two components to the application fee. We have a base fee, which is between \$10,000 and \$12,000, plus a per acre fee. So, with a large tract of land of several hundred acres, you can imagine that the fee is fairly large. It may be a deterrent for people who are wanting to file an application.

Mr. Hirons: Right. CUP's are our only option; we don't have any sort of special use or any other type of permitting process, do we?

Mr. Harvey: Under our current ordinance, no. The CUP would be required because it's not listed in our Zoning Ordinance, it's not defined. So, this would allow it to be listed and defined in the Zoning Ordinance, and therefore be permitted by-right.

Mr. Hirons: Moving on, you had basically answered Mr. Apicella's question about it just becomes kind of a conservation easement forever.

Mr. Lott: Mm-hmm.

Mr. Hirons: Is there any option for the landowner to back out of a mitigation bank once they enter into it?

Mr. Lott: I really don't... of course I guess I really don't know if that's... I know that the applicant who, Falling Springs LLC is here, they may be able to answer that question when they come up to speak later. You know, I imagine it would be difficult to do.

Mr. Hirons: This will probably not be easy for you answer; it's probably more of a question for our friend from the Commissioner of Revenues office. How does the Commissioner of Revenues office deal with these?

Mr. Lott: You know they've... they've sent several memos through this process essentially saying that they really wouldn't have any impact on how they view the land. That certainly wouldn't impact A-1 property. It's certainly not going to alter how they look at A-1 property now that this is here because you... this is a by-right, a potential by-right use of your land that somehow it's going to alter the value of the land and their previous memo said they wouldn't do that.

Mr. Hirons: Okay.

Mr. Lott: I don't think it would have any real impact with them.

Mr. Hirons: Alright, that's all I had. Thank you.

Mr. Lott: Okay.

*Planning Commission Minutes
January 4, 2012*

Mr. Rhodes: Thank you. Mr. Howard, did you have a question of staff?

Mr. Howard: No, thank you.

Mr. Rhodes: Okay.

Mr. Apicella: Mr. Chairman, can I (inaudible)?

Mr. Rhodes: Yes, Mr. Apicella, please.

Mr. Apicella: When this issue came up at the last Planning Commission meeting, I had asked Mr. Harvey, and ultimately you, to provide pros and cons of allowing Mitigation Banks via the conditional use process. And if I again may beg the panel's indulgence, since I'm not sure it was in the record, if I could go through those very quickly. With regard to pros you said a CUP would give the County greater say over the location of proposed Wetland Mitigation Banks. But as cons you said expense and time, potential applicants for a CUP will have already spent considerable time and money researching and developing a proposal for the Inner Agency Review Team. The IRT is comprised of the United States Army Corps of Engineers and the Virginia Department of Environmental Quality, as well as other federal and state agencies and is responsible for the review and approval of Wetland Mitigation Bank. So, again, I think that's reinforcing the fact that this goes through a rigorous review process that is timely and costly. And lastly you indicated that the requirement to obtain a CUP may act as a disincentive to the establishment of a Wetland Mitigation Bank within Stafford County and to the... as a contur... as a corollary the opposite would be true if it were by-right, that it would serve as an incentive to potential landowners to create Mitigation Banks if they did not have through the CUP process and it was by-right.

Mr. Lott: Yes.

Mr. Apicella: Thank you.

Mr. Rhodes: Okay, thank you. Any other questions of staff?

Mr. Howard: You know, Mr. Chairman I do...

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: It's more of a question and a point of clarification, I think. What length of time does it take to qualify the land once the Army Corps of Engineers has agreed, okay this is a good subject site. From what point and can you talk about the criteria that's required to qualify?

Mr. Lott: You know I think it's really what the potential is there to, you know, to restore streams or wetlands on the site. I mean, that's what the Army Corps of Engineers and DEQ are really looking for is, you know, are there a lot of stream... you know, mile... you know, linear feet of stream that need restoration. Is there a good...

Mr. Howard: Well, I guess let me rephrase it. So the Army Corps of Engineers agree that the Hampstead site, is a good site?

Planning Commission Minutes
January 4, 2012

Mr. Lott: Yes.

Mr. Howard: And now they say, okay this... if Stafford County, you know, deems appropriate, they decide to adopt the Wetlands Mitigation Bank Ordinance, that's good, but however, now what has to happen on that property?

Mr. Lott: Well, now you know they have to go through the process of getting their Mitigation Banking Instrument approved through the Inner Agency Review Team, which will identify all the performance criteria and the steps going forward that they have to meet.

Mr. Howard: So, there's an inspection of the subject site, where all parties I guess go and form some type...

Mr. Lott: Yes I mean they already had one meeting out there that would continue in the future.

Mr. Howard: Okay, right. So they go out and they assess the land and they come up with what they think is the right plan of action that they want the new owner of this Wetlands Mitigation Bank to undertake.

Mr. Lott: Mm-hmm.

Mr. Howard: They start that process; what happens after that?

Mr. Lott: I think they... I'm sure within the Mitigation Banking Instrument it'll identify, you know, this many linear feet of stream are restored, you've processed the grading plans and permits, you've got all your approvals from the state and the local government for those, and...

Mr. Howard: And you get to a certain point where we're gonna give you five credits.

Mr. Lott: ... you get to a certain point where you're allowed to release... to receive credit.

Mr. Howard: Right, they're going to give me X amount of credits. Okay.

Mr. Lott: And then you carry on, you know, with the project over time.

Mr. Howard: And then they're required to actually come back and then re-inspect.

Mr. Lott: Yes, they monitor it for at least 10 years.

Mr. Howard: And in order to qualify for additional credits they have to be in compliance with the existing Wetlands Mitigation Bank.

Mr. Lott: Yes, they are going to plant literally thousands and thousands of trees...

Mr. Howard: Right.

*Planning Commission Minutes
January 4, 2012*

Mr. Lott: And they have to monitor them, make sure they are surviving, that they're meeting the ecological functions criteria, they're identified, you know, in the banking instrument. And if it's not, you know, then they have to address it or they will have fewer credits than are identified in the banking instrument to release.

Mr. Howard: Now, if the County adopted the CUP process in lieu of this ordinance that's before us, would that homeowner be under the same rules and regulations...?

Mr. Lott: It wouldn't change.

Mr. Howard: Okay. So, they would have to essentially do the same functions. But then it comes down to resources; do they have the money to bring in the type of equipment required to restore those wetlands?

Mr. Lott: Right.

Mr. Howard: Okay.

Mr. Lott: It'd just be another burden.

Mr. Howard: Right. Thank you.

Mr. Rhodes: I believe the applicant had... has done this elsewhere?

Mr. Lott: Falling Springs LLC has a number of banks within Virginia.

Mr. Rhodes: Mr. Howard, would you like to see if they can expand on some of those questions you had asked (inaudible)?

Mr. Howard: That'd be great. Thank you, Mr. Chair.

Mr. Rhodes: Could we ask the applicant to come forward please. If you could state your name please for the...

Mr. Parker: Yes. Good evening, my name is James Parker. I'm with Falling Springs LLC, the Mitigation Bank Sponsor for this proposed project, Hampstead Mitigation Bank.

Mr. Rhodes: Great, thank you. I think you just heard some of the questions Mr. Howard has asked. If you could expand on some of those steps involved after you get passed a...

Mr. Parker: Absolutely. I think what you're trying to touch upon is there is an initial visit and sort of an understanding that the site does meet certain preliminary approval, but then begins the more lengthy strenuous process through which we go with all of our projects. The first step is getting the Mitigation Bank Instrument approved. We'll work with consultants to design the Mitigation Bank so that it meets the criteria that are pretty much standard for most Mitigation Banks, whether it's stream or wetland. The design process will be a collaborative one involving the Corps of Engineers, DEQ, consultants, etcetera, to provide input, to make sure (1) the site is suitable, but (2) it will meet that success criteria

Planning Commission Minutes
January 4, 2012

that's laid... that's set forth. Even once the MBI is approved through that 18 to 30 month process then begins a series of steps. First and foremost, record Restrictive Covenants. I think the question was raised earlier, you know, once the bank's approved, can the landowner repeal that? No, once those Restrictive Covenants are on the land and you have perhaps earned some credits or begun work, that site is protected in perpetuity. So, it is forever and it won't be... the trees will not be harvested. It will not be converted back to agricultural use. So those Restrictive Covenants are put in place up-front initially. We'll also go ahead and set up basically a power train warranty. We have to bond and assure that our site meets that success criteria. We have to put up those assurances in order to start earning credits. And then once those bonds are posted, we would then go forward and actually begin the construction work. The construction can take, you know, it will happen typically in the first year, six month process, and then after that construction and those... all the construction plans are approved again by the Corps, DEQ, we will then go on a 10-year monitoring period making sure that the structures that are put in place in the stream or the hydrology that's established in the wetlands is meeting... and the trees that were planted... are meeting the success criteria, and the site is re-establishing itself as we intend. So, again it's a series of steps, beginning with the MBI process two years and then once construction occurs, another 10 years after that. And through that time period, that 10 year time period, we will get releases of credits to sell based on our performance.

Mr. Rhodes: Any other questions for the applicant?

Mr. Howard: No. Thank you.

Mr. Rhodes: Mrs. Hazard?

Mrs. Hazard: Yes. In our staff opinion, or our staff guide, there said that typically greater than 80% of the bank's credits come from wetland or stream restoration rather than preservation of the existing resources. In your, you know, experience with that, is that indeed the case?

Mr. Parker: Yes, that's true. The... you know, speaking to Mike Lott's point earlier about zero net loss, by restoring and creating more credits or more acres or linear feet we are assuring that zero net loss theory. Preservation, while important to preserve a well-functioning wetland or stream, doesn't have the value, doesn't have the lift that in the case of the Hampstead Farm where its impaired streams and wetlands, we're putting Mother Nature back and actually creating lift. And on average, it's certainly you're never going to get a site approved that has anywhere less than 50% restoration, enhancement and creation, but on average certainly trending more towards 75 and greater percent.

Mrs. Hazard: And just a second question is I know that based on other localities we cannot, of course, require that Stafford use... Stafford developers who need credits have to come to the... your bank; however, as I sit here of course I would love for it to stay within here and within sort of going into your business plan, you must have in place some kind of marketing to people in the... developers or others in the community that when credits are available that someone in Stafford would be made aware that, hey if you need these credits there's a opportunity in Stafford. And I'm not trying... but just to, since I know we can't require it, how... are you aware of how you could do that in Stafford County to, you know, sort of also help us too?

Mr. Parker: Create awareness... absolutely. I mean first and foremost, we do have marketing materials that we use and distribute routinely. And, you know, a lot of the information provided by the

Planning Commission Minutes
January 4, 2012

County projects that are proposed and in going through the Planning process are ones where we're tracking, and therein by reaching out to those potential customers if they do disturb wetlands or streams. But also, you know, there are some large infrastructure projects that are being planned. We're well aware of those and doing our best to, you know, that's how we make a living, so that's a big part of what I do every day. So, the marketing efforts are in place and I think if there's any feedback on how we can do better to reach our target customers, I'd love to welcome any feedback. But it's certainly a, you know, something we plan to do and are happy to provide materials if and when needed.

Mr. Hirons: Wetland Mitigation Banks are not unique to the Commonwealth of Virginia, are they?

Mr. Parker: No.

Mr. Hirons: They're nationwide?

Mr. Parker: They are nationwide.

Mr. Hirons: Do you do work outside of Virginia?

Mr. Parker: We do. We have projects in Georgia, Florida, and one pending in California.

Mr. Hirons: I kind of go back to the process and dealing with the jurisdictions on those. Are those jurisdictions much like split up like Virginia in that some of them have by-right use in that particular type of zoning, within that jurisdiction, and some have conditional use?

Mr. Parker: Yes, we've run... with our projects we've always approached the municipalities the same way, and that is, if it's not explicit in the County plans, you know, approach it in the same way we did here, with a letter and have found that they will either consider it a one time by-right or they already have adopted such an Ordinance as we are proposing that is by-right. And in no other County have we run into a CUP; it's either there's been a bank in place and they've kind of groomed the process or it was considered...our project was considered and allowed to be by-right.

Mr. Hirons: Alright. Thank you.

Mr. Rhodes: Mr. Apicella?

Mr. Apicella: Just one question of... to ensure that Mr. Hirons' earlier question was answered. I think he asked can someone back out of this. So, can you answer that question once somebody has an established Wetlands Mitigation Bank and it has a conservation easement on it, what are their rights and privileges once that happens?

Mr. Parker: Well, when the bank is approved, we actually record restrictive covenants right away, prior to bank approval. That gives the Corps and the IRT, the agencies confidence that those measures have been taken. There's not going to be any funny business once the MBI is approved. Once the MBI is approved, those restrictive covenants are in place and you are actually granted an initial credit release; that's, you know, less than 10 to 15 percent of your credits initially once you bond the project, once you put the assurances in place. So, basically at that point they've provided you some means to

Planning Commission Minutes
January 4, 2012

create... generate some revenue so that you can generate cash flow to fund the project. And at that point there would be no way that you could unwind that, particularly if credits were sold. Even if credits aren't sold, even, you know, following bank approval, I don't see how that easement and those restrictive covenants could be unwound. There are, however, clauses in all of our easement agreements for condemnation issues and that... I don't think that's what you're referring to but that is a whole separate matter and there are allowances I think to some degree. But as far as us backing out or walking away, we are bound with the Corps, the Army Corps of Engineers and DEQ to see the project through.

Mr. Apicella: And the easement runs with the land, so future property owners are held to the requirements on the easement?

Mr. Parker: Oh, absolutely. Yes, the easement can be... could be passed on to another entity to operate the bank, but it always runs with the land. And the landowners, in this case, are well aware of those restrictive covenants and must abide by those.

Mr. Apicella: Thank you.

Mr. Rhodes: Any other questions?

Mr. Howard: Mr. Chair?

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: My question I think is more for staff, but Mr. Parker, feel free if you can answer this. Does this help the County be in better compliance, if you will Mr. Harvey, with the Chesapeake Bay Act and the requirements that we, you know, we are supposed to have in place and follow?

Mr. Harvey: Mr. Howard, it certainly would help us in our Stormwater Management aspects for the Chesapeake Bay Act, as Mr. Lott was referring to. The Federal Government is imposing a total maximum daily load of nutrients to Stafford County for our streams by having a Mitigation Bank that helps preserve water quality on those streams, so it helps us meet that overall goal.

Mr. Howard: Great, thank you.

Mr. Rhodes: Any other questions? Thank you sir.

Mr. Parker: Thank you.

Mr. Rhodes: We now come to the public comment portion of the public hearing for this... for item number 5. If there's anyone who has a comment they would like to address to the Planning Commission, they can come forward at this time. It's an opportunity for us to receive items that you might suggest for our consideration. It is not typically an interactive dialogue and a question and answer, but certainly if there is an issue raised that we can easily get addressed or clarified by staff we would attempt to do so. If you'd state your full name and your address, a green light will come on there meaning you have three minutes, a yellow light comes on at one minute, red light asks you to wrap up. Sir?

*Planning Commission Minutes
January 4, 2012*

Mr. Crocker: Thank you Mr. Chairman, members of the Planning Commission. My name is Clay Crocker. I'm the youngest son of Nelson Crocker, the landowner of Hampstead Farm here in Stafford County. My sister, Lorrina, and I are here to represent my father and the entire family in this matter. I just wanted to let you know how excited our family is about the prospects of having a Stream and Wetlands Mitigation Bank on our property. Falling Springs approached my family two and a half years ago with what I thought at the time was sort of a crazy idea, an idea that we could actually take the streams and the wetlands on our property and basically rehabilitate them. And, again, we're excited about this because if this project goes through, we're going to actually return the streams and the wetlands on that property to a condition that they haven't seen since probably before the Revolutionary War. Hampstead Farm has been an active farm since pre-revolutionary days; and as a result of the agricultural activities over the last two or three centuries, the streams and wetlands have been degraded. But this is an opportunity, an opportunity to turn that around. So I'd like to encourage the Planning Commission to support this change in the Zoning Ordinance, to allow Stream and Wetlands Mitigation Banks by-right. I think there are a lot of positives for the County if this goes forward. It's an opportunity, particularly with the project on my family's property, to improve the water quality of Potomac Run. We're also going to be able to restore a lot of lost habitat on the streams and the wetlands on the property. We're going to also be protecting the endangered species on the property. As Mr. Lott pointed out, we do have a significant colony of Small Whorled Pogonias that had been found on the property.

Mr. Rhodes: One minute remaining. I think the timer's off.

Mr. Crocker: Thank you. I think this is also in the spirit of the County's goals to preserve the rural character of the rural areas in the County, and it'll add to the quantity of protected land in the County. It's also a positive for our family. This is a means for us to be able to keep the land as it is, and in better condition than it is right now, something that we as a family alone would not be able to afford to do without the support of a sponsor like Falling Springs. So, this will allow us to keep the farm in the family, it'll allow us to remove the cattle from the property to help improve the water quality in the County. Also, if you change the Zoning Ordinance, I think it would encourage other bank sponsors to look at other properties in the County and it would encourage other Mitigation Banks to be brought to Stafford County. I think forcing bank sponsors and landowners to go through a Conditional Use Permit process would be a detriment; it would discourage people from protecting their land. I think this is a win-win; it's a win for us and it's a win for the County. Thank you.

Mr. Rhodes: Thank you, sir. Is there anyone else who would like to speak on this item? Seeing no one racing forward, I'll close the public comment portion of the public hearing and bring it back to the Planning Commission. Other comments... I do see that we're going to have further discussion with staff or others among ourselves, we do have a time limit of January 17th meaning we would need to take some type of action on this, this evening.

Mr. Howard: Mr. Chair I'd like to make a motion...

Mr. Rhodes: Mr. Howard?

Mr. Howard: ... for approval for amending the Zoning Ordinance to include the Wetlands Mitigation Bank as proposed in the Ordinance O12-04.

Planning Commission Minutes
January 4, 2012

Mr. Apicella: I'd like to second that motion.

Mr. Rhodes: Motion made and seconded. Mr. Howard is the motioner, you have the first right.

Mr. Howard: Thank you. The item number 2 will also... I intend to make a motion for that approval as well. I think this is a great example of many different enterprises coming together to solve an issue and using their brain power, whether it's the DEQ, or the Army Corps of Engineers, or Falling Springs, or the landowner, and helping the County restore wetlands that... for a variety of reasons. One, producing cattle and other farm agricultural needs that the County probably took advantage of over the years; but in this case we know this property is in need of repair, and certainly will help improve the quality of water in our County, which is something we all desire to do and something we all talk about. And this is an opportunity for the Planning Commission and Stafford County in 2012 to say you know what, not only are we going to talk about it, but we're actually going to take some action, and put an Ordinance in place that allows others to take advantage of restoration of wetlands, and again, working towards improving the quality of our life, but improving the quality of our water for decades and hopefully centuries to come. So, that's why I made the motion and I strongly support the endeavor and I appreciate everyone's hard work and effort that has gone into this. This has been a discussion with us for probably eight months or so, and maybe even longer at the staff level. So, I do appreciate the hard work and effort that's gone into this.

Mr. Rhodes: Thank you, Mr. Howard. Mr. Apicella?

Mr. Apicella: I believe this is a proposal that's long overdue. I raised the point that we have far more intensive uses in A-1 and A-2 than Wetlands Mitigation Banks. Ultimately, I think this is good for the environment and good public policy. And, more than anything else, I believe the reasons that Mr. Crocker raised were all pertinent, all on point, and I completely agree with his statement as to why we should allow Wetlands Mitigation Banks by-right instead of by a Conditional Use Permit. Thank you.

Mr. Rhodes: Thank you, Mr. Apicella. Any other comments?

Mrs. Hazard: Yes, Mr. Chair.

Mr. Rhodes: Mrs. Hazard?

Mrs. Hazard: I, too, will be supporting the motion partly as we have gotten a great education about this process. I believe when we first looked at this, I did raise some concerns about how the localities were involved with this, and how much control we needed. Well, upon learning the rigorous process that this must go through before...and that the County is certainly consulted... but I think there was some concern about the County not being fully aware of what was going on. But after seeing the rigorous process, the rigorous financing requirements, what goes into this, I believe that the localities' interests are fully protected by what we have before us. I also am encouraged that maybe we will be able to start using certainly these banks, and also the comments made that hopefully there will be more of them, and I am happy to support this one in Hartwood, and hopefully any soon... any other ones that may come down the pike.

Mr. Rhodes: Thank you, Mrs. Hazard. Mr. Hirons?

Planning Commission Minutes
January 4, 2012

Mr. Hirons: Mr. Chairman, I'm probably going to step out on my own here again. I'm actually going to vote no on this motion, and it's not because I don't support this tool, or this concept, or the project that's in question. I think both the tool and the project are good things and good things for the County. My problem is the tools that we're limited with, here with the County, I don't... I would prefer to see an application like this to have some additional public view. All of my colleagues have pointed out that the applications go through a fairly intense process at multiple levels of government, which is a good thing, but I think the one thing that still is kinda missing, is some public view of an application like this and it's dealing with land and a change in land that's going to last forever in concept. While the intensity is low, which is great, it's still a land use that is going to last forever. And I think that there should be some additional public view of that by way of an application that comes through the Planning Commission or the Board of Supervisors. However, my problem with that is, I don't want it... I would prefer not to see an applicant get this... charged this \$10,000 to the County, which is probably an excess to the actual cost to the County. So, I'm kind of using my no vote here, to send a message to the Board of Supervisors that we as a County need more tools to deal with these types of things, some sort of a lower rate, special use permit, or something along those lines. So, I applaud the applicants and I think this is ultimately going to make its way through, and I think it's going to be a good thing for the County. So, thank you.

Mr. Rhodes: Thank you. I will... any other comments? I would just submit that certainly when this came to us the end of summer, it seemed weird. It was odd and there's been a lot of education, a lot of good discussion on it, and a couple of back and forths with the Board to get to this point, and the authority to make some modifications and get it to the point that we're comfortable with... that I'm comfortable at this point, and will be supporting the effort. Therefore, I will ask for a vote on the motion concerning the Amendment to the Zoning Ordinance for the Wetland Mitigation Bank, proposed Ordinance O12-04, sending forward to the Board of Supervisors recommending that they approve such. All those in signify by saying aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed say nay.

Mr. Hirons: No.

Mr. Rhodes: Passes 6 to 1.

Mr. Howard: Mr. Chair, just to point of order, and Mr. Harvey and Ms. McClendon. Do we also need to move on Resolution R11-286, is that a separate...?

Planning Commission Minutes
January 4, 2012

Mr. Harvey: Mr. Chairman, the Commission does not... that is the Resolution that the Board referred the Ordinance to the Planning Commission.

Mr. Howard: Thank you. So, I made a misstatement when I made the original motion.

Mr. Rhodes: Okay.

Mr. Howard: But that... it wasn't included in the motion anyway... so, thank you.

Mr. Rhodes: Thank you, Mr. Howard. Thank you all for the work over quite a few months to get to that point. I apologize to the new members, because we have been playing with this one for about seven months and set you in on it on the first day. But with that we have item number 6. Mr. Harvey.

6. Amendment to Zoning Ordinance - The Board of Supervisors referred proposed Ordinance O12-05 to the Planning Commission. Proposed Ordinance O12-05 would amend and reordain Stafford County Code, Section 28-25, "Definition of Specific Terms" to amend the definition of Recycling center to Recycling facilities. **(Time Limit: January 18, 2012)**

Mr. Harvey: Thank you Mr. Chairman. Please recognize Andrea Hornung for the presentation.

Mrs. Hornung: Good evening Mr. Chair, members of the Commission. The item before you is an Amendment to the Zoning Ordinance. The Board of Supervisors had referred Resolution R11-256... I'm sorry R11-212 to the Commission in July 5, 2011 last year. And what this amendment to the Zoning Ordinance is, an amendment to the Recycling Facility Definition... I'm sorry, Recycling Center Definition to amend it to be named Recycling Facility. The reason for this is that we have Recycling Center as a definition in our definitions section of the Ordinance, but in the use... uses listed under M-1, Light Industrial, and M-2, Industrial Heavy Zoning Districts, the use is listed as Recycling Facility. And with having Recycling Facilities in the County, we wanted to make these consistent with each other, so there wasn't any confusion. Some additional background... for the members of the Commission and the newer members, as well as since we haven't looked at this since last year, is that we had some... staff had, and the Planning Commission, had discussion about the definition and the operation of Recycling Facilities and how it impacts the Stafford County Landfill. Now, the Recycling Facilities of the Stafford County Landfill are really only 10% of the operation, so the competitiveness of Recycling Centers in the County is negligible and is actually in line with the Regional Solid Waste Management Plan that the County has for recyclable materials. It's also encouraged that there is a regional system for Recycling Facilities. We also had Andrew Mikel here, who's Superintendent of the Stafford County Landfill, and I also need to let you know that the landfill is also known as the R-Board which is owned by the County and the City of Fredericksburg. Mr. Mikel was here to give some information as well about the landfill operations, the fact that Recycling Facilities do not necessarily impact his budget greatly. It's only 10% and it's actually welcomed because it also increases the life of the landfill by not having an enormous amount of recyclable materials. As well, with other facilities in the County, we can recycle more... more very... more additional, different kinds of materials that maybe the landfill cannot handle as well. Some of the comments from Mr. Mikel was also to add some changes to the definition. The current definition of Recycling Center is as follows: Recycling Center is a structure or confined site or place where recycling activities such as the extraction and processing or reprocessing of useful materials from recyclable materials take place... I'm sorry, recyclable wastes, refuse, garbage, or other discarded materials take place. The words that

*Planning Commission Minutes
January 4, 2012*

were added and also amended to make this definition in compliance with the uses in the Zoning Ordinance, as well as in compliance with our Solid Waste Management Ordinance, Chapter 21, the Recycling Center will now be amended to Recycling Facilities, a structure or confined site or place where recycling activities such as the... I only have three minutes, okay... recycling activities such as the extraction and processing or reprocessing of useful materials from presorted, which was added, recyclable, and the following words are proposed to be eliminated: waste, refuse, garbage, or other discarded, continuing on... materials take place. The other statement that was added because there was concern with recyclable materials, would be brought to the landfill from automobile part... automobile, vehicles, and parts of that nature. So, this statement is added, this definition is not intended to apply to wrecked, inoperable, or abandoned motor vehicles, or parts thereof. If you have any questions, I'll be glad to answer those.

Mr. Rhodes: Any questions of staff?

Mr. Howard: Mr. Chair, no questions but just we have... we have members from the Recycling Facility here, our landfill, if they would want to come forward and maybe answer a few or make a few comments. I know they've been before us in the past. No? Okay.

Mr. Rhodes: They're not dying to? Come on.

Mr. Howard: So, you've agreed with everything Mrs. Hornung has indicated? But we've been through this a few times and just wanted to point out to the new members that... the newer members that it's been vetted pretty well, but... and you've only had, you know, a few days to obviously... to glance and look at this, but it's something that's been worked on for a while.

Mr. Rhodes: Okay.

Mr. Howard: So, it's more of a comment than a question.

Mr. Rhodes: Thank you, Mr. Howard. Any other questions for staff or any particular questions we to direct to our guests just to force them to come up?

Mr. Hirons: Mr. Chairman...

Mr. Rhodes: Yes, Mr. Hirons.

Mr. Hirons: ... just to ask a question here. This is one of those kind of odd things. We're really kind of just wordsmithing things, lack of a better term... so, there's no action that goes with it outside of just approving that wordsmithing. But it talks about... the definition talks about the types of activities that a Recycling Center can do and the types of material. How is that monitored; in particular, at a private Recycling Facility?

Mrs. Hornung: I know that the Recycling Facilities, they have to obtain a permit by-rule from DEQ, so they're also regulated by the Department of Environmental Quality. That's what actually started the amending the definition because of a facility received a permit by-rule, and because of the information that was listed in that permit by-rule of what that facility could accomplish, it was in conflict with the Zoning Ordinance, and how the use was originally presumed as what was going to happen at that site.

*Planning Commission Minutes
January 4, 2012*

So, with that permit by-rule that was approved by DEQ for a facility, then a copy is sent to the County and through further review realized that out definition was in conflict with what the facility was going to... how it was going to operate because they... facilities are not... anyone who conducts any type of solid waste operations or Recycling Facilities, if they were to pick up materials, they're required to take them to the Stafford County Landfill because under our definition, a hauler must take it to the landfill and not have a site in the County. So with that, this definition would bring the facility into compliance that they could conduct those recycling operations and not be in conflict with the ordinance or with being named a hauler to use trash or refuse or garbage at their site.

Mr. Hirons: So, if we took no action and didn't make this change, they would still have to go to the landfill and not their recycling site? Is that what you're saying?

Mrs. Hornung: Well, they...

Mr. Hirons: And... or does the DEQ regulations supersede our Ordinance in that well, they can operate, forget what the County actually says?

Mrs. Hornung: No, the County's regulations are more stringent than the Department of...than the State, DEQ. DEQ will give them their permit on what they can do on the state level, and then they're required to comply with local regulations. And because in our definition and the uses listed in the M-1 and M-2, there was no definition for Recycling Facility, and there was no use listed for Recycling Center. And so this brings it together to make it more clear and compliant so that the definition matches the use and also will match a Recycling Facility and how they're to operate. It will also clarify so that a Recycling Facility can't also operate as a Solid Waste Facility.

Mr. Hirons: Is... was the facility that made the application, was it the one that's on... going to be on Deacon Road... off of Deacon Road? Is that...

Mrs. Hornung: Yes, that is correct.

Mr. Hirons: Yes, that's why I asked. Obviously, that's in the Falmouth District and both the Supervisor from the Falmouth District and myself have heard from local residents kind of out of questioning of, you know, what's going to go on there, what's going to happen; so, there most certainly is concern. So I want to make sure publicly we highlight that, yeah, there's some concern that we want to make certain that's really a truly recyclable facility and they are not bringing trash in there, and they are not a trash hauler, or they're not hauling trash there, and garbage, and typical refuse that should go to the landfill.

Mrs. Hornung: Correct; they could either take it to the landfill, but they could not operate it on their site.

Mr. Hirons: Okay. Just for a citizen question, what would be the best route to make a complaint if a citizen sees an issue at that facility, where they're bringing, you know, the citizen happens to see they're bringing trash in?

*Planning Commission Minutes
January 4, 2012*

Mrs. Hornung: They would contact the Department of Planning and Zoning, and then we would have Zoning Inspectors go out to the site, visit the site, and check on that complaint. And then there is a process if there is a violation.

Mr. Hirons: Alright, thank you.

Mrs. Hornung: Mm-hmm; you're welcome.

Mr. Rhodes: Any other questions or comments? Thank you. I will now open the public comment portion of the public hearing for item number 6. If there is anyone who would want to come forward... What's that? Oh, I know, I know... I'm just giving them the opportunity. Anyone who wants to come forward on item number 6 for a public comment to the Board of Supervisors may do so at this time, and all the other stuff holds true. Uh-huh, they're not going to get up. Okay, very good. We'll close the public comment portion of the public hearing and bring this back to the Planning Commission. What is the will of the Commission?

Mr. Howard: Mr. Chair?

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: I'd like to make a motion to recommend approval for Resolution R11-212, which is amending the Zoning Ordinance to include the Recycling Definition as proposed and reported this evening.

Mrs. Hazard: Second.

Mr. Rhodes: Okay. Motion seconded, just to clarify is that R11-212?

Mr. Howard: Did I get the wrong number?

Mr. Rhodes: The proposed Ordinance O12-05 is what I think we are voting on to send forward to the Board.

Mr. Howard: Okay, right.

Mr. Rhodes: Okay, got you. Just to clarify.

Mr. Howard: Thank you. I don't have my bifocals on.

Mr. Rhodes: Is there any further discussion Mr. Howard?

Mr. Howard: No, I actually think that... my comments are as follows. I think that the staff did a very good job, there were some concerns and legitimate concerns, by the way, with respect to automobile parts and clearly there was an issue between the State requirements and the County Ordinance as it relates to the definition of recycling, and that certainly created an issue on this case. In fact, if this... I don't know what's going to happen in the Falmouth route, but if any business wanted to go before the DEQ and obtain the right permits and process, which I believe someone tried to do, which is how this

*Planning Commission Minutes
January 4, 2012*

was discovered, so, in my view, this is really cleaning up an issue in the County within our Zoning Ordinance. So that's why I'm supporting and making the motion to amend the Zoning Ordinance.

Mr. Rhodes: Thank you, Mr. Howard. Mrs. Hazard?

Mrs. Hazard: Really very similar comments to Mr. Howard, except I would also just want to add that the comments by Mr. Mikel, the Superintendent for the R-Board, and his comments on revising the language I thought was very helpful; also a very good overview of what the R-Board does... I mean, from a Community standpoint. But I thought having his input and his revisions are also why I'm supporting.

Mr. Rhodes: Thank you, Mrs. Hazard. Any other comments? Mr. Hirons?

Mr. Hirons: Just to say, I support this as well. I think it's going to be good and I think actually its going be good in particular for the facility I mentioned because it really gives us some kind of policing opportunity... an opportunity with some actual teeth behind it. Thanks.

Mr. Rhodes: Thank you. Mr. Apicella?

Mr. Apicella: Mr. Chairman, I'm going to support it as well. I think it's a good and necessary fix. Thank you.

Mr. Rhodes: Thank you. Any others? Very good. I would just highlight, this has... this is another one that's been since last summer, but though it's taken awhile all the changes have been good and thoughtful changes, and certainly appreciative of the Board of Supervisors for giving us some extended time to be able to work on this since we were making good progress. And certainly I will support this one as well, to come to closure. With that, all in favor of the motion to recommend approval to forward to the Board of Supervisors for their approval of proposed Ordinance O12-05 signify by saying aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hirons: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? Passes 7-0; very good. Now we are onto the... we'll close the public hearing portion... now we're on to the Planning Director's Report. Mr. Harvey?

PLANNING DIRECTOR'S REPORT

Planning Commission Minutes
January 4, 2012

7. Cluster Regulations

Mr. Harvey: Mr. Chairman, I do have an extensive report tonight, but before I get into Cluster Regulations, I wanted to bring a few things to the Commissions' attention.

Mr. Rhodes: Thank you.

Mr. Harvey: First of all, I'd like to introduce to the Commission, to my left is Andrekia Magwood; she's our new staff member who is taking Mrs. Stinnette's place, so in the future she will be joining us at the regularly scheduled Planning Commission meetings.

Mr. Rhodes: You lucky soul, welcome.

Ms. Magwood: Thank you.

Mr. Harvey: Also, in the audience as you noticed, we have two new staff members, some of which you may have already met. We have our new Zoning Administrator, Susan Blackburn.

Mr. Rhodes: Hello.

Mrs. Blackburn: Hello.

Mr. Harvey: And she'll be assisting the Commission periodically with Zoning Ordinance Amendments and issues dealing with zoning interpretations. And also we have Robert Narvaez who is one of our Planners and he may be before you shortly with some Preliminary Subdivision Plans.

Mr. Rhodes: Very good, welcome. Thank you, even though we couldn't get you to come forward for public comment.

Mr. Harvey: Also Mr. Chairman, I wanted to bring to the Commissions' attention the binder that we've provided the Commission. We do this on an annual basis. This black binder in essence is pretty much your bible so to speak of what you need to know in order to be a Planning Commissioner. In this... in the binder, we have a listing of the members and their contact information, so if you'll please let Ms. Magwood or Ms. Knighting know if there's any corrections to be made, we'll do that before we post it on the website.

Mr. Rhodes: Mr. Harvey, you forgot to mention to the new Planning Commissioners, they have... you are giving them actually five weeks to memorize the binder.

Mr. Harvey: We'll see when the exam will be. Also, in the binder, to bring to the Commissions' attention, there is your meeting schedule and I'd recommend at the end of business tonight that the Commission consider voting on its meeting schedule. We'll point out that there are two potential conflict dates and we've highlighted them in the schedule. One is your normal first meeting of July will be on July 4th which is a holiday and the County offices are closed. Also...

Mr. Rhodes: So, we'll be here alone?

Planning Commission Minutes
January 4, 2012

Mr. Hiron: Fireworks.

Mr. Harvey: Also, November 21st is the day before Thanksgiving and the offices close on a half day, so you may want to consider readjusting the schedule with regard to those meetings.

Mr. Rhodes: Very good.

Mr. Harvey: The notebook also defines the duties of Planning Commissioners, the By-Laws from which you all operate under, the budget for the Commission, as well as requirements for Certification of Planning Commissioners. All new Planning Commissioners must attend a state-sanctioned course and have it completed within 12 months to be fully certified as a Planning Commissioner in the Commonwealth of Virginia and Stafford County. We've included in the handouts the Planning Commissions' budget, which is administered by the staff. We keep the Commission informed as of the status of the budget on a periodic basis, and also some background information regarding the support staff with our organizational chart. There's a description of the Comprehensive Plan Elements, excerpts of the Zoning Ordinance and Subdivision Ordinance, as well as other Ordinances and relevant parts of the State Code. So, I think you'll find that this is very helpful to refer to back periodically. We've also provided copies of the Comprehensive Plan to the new members. I had some other items I wanted to bring to the Commissions' attention as well. The Commission may need to consider, at the direction of the Chairman, a new appointment for the Farmers Market Committee. I don't know if that's something that's desirable since they're almost towards the completion in their task; however, there were two members on that committee and now one member is no longer on the Commission. Likewise, if the Planning Commission has a member that sits on the Architectural Review Board in an advisory capacity, that member will also need to be reappointed, as well as the Parks and Rec Commission. I believe Mr. Hiron currently sits on that, and consideration be made if there would be any change for that seat.

Mr. Rhodes: Thank you.

Mr. Harvey: Also, to let the Commissioners know, tomorrow the County Administrators office will be mailing out the Statements of Financial Interests, and that's to be completed by all Planning Commissioners, as well as several of the key staff. It's basically looking for potential conflicts of interest. That form, when it's mailed out, will need to be completed and returned back to the County Administrators office by the 17th of this month. So, if you have any questions, you can please contact me and we'll work out whatever arrangements we need to do to have it completed. With that, I'm going to move on into the Cluster Regulations discussion. The Board of Supervisors had its meeting in December, and in doing so they sent a referral to the Planning Commission in Resolution R11-337, which asked the Commission to take a look at Cluster Regulations. Their meeting was on December 13th, which was after the Planning Commission's meeting in December. But in their recommendation the Board asked that the Planning Commission develop an ordinance regarding clusters and conduct a public hearing and make a recommendation by the end of February. In order to do that, the Commission would need to develop an ordinance and make a recommendation to schedule a public hearing at your next meeting on the 18th of this month. That is a very short timeframe and I'll get into more of the details about that. Specifically, the Resolution speaks to concerns that the Board of Supervisors has with regard to the cluster regulations in the residential zones, and also requesting that the Commission develop regulations to allow clusters in the agricultural zones. As we saw tonight, a cluster subdivision is intended to allow more compact development on one part of the property, while

Planning Commission Minutes
January 4, 2012

preserving the remainder of the property in open space. The open space can be a matter of agricultural land, undeveloped property, or sometimes recreational amenities. And it's a commonly used mechanism in Planning and Zoning as a means for land preservation and smart planning. Our current cluster regulations were developed at least since prior to 1984, so they've been on the books a number of years. They pre-existed requirements in the State Law for clustering. As we've looked at the current cluster regulations in our Subdivision and Zoning Ordinance, they do not fully comply with the state law with regard to clusters, so we do have some issues that need to be reconsidered. Currently, our cluster regulations apply to our residential zones, which are R-1, R-2, and R-3 zoning categories. They allow a variety of different unit types, as well as lot sizes, to be reduced in order to preserve open lands. Typically the open lands are going to be undeveloped areas; they'll stay as wooded areas and there may also be recreational amenities associated with them. In one of our handouts I provided to the Commission, you can see a listing of the number of cluster subdivisions that have taken place since 1999. There have been quite a few of them and there have been several hundred lots approved in that fashion. So, it's something that's commonly used; the issue will be, how do we want to proceed with regard to changes. Specifically, our ordinance allows clustering for duplex units and townhouse units in our higher intensity type of residential zones. Under the State Code it specifies that clustering is only for single-family units. Now, we could change our regulations to call duplexes and clusters a type of single-family unit, but that is one area where we are currently out of compliance. Also, our Cluster Ordinance today allows a density bonus if someone wants to cluster their development. Prior to 1995, there was no density bonus provision... excuse me, 1999. In 1999, the residential zoned densities were generally cut in half but could be retained if someone did a cluster subdivision. So in essence, now under the cluster regulation, you get a density bonus of 50% of your overall potential growth on that piece of property. So, we saw a little bit of that discussion tonight with the one cluster case where they would only be allowed 79 units; they could have gone up to 150-some units if they wanted to completely cluster in maximum... maximize their development density. On the one hand you get that density bonus, but the offsetting mechanism for that is providing this common area, which may or may not be considered to be a good trade-off from the County perspective, so, as being an incentive to grant that additional density. Other things where we're not in compliance with state law is that state law stipulates for clusters that the density for that can be yielded on a property cannot be done on a net basis; it has to be based on a gross basis. So right now our current requirements specify that you take an overall acreage of a piece of property, you subtract out wetlands, flood plains, and slopes exceeding 35%. You take the remaining area and you multiply it by that per unit density to come up with your new number of units you can put on the property. That's not permitted by State Code. State Code says basically you get so many units that you can yield and that's what you're allowed; you don't subtract out any specific areas. We also have some other areas where we don't comport with the State Code, some of which we need to discuss more about the process for cluster plans and how they would apply. We have provided a copy of a previous ordinance that went through the Planning Commission in 2009, and also went to the Board of Supervisors, but was delayed because of our work on the Comprehensive Plan. That ordinance proposed to create clusters for agricultural zones, the A-1 and A-2 zones. And upon analysis is that staff has also determined that there is some conflicts with State Code, so we can't just say, Commission go ahead and authorize a public hearing on that and that could be your recommendation to the Board. So there still would need to be some work. We've included in handouts at your desk, and also in e-mails to the Commissioners, regulations from surrounding jurisdictions. Mr. Apicella was interested in knowing what other jurisdictions provide for clustering. Many of the other jurisdictions look at clustering applying to a lot of their agricultural areas or rural preservation areas. We see that commonly done in various localities in the Commonwealth as ways to save farmland and also protect open spaces. Those types of issues would comply with our

Planning Commission Minutes
January 4, 2012

Comprehensive Plan. Our Comprehensive Plan recommends for agricultural areas, that we try to preserve agricultural lands and clustering is one of those tools that's recommended to be pursued. Our Comprehensive Plan for the residential zones is not as clear; it recommends that we provided alternative housing types. But in terms of our current plan in the Urban Development Areas, the concept of our Comprehensive Plan is we're supposed to try to focus our development into the Urban Development Areas, as well as try to emphasize smart growth and provide incentives for development in those Urban Development Areas. So, in some regards you can look at our current density bonuses as in our cluster regulations as disincentives to locate in Urban Development Areas because our current regulations do not comply with the density requirements under the UDA Statute. So, we have a number of issues that we need to work out with this overall cluster concern. I see it as having to deal with residential zones, do we want to allow them in residential zones and if so what zoning categories, and do we want to change our definitions of our uses to comport with single-family homes, as in the State Code. We also need to take a look at the A-1 and A-2 zones, as directed by the Board, and also to comply with State Code as well. So, I look for direction from the Commission. From my standpoint what I would recommend to the Commission is you consider repealing our current regulations; there are a significant number of defects in them, I believe, and in discussions with Ms. McClendon cause it to be problematic to pick and choose parts to take out if we were trying to develop an amendment. And it may be better to develop an amendment in its entirety rather than piecemealing changes in and out of our existing Subdivision and Zoning Regulations. Also, I'd recommend the Commission, given the short timeframe, maybe consider establishing a committee of the Commission to work with staff to come up with in the next two weeks a draft ordinance that could be presented at the next meeting to have the discussion for authorizing a public hearing.

Mr. Rhodes: All good suggestions Mr. Harvey, though with all you've said I don't still see how we get this within the time limit. It seems like it's also requesting an extension or addressing that in some manner.

Mr. Harvey: Well, one recommendation could be that you go forward with the public hearing to repeal the current regulations and ask the Board for additional time as you continue to work on creating a new cluster ordinance.

Mr. Rhodes: I don't know about others, I have some questions and curiosity on the impacts of the differences between the State and County Code, which typically in that manner we would go into an Executive Session to get some advice from counsel to better understand those dynamics before we work our way forward. Would that be appropriate, do you think, at this time Mr. Harvey?

Mr. Harvey: It's at the Commissions'...

Mr. Rhodes: You think that'd be beneficial?

Mr. Harvey: I think it's at the Commissions' discretion; there is certainly our issues that could be discussed.

Mr. Apicella: Mr. Chairman, in that deign, may I make a motion to move into a closed session to get legal advice from our counsel.

Mr. Rhodes: There's the motion for Executive Session or a closed session.

*Planning Commission Minutes
January 4, 2012*

Mr. Howard: I'll second.

Mr. Rhodes: Seconded. Any discussion or further comment?

Mr. Hiron: Just a quick point of where... is that the proper motion?

Ms. McClendon: Yes, that motion is fine.

Mr. Hiron: Okay.

Mr. Rhodes: And again this is to get... discuss just the particular items that are required, that can only be done really in an Closed Executive Session for legal advice for matters of that, not other general debate issues. With no further discussion, all those in support of the motion signify by saying aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hiron: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? Okay, so we will go into a closed session; be back in a bit.

Closed session at 8:45 p.m.

Reconvened at 9:18 p.m.

Mr. Rhodes: Okay, we're back.

Mr. Howard: Mr. Chair?

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: I make a motion to certify on this 4th day of January, 2012, that to the best of each members knowledge (1) only public business matters lawfully exempt from an open meeting requirements under the Virginia Freedom of Information Act, were discussed in a closed meeting to which this certification applies and; (2) only such public business matter were identified and the motion by which the said closed meeting was convened, were heard, discussed, or considered by the Commission. No member descends from the efforts of that certification.

Mr. Rhodes: There's the motion; is there a second?

*Planning Commission Minutes
January 4, 2012*

Mr. Hiron: Second.

Mr. Rhodes: Motion seconded. Any other discussion? All those who certify to affirm no descent with the motion signify by saying aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hiron: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? Okay, therefore it has been certified. Thank you, Mr. Howard. Okay, now moving forward, we have the...

Mr. Harvey: Mr. Chairman?

Mr. Rhodes: Yes, Mr. Harvey.

Mr. Harvey: For the record, could we hear again who made the second?

Mr. Rhodes: Oh, the second was Mr. Hiron.

Mr. Harvey: Thank you.

Mr. Rhodes: I think Mrs. Hazard was trying to beat him to it, but didn't quite get there. Thank you. So as we were last discussing here, I think there was a recommendation by Mr. Harvey that we consider repealing the current Cluster Ordinances and if we were to do so that would be... if that is the will of the Planning Commission, than I think probably the way ahead with that would be for us to have staff develop a proposal that would go to public hearing for the repeal, and present that at our next session. And then we would consider it at that time for having a public hearing on the repeal of that. Is there any discussion or comments from Planning Commissioners on that recommendation by Mr. Harvey?

Mr. Apicella: So moved... if that's required.

Mr. Howard: Second.

Mr. Rhodes: Okay. So to confirm that that is the approach if there is no other discussion, just all those in favor of our direction, if you will, for staff to develop an appropriate proposal that we could consider at our next session to take forward to public hearing, repeal of the current Cluster Regulations and Ordinances, signify by saying aye.

*Planning Commission Minutes
January 4, 2012*

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hiron: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? So, Jeff if we can do that for the next session; I think the other thing that would be important to do in this interim period, that's going to take a little bit of work to recreate what would be necessary for us to consider and to go forward public hearing, and that's not... I don't see that happening in the timelines that we have right now with what the Board asked us. So I would, if there is no opposition to it, I would ask that we develop some correspondence back to the Board of Supervisors asking for some additional time, that it's just going to be necessary to get this done right; that we clarify to them that we are going to take the action to repeal the current Ordinances, but that we will need some additional time to get this forward, and I would think probably at least another 90 days.

Mr. Howard: Mr. Chair, I make a motion to request from the Board of Supervisors a 90 day extension on revising the Cluster Subdivision Ordinance as presented to us this evening.

Mr. Apicella: Second.

Mr. Rhodes: Motion made and seconded by Mr. Apicella. Is there any other discussion? All those in favor signify by saying Aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hiron: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? Okay, 7-0. So, we will ask for that extension and we will confirm for them that we are taking affirmative action at this point. The last point, I would just ask Mr. Harvey, you had recommended and I think it was based on the timeline of trying to get something ready to go by the next session, that we have a subcommittee. Do you think that's, if we are getting an additional 90 days, do you think that's still necessary? Or do you think we can work forward as a committee of the whole with advice of the staff?

*Planning Commission Minutes
January 4, 2012*

Mr. Harvey: Mr. Chairman, I'd say that's at the pleasure of the Commission. Sometimes there's value in going to a committee, other times you end up rehashing the same issues, so I'll leave that up to your discretion.

Mr. Rhodes: Okay.

Mr. Apicella: Mr. Chairman?

Mr. Rhodes: Yes, Mr. Apicella.

Mr. Apicella: I would make a motion recommending that the Planning Commission establish a subcommittee to develop a... working with staff to develop a discussion draft to deliver to the Planning Commission in the next 30 days... 45 days.

Mr. Howard: Second.

Mr. Rhodes: Okay, I'd fair for a discussion. Now we have a recommendation or suggestion here that we create a separate subcommittee to task with coming back with something working with staff for the Planning Commission to consider on a modified Cluster Ordinance. Any discussion?

Mrs. Hazard: Mr. Chairman, I...

Mr. Rhodes: Yes, Mrs. Hazard.

Mr. Hazard: I do agree in theory with where we're going. I was wondering if the motion maker would consider delaying that motion. Right now I believe that staff's time in the next two weeks needs to be focused on the repeal portion of this Ordinance, as opposed to having additional meetings dealing with what I consider the second prong of re-crafting the motion. I just don't want to overburden staff in the two weeks that they need to prepare something for us regarding repeal before going forward to what I call the meat of the matter for the A-1 and R-2, but I mean I'm willing to go either way I just... I'm looking at the... we're worried about our time but I believe staff time is pretty much a crunch here as well.

Mr. Rhodes: Mr. Harvey, could you comment to that? We do want to be very sensitive to the demands we place on the staff. And so with what you have on the plate right now, the other things being asked of you by us and by the rest of the demands of the County, and working to develop a repeal proposal, do you think it would be best served to wait a couple weeks before we start initiating meetings, or do you think the work load would support that, being able to proceed now?

Mr. Harvey: Mr. Chairman, I appreciate the opportunity to have more time. As Mrs. Hazard says it will take a while for us to write up the new Ordinance as well as create the staff report to go along with it for your recommendation. That in mind, staff can try to stay and get focused on ideas and issues to talk about with the committee once they're established because as we go through it, we're going to see red flags that are going to come up; so that'll help us get prepared for the next step. But if the Commission is so inclined, we'll do as requested.

*Planning Commission Minutes
January 4, 2012*

Mr. Apicella: Mr. Chairman, I would just reiterate that I said between 30 and 45 days, so if we did 45 days that would give the staff two weeks to work on the revocation Ordinance or whatever it's appropriate called, and so after that time has expired then the subcommittee can start doing its work. In the intervening period, it may be that the staff can provide some additional information to the subcommittee so it can get a head start.

Mr. Rhodes: Okay.

Mr. Howard: Mr. Chair?

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: I would also submit that we believe the Board of Supervisors will grant the extension, but in the event they don't, at least we have a Resolution affirming that the Planning Commission had a desire to create a subcommittee.

Mr. Rhodes: Okay.

Mr. Howard: And everyone's on notice and then we can just do that and take the appropriate action, in terms of notifying the public if and when that subcommittee were to meet.

Mr. Rhodes: Okay. Thank you, Mr. Howard. Other comments or discussion? All those in favor of the motion to establish a subcommittee to focus on the cluster regulations and Ordinance issue in order to develop a proposal along with staff back to the Planning Commission in 45 days signify by saying aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hirons: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? Okay, that's what we'll do and the understanding is certainly if there are particular things we certainly need to establish... identify who will be on it right now, but I would just to clarify the expectation is the next 15 days Jeff, is working on... for the next meeting on the repeal, but if there are particular things you think would be beneficial certainly we'd like staff to recommend those. You got us all the... surrounding counties Cluster Ordinances, which will be helpful information for whoever's on the subcommittee, but any other items you think would be relevant would probably be useful, and I guess we'd look at those portions of State Code. Is there two or three members that would be interested in participating in this effort to develop this Ordinance?

Planning Commission Minutes
January 4, 2012

Mr. Apicella: Mr. Chairman, I'd like to serve on the subcommittee.

Mr. Rhodes: Thank you very much, Mr. Apicella. Anyone else?

Mrs. Hazard: Mr. Chairman, I'd be interested in serving as well.

Mr. Rhodes: Okay, we have two. So, two or three would probably be a good number. Is there anyone else?

Mr. Apicella: Gordon, any chance we can commit to you?

Mr. Howard: Mr. Chair, I'd love to volunteer do serve on the committee of three.

Mr. Rhodes: There we go. Okay, we have three. I think that would be a good number. So, Mr. Apicella, Mrs. Hazard, and Mr. Howard will work on that. Thank you very much for that. Mr. Harvey, do you think there are any other items we need to address on this element that you've presented from you Planning Director's Report?

Mr. Harvey: No sir, and I conclude my report with that.

Mr. Rhodes: Just to be clear, is there anything else or left unclear as to how we go forward on this... forward from the staff's perspective?

Mr. Harvey: No sir, I'm clear as to what needs to be done from the staff's perspective.

Mr. Rhodes: Thank you very much, Mr. Harvey. County Attorney's Report.

COUNTY ATTORNEY'S REPORT

Ms. McClendon: I have no report at this time, Mr. Chairman.

COMMITTEE REPORTS

Mr. Rhodes: Thank you very much. Are there any further on the Committee Reports? We talked on the Farmers Market, is there anything else out there, Mr. Former Chair?

Mr. Howard: Mr. Chair, yes I do want to just point out a few things. One is I do believe that the Planning staff is very focused on the Comprehensive Plan timeline, and I understand that that it is likely to be before the Board at the next meeting? At their next meeting, so when if in fact that that occurs, I think it would behoove all of us to have staff come back, whether it's Mr. Zuraf or some other designated individual, from Mr. Harvey's perspective to kind of review that with everyone (a) for the new members, but also for the incumbents who really need the refresher in terms of all that needs to take place. There's quite a bit of work as it relates to Zoning Ordinance changes and other elements of the Comprehensive Plan that if we don't start working on it quickly, parts of that plan will be tough to implement and hold others accountable to.

Mr. Rhodes: That certainly was quite a deliberate Implementation Plan.

*Planning Commission Minutes
January 4, 2012*

Mr. Howard: And then I would just tee this up... and just from the Planning Commissioners that are here and what their thoughts are... but before I do the proffer one, I have a concern about the Courthouse Interchange on I-95. Staff provided us sort of a rendering... I think it was back in December or it was November... I meant to bring it with me tonight but I did not. I really would like to get an update on that and here are my concerns. As you travel down Courthouse there's a brand new building that's going up. I don't know what it is... I don't know if retail. I saw a sign for a new restaurant, which is terrific, but at the end of the day, if people are investing and spending money right there at that interchange and that interchange goes away and becomes a dead-end, if in fact that is to occur, we really have to either get on board with that and make sure everybody else knows or some might try to influence VDOT to the extent that we can, I'm not sure, but I just don't think there's enough information on that issue and I think that we all felt that same way and I just don't want that to slip through the cracks. Then, on the proffer guidelines, that came up often last year and I don't know if this Commission has an appetite or not to you know look at that, evaluate that. Are they right, are they wrong? Maybe bring in the Commissioner of Revenue or other you know experts of the County to understand how that whole process works, so those are my comments. From what I remember from last year is, as being things I don't think we quite got our arms around.

Mr. Rhodes: Very good. Thank you, Mr. Howard.

Mrs. Hazard: Mr. Chairman, could I just make one...

Mr. Rhodes: Yes, Mrs. Hazard.

Mrs. Hazard: ... broad comment. I certainly appreciate staff and how we get other ordinances; when we are considering ours, we look at other jurisdictions. And one thing that has sort of stuck out to me is, I believe Jeff you said, you know the Board has given us these many counties are kind of our comparable counties. I'm not certain that those are maybe correct. I'm not trying to say that the Board doesn't know, but to me a Chesterfield County, which has had rapid growth but also has rural areas is somewhat of a comparable County from my perspective. Granted I go there a lot because my parents live there, but it would be useful maybe not just to use for me our surrounding counties, because I do think Fauquier has a lot of different issues than we do that I would suggest maybe a Chesterfield, but I would actually ask for Planning staff's thoughts on what counties, from a growth and other circumstance, would maybe be other comparable counties for us to consider?

CHAIRMAN'S REPORT

Mr. Rhodes: Thank you. Alright. For the Chairman's Report, what I might use that to do is address a few items going forward. I think the Courthouse Interchange, while there are a lot of renderings, it's still very early in VDOT's information gathering process, isn't it? There's not been hearings or other things on that have there?

Mr. Harvey: That is correct Mr. Chairman. There has not been any public hearings yet with VDOT regarding the design there, and permanently... presently in preliminary engineering.

Mr. Rhodes: I do think Mr. Howard raises a very valid point that everyone's reaction was making that a dead end down there was just a little bit surprising and I'm sure the car wash would appreciate it, that's just now being opened.

Planning Commission Minutes
January 4, 2012

Mr. Howard: Is that what that is?

Mr. Rhodes: Yes, it's one of the things there but... so we certainly, that's something for this coming three to six months figuring out where that stands, where that really is. I think will be helpful and... when will it be reasonable probably to bring back on set us some Comp Plan Implementation and the actions as we lay out our way ahead for the year, for the Planning Commission on actions we need to undertake?

Mr. Harvey: Assuming that the Board passes it and on the 17th, we could come back to the Commission on the 18th for a discussion item or if you want we can wait one more meeting to let the dust settle if necessary.

Mr. Rhodes: I would think maybe the latter would be better because that way we can get read ahead and especially for those haven't been as involved with it that might be useful so that way we can shoot for the early February time assuming it passes. There is... Jeff if I might ask, just to put you on the spot, how are things going thus far with the TRC, that we've been doing that kind of on an ad-hoc fashion to get members, whoever's district or area the project was in, has that generally been getting coverage by members?

Mr. Howard: No. I'll answer the question.

Mr. Harvey: It's been spotty.

Mr. Howard: That's mostly my fault.

Mr. Rhodes: Okay. And for the new members, the TRC, the Review Committee on projects early on, which brings in all interested players to review it typically we had trying to have a Planning Commissioner there and what we attempted to do last year was whoever's district it was in, we tried to have them possibly be the one to attend. But my reaction was I know I made one of mine and I missed another one, so I was 50%, so I didn't know where we stood on that. I think we probably just... maybe we can continue with that approach, but just put greater emphasis on it and making sure we get coverage on it. So we'll make it a point of raising that possibly each session, the upcoming TRC. I know we get some emails out, but maybe we can formalize it as part of our meetings to highlight what's coming up and what projects there are, so we can... for next week. Okay, and what...do you know whose areas those projects are in?

Mrs. Hazard: I'll be there on the 11th for... from 10 o'clock on probably, but the 9 o'clock I probably will not make.

Mr. Rhodes: Okay, okay. So, we'll try and push that.

Mr. Apicella: Is there the possibility of calling in because I work in D.C.; it's kind of hard to get back down.

Mr. Rhodes: We tried to play with that once, and I think we got shut down on calling in for any forms of meetings, didn't we Jeff? Would the TRC apply under that limitation?

*Planning Commission Minutes
January 4, 2012*

Ms. McClendon: I'm not currently sure...

Mr. Rhodes: I know one working committee that we had I couldn't call in for it.

Ms. McClendon: Right, and that's correct because that is considered a public body, but I'm not sure if the TRC would be considered a public body. I'm not sure I'd have to...

Mr. Rhodes: If we could confirm that so we'd know if that's flexible because that certainly would add flexibility for me too. I can carve out time, but I'm up north.

Ms. McClendon: Sure, I can look that up for you Mr. Chairman.

Mr. Rhodes: Thank you very much. Jeff, you mentioned the Architectural Review Board, Parks and Rec; are there any other committees we need a member for? That you...

Mr. Harvey: Farmers Market was the only other potential.

Mr. Rhodes: Okay. And Farmers Market, I think we're close enough to that Mrs. Hazard says that we probably don't need another member. Mr. Hirons, were you on Park and Rec? Is that the one you were doing?

Mr. Hirons: Yes, I was.

Mr. Rhodes: Are you...

Mr. Hirons: And Mr. Boswell and I talked a little bit prior to the meeting and he was the Aquia Supervisor's appointee to the Parks and Rec Commission. If he's willing to and would like to remain engaged with that committee... Commission, I'd be more than willing to step off or turn over the responsibility for the Planning Commission. I've enjoyed it, but I haven't been able to make as many meetings as I would like to. It's a very interesting service from this perspective; you don't have a vote anymore, but you... as you saw you get to fully participate and it's a fun Commission and interesting stuff. So, if you're willing or anyone else is willing, I'm most certainly willing to step aside on that.

Mr. Rhodes: Okay. Mr. Boswell or anyone else, are they interested in Parks and Rec?

Mr. Boswell: I'm certain willing to represent the Planning Commission there, but I'm planning to serve... finish serving my term as the Aquia... Parks... I don't know how that...

Mr. Rhodes: That's a good point. I think it's just there for awareness of Planning Commission members having a respect or... we'll ask Mr. Harvey, if he's still the Aquia Representative as well?

Mr. Howard: Does the Aquia Representative get to vote?

Mr. Boswell: Yes.

Mr. Howard: You do, so you're a voting member, you don't want to give that up.

Planning Commission Minutes
January 4, 2012

Mr. Boswell: No.

Mr. Harvey: I'm not sure if there's dual memberships... dual representations allowed or not, but...

Mr. Howard: When does the... when does the committee meet?

Mr. Boswell: The third Thursday of every month.

Mr. Howard: What time?

Mr. Hirons: 7:30.

Mr. Howard: 7:30 p.m.? I'll put my name in for that if you want Mr. Rhodes.

Mr. Rhodes: Okay, Mr. Howard. I see no one else fighting you off for that opportunity Mr. Howard. So, thank you very much.

Mr. Howard: It's all about the soccer fields.

Mr. Rhodes: It's all about the... no vested interest there. No... good, all good for the County. The Architectural Review Board meeting, how often do they meet Mr. Harvey?

Mr. Harvey: They meet once a month or as business allows.

Mr. Rhodes: About how many times did they meet last year?

Mr. Harvey: I would hazard a guess, probably eight.

Mr. Rhodes: Primary role from an interest perspective, what do they...?

Mr. Harvey: They review applications for changes to properties within our designated Historic Districts. Properties within the designated Historic Districts have to go through a Conformity Review for issuance of a Certificate of Appropriateness.

Mr. Rhodes: And there is... is there a requirement for a Planning Commission member or just a preference?

Mr. Harvey: There is a requirement.

Mr. Rhodes: Requirement, thank you. Is anyone interested in the Architectural Review Board seat for an opportunity to experience something new?

Mr. Howard: Who was the member before?

Mr. Rhodes: Mr. Fields.

Mr. Howard: Mr. Fields?

Planning Commission Minutes
January 4, 2012

Mr. Hirons: When are their meetings typically?

Mr. Harvey: Their meetings typically are on Mondays at 3 p.m.

Mr. Howard: Wow... what are they reviewing? What does the Architectural Review Board review?

Mr. Harvey: It typically will involve review of changes to historic buildings like replacement of roofs, in some cases replacement of windows, signs to be located on historic structures... things of that nature.

Mr. Hirons: I was going say, someone who happens to own a historic home, would they be appropriate?

Mr. Schwartz: I'm right here in front of this thing.

Mr. Hirons: I would be willing to be the Planning Commission Representative if no one else is jumping in.

OTHER BUSINESS

Mr. Rhodes: Thank you Mr. Hirons. Appreciate that. Okay, there's a couple other open items we probably should address, so one is on the meeting schedule which is the... is there even a tab... it's after the first tab in the new binder, the meeting dates. A couple things to be highlighted as Jeff reinforced there... one meeting is on July 4th, one meeting is the day before Thanksgiving, and typically we have considered slowing down a little bit allowing everybody to include staff opportunities to plan and schedule some vacations and other things to... many times in the past we've had one meeting in July and one meeting in August. Sometimes we've dropped the last meeting of July and first meeting of August to give a window of time for people to target and focus on, but still conduct business in those two months. If we were to do that, and if we impacted July 4th, that leaves a time open there and I might suggest that if we were to entertain that, we would shift the July 4th meeting to the 11th... which happens to be my 50th birthday by the way... and use that as our one meeting in the month if we were to drop the 18th of July and the 1st of August, and then that would cover things and still give us a meeting in July. Would that pose any problem if that were the will of the Commission, Mr. Harvey?

Mr. Harvey: Mr. Chairman, Ms. Knighting's checked the schedule and this room is available on the 11th.

Mr. Rhodes: Okay, thank you. Streamers and balloons for the... okay. Is there anyone that would be opposed to that approach? So, dropping the 4th, dropping the 18th, and making a meeting in between them on the 11th, and then dropping the 1st of August? Any reactions negatively? The one other thing I would highlight, if we were to drop the 21st would there be... is there merit to splitting the difference on the November 7th one and making it the 14th? Is there any benefit from doing that, do you think, or just dropping the 21st all together if we were inclined?

Mr. Harvey: I don't see any change in status if you are going to continue just to have one meeting that month. If you're going to institute two meetings, there may be an issue.

*Planning Commission Minutes
January 4, 2012*

Mr. Rhodes: So, the 7th is as good as the 14th?

Mr. Harvey: Yes.

Mr. Rhodes: Scratch it, okay. And I would just highlight, there is nothing that precludes us from, with appropriate notice, putting meetings back on the calendar; we've done that in the past as well. So taking any action on modifying the calendar to drop a few doesn't preclude us from adding back, should it be necessary. Does anybody know when the Spring Break is for the schools here?

Mr. Howard: In the spring.

Mr. Hirons: It's the second week of April.

Mr. Rhodes: So, it'd be the week of...

Mr. Hirons: April 9th through the 15th or something like that.

Mr. Rhodes: So, it doesn't hit that. Okay, thank you.

Mr. Hirons: We have planned a trip to Disney (inaudible).

Mr. Rhodes: You've got some plans going. So, would anybody be willing to entertain a motion to approve the meeting schedule as listed but with dropping the 4th of July, adding the 11th, dropping the 18th of July, and dropping the 1st of August, and dropping the 21st of November?

Mr. Apicella: So moved Mr. Chairman.

Mr. Howard: Second.

Mr. Rhodes: Okay, any other discussion? All those in favor of approving that as the meeting schedule as it stands thus far signify by saying aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hirons: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? Okay, we'll go with that for now and see how business works. The last two points, I would just highlight, Jeff mentioned the Certification Course for the new members. I will just submit there is never a good time to go, I don't think any of us really wanted to go, and I think

*Planning Commission Minutes
January 4, 2012*

all of us decided after we went that is was well worth it, and we learned a lot. I know I did. So, I would just share that for what it's worth.

Mr. Howard: And there is homework.

Mr. Rhodes: Yeah, and there is homework, yep. Last item I would just ask, and it's not for a particular action right now but, I would like to take just a few minutes next session to talk about what we might try and do this year. Mr. Howard, you raised a couple points, and I would just ask any others, as you're thinking about the coming year over the next couple weeks, if you could just either shoot me an email individually or prepare to raise it next time. I'd just like to think about some way ahead, and any other ideas you might have on how we continue to improve and refine suggestions you might have of things we might undertake. I'd appreciate receiving those, so we can lay out a plan... lay out a little further some other ideas on a plan of action going forward. Anyone else with items we think we need to address tonight, other than approval of minutes? Okay, I'd entertain a motion concerning the minutes on the December 5th meeting of the Planning Commission.

APPROVAL OF MINUTES

December 5, 2011

Mr. Hirons: So moved.

Mr. Rhodes: For approval, second?

Mrs. Hazard: Second.

Mr. Howard: Mr. Chair?

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: I was absent during that meeting, but I have to admit unfortunately I watched it on video.

Mr. Rhodes: Sick soul.

Mr. Howard: It was odd, so I will actually vote to approve minutes as well.

Mr. Rhodes: Okay, so we have a motion. Did we... I'm sorry, did we get a second for approval?

Mr. Howard: I thought Mrs. Hazard seconded?

Mrs. Hazard: Yes.

Mr. Rhodes: Oh did you, I'm sorry. Okay, Mr. Hirons motioned, seconded by Mrs. Hazard. All those in favor of approving the minutes of December 5th signify by saying aye.

Mrs. Hazard: Aye.

*Planning Commission Minutes
January 4, 2012*

Mr. Howard: Aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mr. Hirons: Aye.

Mr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? None? So that's 7-0. I will highlight for Ms. Magwood that that means there's no minutes outstanding except for this meeting and that's the way it always is. I'm letting you know. Welcome, by the way and thank you for joining us. Alright, thank you to all, it's going to be another interesting year, I am sure. With that, I submit we are adjourned.

ADJOURNMENT

With no further business to discuss the meeting was adjourned at 9:46 p.m.