

***STAFFORD COUNTY PLANNING COMMISSION MINUTES***  
***February 15, 2012***

The meeting of the Stafford County Planning Commission of Wednesday, February 15, 2012, was called to order at 6:31 p.m. by Chairman Michael Rhodes in the Board of Supervisors Chambers of the County Administrative Center.

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

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, McClendon, Blackburn, Hornung, Knighting, Magwood, Zuraf, and Ansong

DECLARATIONS OF DISQUALIFICATION

Mr. Rhodes: Are there any declarations of disqualification concerning the agenda tonight?

Mr. Howard: Mr. Chair?

Mr. Rhodes: Yes Mr. Howard.

Mr. Howard: I'm going to recuse myself from item number 1, which is a Conditional Use Permit for Carter's Crossing. I've done some consulting work for the applicant and it would not be appropriate for me to comment or vote on this matter.

Mr. Rhodes: Thank you Mr. Howard, very good. Any others? Very good. Now we'll start with the unfinished business and agenda item number 1. Mr. Harvey?

UNFINISHED BUSINESS

1. CUP1100266; Conditional Use Permit - Carter's Crossing Wawa - A request for a Conditional Use Permit to allow motor vehicle fuel sales in a B-2, Urban Commercial Zoning and within the Highway Corridor Overlay Zoning District, and a convenience store within the Highway Corridor Overlay Zoning District on Assessor's Parcels 45-25A and 45T-1 (portion), consisting of 1.64 acres located on the north side of Warrenton Road and west side of South Gateway Drive within the George Washington Election District. **(Time Limit: April 17, 2012) (History - Deferred at January 18, 2012 meeting to February 1, 2012) (Deferred at February 1, 2012 to February 15, 2012)**

Mr. Harvey: Thank you Mr. Chairman. Mr. Zuraf will give the Commission an update.

Mr. Rhodes: That's Mr. Zuraf?

Mr. Harvey: Yes.

Mr. Zuraf: Good evening Mr. Chairman, members of the Planning Commission. Mike Zuraf, Principal Planner with the Planning and Zoning department. This item was at your last meeting on February 1<sup>st</sup>. The main issues of discussion were around traffic impacts also access to the site and also

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some discussion on signage. In the memorandum you received, we did itemize the issues and provided some responses. Going through those issues briefly, the first item is related to the traffic impact assessment and at the time it was... hadn't been... hadn't addressed all of VDOT's comments. Since the meeting, the applicant has revised the Traffic Impact Assessment and it did meet VDOT... it did address VDOT's concerns and comments. You did receive tonight a memo stating that one of the main, I guess, kind of, findings in the Traffic Impact Assessment is the impact on the left turn out of South Gateway Drive on to Route 17, and the big issue there is the delay that may result in the future that the... currently the delay is identified as 77 seconds and 132 seconds each in the a.m. peak hour and p.m. peak hour, and in the future it is identified under the Wawa use to increase from 77 to 81 in the morn... 81 seconds in the morning and from 132 to 171 seconds in the afternoon. The applicant did add into the traffic study what the impact would be on a potential by-right use that could occur there, retail use and that actually did come up with an even greater delay, so that goes up to 92 seconds and 178 seconds for delay. So, the whole point being there that whether it's a use that requires a Conditional Use Permit or a by-right use, there are going to be impacts to that intersection.

Mr. Apicella: Mr. Chairman, can I ask a quick question?

Mr. Rhodes: Yes Mr. Apicella.

Mr. Apicella: Do you agree with the assessment in that TIA that the impact would be more impactful if it were a by-right use than the one that's proposed or at least the one that they looked at?

Mr. Zuraf: Yes, under that specific use it could. Yes I... we agree with that.

Mr. Apicella: Thank you.

Mr. Rhodes: Okay. Thank you.

Mr. Zuraf: The next item, issue 2, dealt with the signage control. We provided a... an amended condition number 8 that included new language that was in place of the previous language that was identified as excessive advertising signage. We've basically... in place of excessive advertising signage we went ahead and listed out what new signage would be permitted to be more specific and so there's no grey area in the issue. One of the types of signage that would be allowed is identified as shopping center signs. There's the issue of the potential of removing the pylon sign and replacing it with a lower profile monument sign. That replacement of that sign would have to be considered a shopping center sign and there's a... the provision we've recommended that the shopping center sign does not exceed 20 feet in height. Under the current Ordinance they could go up to 30 feet, so the applicant...we've discussed this with the applicant, 20 feet is adequate to meet their needs and doesn't have that excessive height to it. The...

Dr. Schwartz: What was the square footage?

Mr. Zuraf: No extra restrictions other than what the Ordinance does have, restrictions on the amount of square footage that would be permitted under a shopping center sign. It's based on a percentage of the linear frontage. I think one square foot out of every four linear feet so there are some restrictions that would be placed on the amount of shopping center sign.

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Dr. Schwartz: And is that for the shopping center sign at the... are we going with the square footage of the Wawa building or the offsite third-party square footage?

Mr. Zuraf: It would be the entire... the Wawa site plus the retail site, and I don't have it in front of me. We did estimate that and when we estimated that we...it wasn't excessive the amount of square footage that's not going to, they're not going to, be allowed a massive, you know, sign because they do not have that much frontage, so we were not... staff was not concerned with the amount of square footage so we didn't feel the need to draw out any further restriction on that. But that shopping center sign would be separate from the business sign that Wawa would be permitted to have. There would be the single business sign for Wawa, but that shopping center one... the square footage of that shopping center sign is totally separate.

Dr. Schwartz: So, you're gonna use the Wawa building and the back building to calculate the square footage available?

Mr. Zuraf: Right, and that is... and the way our Ordinance is written up, it, you know there... it doesn't allow for and overall shopping center sign but it does allow for individual businesses to have their own signage. They have restrictions that would not allow that business to be over eight feet in height.

Mr. Rhodes: Mr. Zuraf, the basis of that calculation though is the linear frontage of the properties, not the square footage of the buildings on the properties?

Mr. Zuraf: Right, right.

Mr. Rhodes: Okay.

Dr. Schwartz: Are we taking into account the marquis sign that's already on the Jones Lane?

Mr. Zuraf: That would have... that would be counted. So, yes it has to be the...you know the...whatever, say if it's... they're allowed 400 square feet, it would be the combination of the...they have to count that Jones Lane sign in that. So, the third issue is a specific condition on the pylon sign replacement, it's proposed condition 9 and we've... since the last version of that condition we did add in additional language that would add timing to the effort so this would have to be done within a year. I believe we have that, should the third parties agree and then also that the added language, that would require the applicant to provide some proof should the tenants not agree to the signage, and also it is subject to County approval because it's, you know, their... the County regulations also are somewhat strict and may cause some problem in even being able to reconstruct the sign in that same location, so you know we still need to make sure that you know the sign still has to meet the County requirements as it relates to shopping center signs so.

Dr. Schwartz: We've been talking about third party issue now going on almost two months. Has anybody broached the subject? Has the applicant broached the subject with the third parties?

Mr. Zuraf: Yes, they... he has and he's here and he can speak to that and what the progress, I guess, of those talks. The fourth issue is dealing with access control; there was a lot of discussion about access and concern about the U-turn movement on South Gateway Drive to get back to the access into this

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site. Staff did provide three conditions generally relating to this that restrict and intend to kind of discourage movement in that direction to those U-turns. We have condition number 12, which is a condition that the applicant will provide directional signage out on Route 17 directing traffic to proceed straight through the South Gateway intersection and to take the Jones Lane entrance. The condition 13 would be to provide a directional sign on the site, kind of an Enter Here type of sign at the Jones Lane entrance as well to make it more visible to the person traveling through the area, and then condition 14 is additional condition that would require the applicant to place a No U-turn restriction at the current U-turn movement should, within six months, the VDOT or the County determine that the movements in that area have become unsafe and the applicants' looked at that... this condition, VDOT's looked at this condition as well and they're fine with it. We've talked to them about the issue, to VDOT about the issue and you know they feel that the... you know currently that, that U-turn movement is a safe turning movement. Their concern was if, actually, if the U-turn movement was taken away, it's actually going to cause people heading east on 17 to basically now do U-turns on 17, which is less desirable than them turning left onto South Gateway Drive and doing the U-turn back near the Target. So, that was a concern that they had with that and those are, those... the three conditions dealing with the access limitations. The last issue was with the potential of adding a turn lane onto Warrenton Road. I think staff described how that would require Federal Highway Administration approval and we're asked to look into how the planning process could begin and we did note that the entire interstate's interchange there at Warrenton Road is actually part of a 95 access study that goes from 17 down to Route 3, so that intersection is being looked at right now and should that proceed the County would have a chance to comment on what options VDOT might come up with in their overall improvements to the intersection and at that the... as I mentioned the applicants' here and they'll turn it back to the Commission.

Mr. Rhodes: Any questions for staff?

Mr. Hirons: Mr. Chair I do.

Mr. Rhodes: Yes, yes Mr. Hirons.

Mr. Hirons: In the Traffic Impact Analysis does it describe the by-right use that was used to study, I think, a 13,000 square foot retail center and then it talks about commercial building, multi-tenant with a restaurant. I assume that's sort of like what's there now with the Subway and I think a Verizon Store and a couple of other.

Mr. Zuraf: Correct. Yes, it's that type of... same type of retail center like you have behind it.

Mr. Hirons: Okay.

Mr. Zuraf: Just a little smaller.

Mr. Hirons: Okay, thank you. Do you happen to know the size of the one that's there then?

Mr. Zuraf: It's...

Mr. Hirons: I'm really just trying to visualize, you know, kind of the concept size and what they're talking about that's going to generate more than a gas station.

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Mr. Zuraf: ... the one that is there now is 18,700 square feet.

Mr. Hirons: Alright, thank you.

Mr. Rhodes: Thank you. Any other questions? If the applicant could come forward please.

Mr. Hornung: Good evening.

Mr. Rhodes: Good evening.

Mr. Hornung: Responses to specific questions.

Mr. Rhodes: Yes if there is anything in particular that was stimulated by the discussion there...

Mr. Hornung: Sure. Okay.

Mr. Rhodes: Restate your name, sorry.

Mr. Hornung: Chris Hornung, Vice President of Planning/Engineering for the Silver Companies.

Mr. Rhodes: Thank you.

Mr. Hornung: First of all, the size of the building the 13,000 square feet, if that was a rug store the traffic would not be as much. If it were a low intensity retail use the traffic would not be as much as a gas station. The point that we were making in the traffic study is there are numerous by-right uses that would exceed the traffic impact of a gas station one of which being a center that has a coffee... a Starbucks in it for example. That alone the Starbucks comes pretty close in the peak hour in certain times of the day of matching with the other uses and exceeding with the other uses what you would get in a gas station, so I didn't want to mislead you that any by-right use that goes there would generate that traffic, but we could go through and pick a multitude of multi-tenant uses...quick service restaurants and others that when put other based on the ITE codes would generate more traffic.

Mr. Hirons: Yes, and I understand that and I kind of like deal in reality, the reality situation there is you have a lot of vacant store fronts, both along the area around Target and right there an existing building that's right behind this one or in front of this one depending how you look at it. Have you had anyone approach you, I want to build additional retail space?

Mr. Hornung: Yes we have... we actually have users going into that building behind it now. We have two tenants that we're in the process of working on leases and filling up...

Mr. Hirons: In this particular piece of property have you had anyone approach you, I want to build another retail center there?

Mr. Hornung: Normally, retail centers are built by developers such as ourselves.

Mr. Hirons: I was expecting.

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Mr. Hornung: We have had interest in tenants but as far as somebody who wants to buy it to build a 13,000 square foot retail store, no, primarily because that's what we do and we don't typically talk to third party developers about building buildings when we could do that. So, that... we have not but as far as interest, yes we do have interest in this piece and the piece across the street right off the ramp for restaurants and for other uses that we have been... some of them we've been chasing for a while but I would say we have more interest now than we have in a long time.

Mr. Hirons: Great. Keep chasing them and look forward to that.

Mr. Hornung: Okay.

Mr. Hirons: Thank you.

Mr. Hornung: The other comment I wanted to make, Mr. Zuraf talked about the future delays caused by this project. I also wanted to explain that our traffic study assumed that we were not making any changes to the signal timing at South Gateway and Route 17. So, those numbers are assuming everything stays at as it is, so it does seem like a huge additional delay by adding a use. That is keeping in mind that you still only have six seconds to get out in the peak hour to make that left-hand turn. The level of service goes from an F to an E with two additional seconds. That's the amount of time that you need... two more seconds it improves the level of service, but VDOT their signals are all coordinated and timed and we couldn't simply say we're going to change the timing for one use, that's up to VDOT. So, that will be analyzed based on real world conditions in the future. I wanted to explain that delay, it's very easy once you are at 132 seconds to put a little bit more use, leave the timing... signal timing the way it is and have that go 200 hundred, 300 hundred seconds if you want by putting a relatively few uses because the timing is staying the same. We did ask VDOT if they'd be willing to change that timing and they did say they would wait until the use came in and there were significant delays they would go back and reevaluate it, but it would be part of a signal improvement timing that would go all the way down 17, not just for one use. The last comment I have as far as a note was on the signs. We have talked to the users; they are willing to move from the big sign to a sign that would be on the corner that would be a monument style sign. What we specifically told them was, we were looking for a 20 foot tall sign that was no more than 200 square feet. That based on a sign for a building that was a smaller square footage than what is typically allowed by the County, the 200 square feet. We've reviewed the staff's recommendations for changing it and classifying it as a shopping center sign. That's fine but from our standpoint our offer to do that is still contingent upon being able to get what we had basically described to them, 20 feet tall 200 square feet. If ultimately what is voted on here, if we go back and the understanding is, is that based on the County's Ordinance that means it's 50 square feet then that's a particular issue, so we did not get an amendment to our agreements because we didn't know how ultimately this board would decide, as soon as we do...and between now and the Board we can work on getting those revised to specify what sign we're talking about and what the height restriction is and what the square footage is, and we don't believe that is going to be a problem to do that.

Mrs. Hazard: Mr. Chairman.

Mr. Rhodes: Yes, Mrs. Hazard.

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Mrs. Hazard: I guess going along with your last point about the potential for the timing to change at that light, you know that's my issue. Was there any discussion, or I guess explain to me even going forward, how it works with VDOT and I certainly ask Mr. Zuraf to chime in as well. Under that condition 12, I know that is subject also to VDOT approval if we allow people to go straight through that intersection. Right now I believe that, that is a right on red intersection. Gives me a little pause when potentially those people could be coming straight through, people think they're going to get through I don't know. That would be something that would be examined in the future because I think of that right on red, to me that's kind of people can sneak in but if there are people coming and they're assuming they're turning... I don't know I guess just in my mind and I just sort of ask for your comments on...that wouldn't get lost somewhere in a process.

Mr. Hornung: People drive where they want to drive.

Mrs. Hazard: Yes.

Mr. Hornung: You can't control but if they think they can get there quicker with a right, they're going to take a right. Candidly, my personal opinion is the right off the ramp with a U-turn is a better movement to get into this site than it is to go straight through the intersection because it gets more traffic off of 17, even though they're making a U-turn and VDOT has looked at the U-turn they've come back and said they're not concerned about it. They will look at it in six months but really that provision was one that was requested by the County. VDOT has told us because of the geometry of it, they're not concerned with that U-turn. So, from a practicality standpoint we will sign it to try to get people to go through the intersections much as possible, but you can't prohibit it from somebody who thinks that's the way to go and frankly... in my experience I'm not as concerned over that movement being unsafe as you may be.

Mrs. Hazard: No, you may have misunderstood where my concern is. Actually I do the U-turn all the time so I'm probably not one of the U-turn... because that's how I go and get off and get across the street, so it's more of just making sure that at some point we do analyze that right on red. That right now, is a permitted movement that that's watched long-term if that continuing lane under condition 12 starts creating problems there that people get side-swiped or whatever. Would that be also as part of the analysis of any light signaling as you would foresee it?

Mr. Hornung: Yes. VDOT collects accident data, they go out and study their signals probably not as often as we all would like because it doesn't seem like they're ever really truly coordinated but that is part of the process of coordinating lights. I don't know the frequency that they do that, but if they go out and look at the timing of that left turn movement, they would analyze the full intersection. The timings of all of the movements and make adjustments, so that would include the right turn and possibly some restrictions on... I guess on the free flow right there the right on red.

Mrs. Hazard: Okay. I mean that just is the other concern for me, you know, with everybody figuring out what is that lane to be used for. Going back and this may be really basic stuff. The truck notification, how would the trucks know who can go in and out of there? Now, I also have concern on that turning radius but I... we'll come to that second, but it'll be fairly obvious that the 18 wheelers are not going to be turning in there. How would they know that? I just don't know.

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Mr. Hornung: Well, 18 wheelers fuel at truck stops because you can get in and out of them. If you go to most gas stations around here, it's... I don't recall ever seeing an 18 wheeler pulled up underneath the canopy because they simply can't make the maneuver so there are truck stops towards Caroline and heck this property used to be a truck stop for them and that's where they all went, but they weren't going across the street to the Shell or to any others because they simply don't make it. So as far as practically, there could be a sign that has the restriction on the weight but really it's done on its own because those folks are using diesel and they're using facilities that allow them to make very large turning movements, which simply doesn't exist here. So it's more of an industry standard if that's what they do, but if an additional restriction is needed an it's being used we could certainly sign that and try to restrict it rather than just having it as a proffer.

Mrs. Hazard: My last just question. We talked about this last time and I'm sorry it sort of gelled a little bit more when I went out there. We talked a little bit about that turning into Jones Lane and that you all have some real restrictions there because of the adjoining property as I understand it. Is that a 50 foot... it even looks like there's drainage, it's really small but it looks like there's a lot there, is there any, like, exemption or something because I even think you had even mentioned we really want to make sure that's a good turn in and I thought there was some discussion and forgive me if I've missed it... that we did resolve it. How that turning movement, if we were able to either improvement or site just that... I know we talked about it I just now can't remember how we played it out.

Mr. Hornung: The Jones Lane configuration was set up because we were avoiding any impacts at the adjacent gas stations entrances, so there's no way to bring it out perpendicular and not get into that entrance and have adequate turning radii. So that's why the jog exists. It could be straightened out in the future if and when changes are made to the adjacent site or an easement is required for them to redo it. That is an operating fueling facility and the name of their game is access, so as long as it operates that I doubt they're going to willingly say let's get rid of one of our two entrances or reduce our entrance, but at any time if they were to do that then that improvement could be done to Jones Lane to straighten it out. In the meantime, it does meet all of the radii requirements even though it does have a little jog in it. There's nothing about it that doesn't meet standards and it was actually approved as part of the center in the back assuming that this piece would develop.

Mrs. Hazard: Okay, so I think... I thought we were talking about even though we didn't like the second jog as I call it. I thought we'd discussed potentially that turning in there of whether there was a way to keep that there.

Mr. Hornung: The end we could increase the turning radius on the entrance and during the last discussion...

Mrs. Hazard: I can't remember.

Mr. Hornung: ...we said that we would be willing to do that to help it... help you or help vehicles get in there a little bit more easily. There's a fine line between it being big enough and then being too big.

Mrs. Hazard: Too big.

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Mr. Hornung: When people start losing where the entrance is and you know exactly where they are. So... but I don't know what the radius is there but we had talked about increasing it in size up to I don't know 40 or 50 feet.

Mrs. Hazard: And I know that that's actually even maybe further on, I just wondered if there was any comments on that because I just remember us discussing it and whether we thought it should be... I don't know it was just something we had discussed and I was trying to recall exactly if we had left it as we would look at it and if you did if you had any comment either way really was where I was leaving it.

Mr. Hornung: From what I recall, we had said that during when we go to the site plan process and we go to TRC that we would bring that up and work with VDOT because it is a modification of an existing entrance, which was already permitted but we have no problem if... making that part of our plan if VDOT recommends that it's... it would make sense to make it wider.

Mrs. Rhodes: Okay. Other questions? Okay did you have anything? Okay very good. Okay back to the Planning Commission. Dr. Schwartz.

Dr. Schwartz: I'd like to make a motion to forward this on to the Board of Supervisors recommending approval.

Mr. Rhodes: Okay there's a motion recommending approval. Is there a second?

Mrs. Hazard: Second.

Mr. Rhodes: Second by Mrs. Hazard. Any further comments Dr. Schwartz?

Dr. Schwartz: Whoever designed the egress and ingress many years ago really did a poor job. I have a lot of heart burn passing this along, sort of signing off on a poor job that was done previously that... where you have trouble reworking now, but at the same time I think it would be beneficial to the community to have a Wawa there. A lot of Wawa's in the area have a lot of heavy traffic flow and they seem to survive around it. I think we've brought up all about the bad issues that are here and just trying to work through them as best we can. I... it's not a ringing endorsement by any measure but I think to stand in the way is only going to slow things down.

Mr. Rhodes: Thank you. Mrs. Hazard.

Mrs. Hazard: I actually appreciate all the work that has gone into trying to figure out what best to do here and I would like to compliment the applicant on the revision to the architecture. I think the more pleasing we can make that the better. I too have, you know, concerns about the traffic. I'm probably one of the minority that likes the U-turn because I use it, but I do have concerns about that Jones Lane but I do believe that it appears going forward that there is a thought that VDOT will be analyzing and looking at that intersection going forward that if we really do run into some problems we can hopefully address that with VDOT's blessing. So, yes I will be supporting this motion but also you know sort of making sure... I'm sure that the Board of Supervisors too will be looking at the traffic as well.

Mr. Rhodes: Thank you. Are there any other comments? Mr. Hirons.

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Mr. Hirons: I just have one and I think I'm kind of getting into the habit of doing this. I'm actually going to use my vote and vote against this and not because it's a bad application and the applicant hasn't gone out of his way and really worked well with us. My concern is still, the County spent an awful lot of money developing the redevelopment of plans and then the state forced on us the Urban Development areas and this is within the boundaries of both of those and I have real concern that the very first thing that we're going to do and approve I believe within any of the UDAs but particular here and in the RDA since they've been planned, is a use that's really not a part of those plans and not really consistent with those plans, so I think in the long run I'm going to end up buying gas and buying my coffee at this Wawa. It's not a bad application and like I said the applicant has done a great job working with us. I'm just going to vote against this particular motion on the stance of it's not consistent with what the County has spent an awful lot of money on studying in that area.

Mr. Rhodes: Okay. Thank you. Any others? Very good I will just comment that I appreciate the flexibility of the applicant especially with the design efforts and I do like the thoughts of the staff on trying to think through some other thoughts on signage controls and I believe they came out with a pretty good template there. So, thanks for that additional efforts looking for that. With that I will call for the vote. All those in favor of the Conditional Use Permit CUP1100266 to recommend approval to the Board signify by saying aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mrs. Hazard: Aye.

Dr. Schwartz: Aye.

Mr. Rhodes: Aye. All opposed say nay.

Mr. Hirons: No.

Mr. Rhodes: No. So, it passes with a 5-1 vote with one abstention. Very good. Thank you, thank you for that. Next is item number 2. Mr. Harvey.

2. Calendar Year Work Plan

Mr. Harvey: Thank you Mr. Chairman. Mr. Zuraf will also lead the discussion on this matter.

Mr. Rhodes: Lucky Mr. Zuraf. Thank you.

Mr. Zuraf: I'll be a little more brief with this one. We've been to the last few meetings on the work plan and I've... we've kind of at the previous meetings gave you a little bit too much information and I think you were looking for more of a focused list of tasks that would be coming your way this year and we've provided a memo and a listing of different presentations and planning programs that follow along with the Comprehensive Plan Implementation Plan and attempted to kind of estimate when these different efforts might get your way, assuming we can put the appropriate staff time to it and don't get pulled off to some other project. But, so this is... we didn't go and pick specific meeting days just if

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you're looking out several months I think it's more... best just to estimate the month and at the bottom of the list of tasks we do have some undetermined items. The last one being a potential kind of briefing on the Roadbond Projects and that I guess we're wanting to maybe see if the Planning Commission... if that's something the Planning Commission wanted to get a briefing on and if we have your concurrence we'll talk to the transportation staff and see what they can do to schedule that.

Mr. Rhodes: Okay. Any comments for Mike or staff in general?

Mrs. Hazard: Can I just make a quick comment?

Mr. Rhodes: Please, Mrs. Hazard.

Mrs. Hazard: Since this was the thing that I felt so strongly about, Mike, this was great. This was really helpful. It gives us really a roadmap of where we're going, of some really big items that were in the Comp Plan, so I truly appreciate the work that I know Mr. Zuraf has put in on, not only the Comp Plan, but now implementing it. So, I really do want to thank you for that. When you say the VDOT staff, does that include, I think you said, upcoming road projects. Is there anything about the kind of activity? I had heard that some of that was changing as well, some of the conduct activity. I don't know if that's something we will just either get as part of some of our packages. It's just one other thought... I found out at a TRC meeting to be honest.

Mr. Zuraf: That would be separate from the Roadbond Project briefing and that was County transportation staff who would be assisting in that but the... as far as the interchange briefing that's more appropriate, more focused on that, so that would be I guess a whole... entirely different subject if you want to go in that direction.

Mr. Rhodes: I would just submit that I appreciate you trying to work in the additional items and it... the ones other than the Implementation Plan and looking at the schedule and seeing where we might notionally address that. That's a helpful picture to layout and quite frankly the first list with all the details, that was a good do. I mean it wasn't too much information but this is helpful to have it kind of logged down onto one sheet. I know I for one certainly, whenever we can, reasonably fit it in and the schedule would permit, I would be interested in updating the Roadbond Projects just because it's been a while since the referendum went and to see where we are in the planning and the sequencing of some of that because I know a lot of it was timing dependent and so the sequencing... I don't know the degree to which it shifted. I for one would be interested in that. I do note we had the suggestion earlier on our work plan about possibly looking at a retreat to address some topics and you've notionally put it in there for May/June and I assume your timing there Jeff is just to make sure the resourcing stays solid since that'll be near the end of the fiscal year I guess...

Mr. Harvey: Yes.

Mr. Rhodes: ...and that was a logic there. What I would ask fellow Commissioners to start thinking about are what are the priority items you would like to discuss and consider and address at that time and if we're going to be able to do this and make it productive we need to make sure and give staff some time to plan for what are the targeted areas we need to address and discuss. What are the outcomes we hope to achieve from the process. So, not that we need to address those right now, but certainly to give them time to prepare I think if we could come back with some thoughts on that for the

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next session where we're revolving in that thought pattern. I think that'd be very helpful if we want to be able to execute this.

Mr. Harvey: Yes, Mr. Chairman.

Mr. Rhodes: Yes, Mr. Harvey.

Mr. Harvey: Also, on those lines it'd be helpful if the Commission could think about the type of session and days of the week where you may want to consider it and timeframes during those days.

Mr. Rhodes: Okay.

Mr. Harvey: Whether it be on a weekend or during a regular meeting or how you would want to accomplish that.

Mr. Rhodes: Okay. Very good. Thank you, Mr. Harvey. Are there other comments for staff on this topic? Okay, hearing none. Thank you very much Mike. This is very, very useful resource.

Mr. Zuraf: Thank you.

Mr. Rhodes: And thank you all that worked on that. With that we still have a bit until 7:30. Item number 3 Mr. Harvey.

3. Amendment to Zoning and Subdivision Ordinances, Cluster Provisions - **(Time Limit: May 28, 2012) (In Planning Commission Subcommittee)**  
*(Authorize for Public Hearing by: April 18, 2012)*  
*(Potential Public Hearing Date: May 16, 2012)*

Mr. Harvey: Mr. Chairman that item is currently in Committee.

Mr. Rhodes: That's right.

Mr. Harvey: I don't know if the committee wants to speak to the issue at this point in time or wait until Committee Reports.

Mr. Rhodes: You want to wait to Committee Report? Okay, well why don't we... yes we got time now before we get to the public presentations anyways, so why don't we...

Mr. Rhodes: Yes. I am not going to fill the time by singing. Okay. Would members of the subcommittee like to... I know you've had a meeting. So far would you like to just discuss back what's transpired thus far?

Mrs. Hazard: Well, we did have our first meeting on February 7<sup>th</sup> and we had a great briefing and some... a lot of good information which was shared. I think a great discussion. Our next meeting is on Wednesday February 22<sup>nd</sup> at 6:30. So, that's next Wednesday, I believe ABC Conference Room. We talked a lot with staff about how we were going forward. They were... are working on drafting an Ordinance along the lines of some of the areas we talked about we had some questions about

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visualizing some of the setbacks, different things. So staff jumped right on that and was saying hey we understand... we need to see it and I thought it was a productive meeting, you know, moving everything forward, but I'd be... allow the other two members to make their comments as well.

Mr. Rhodes: Thank you. Other comments? Mr. Howard.

Mr. Howard: I would echo Mrs. Hazard's comments... just for record keeping purposes. Mrs. Hazard was elected the Chair of the committee and Mr. Apicella was elected the Vice-Chair and we had a lot of help from staff as Mrs. Hazard indicated and there's a lot of homework yet to be sent our way and I know it's... I think it's on the way to us tomorrow is from what I hear. So there's a lot of reading that we have to go through and a lot more information that we have to peruse through.

Mr. Rhodes: I know it's early, but are you feeling okay towards the potential to possibly authorize for public hearing by the 18<sup>th</sup> of April?

Mr. Howard: I'll defer to Mr. Apicella on that.

Mr. Rhodes: Anyone else.

Mr. Apicella: I think we ought to wait at least one more meeting.

Mr. Rhodes: That's fair.

Mr. Apicella: We reiterated our goal... our overarching goal which is to replace the existing Ordinances with one that is fully compliant with the State Code and so that's our driving objective and we're working with staff toward that end to make sure that we cover all our bases and are truly cognizant of the areas where we're not in compliance and where we need to come up with some additional provisions in the straw man that we're hoping that staff will provide and there we can look at and determine if it's the right way to go and any other modifications that might be necessary.

Mr. Rhodes: Okay. Very good. Any other comments from members or Mr. Harvey, staff? Anything else to add? No.

Mr. Harvey: No sir.

Mr. Rhodes: Good. Thank you very much.

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: Could we go back to item number 2 I believe it was.

Mr. Rhodes: Work Plan?

Mr. Howard: Yes.

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Mr. Rhodes: Further comment on it? Okay.

Mr. Howard: And on the Roadbond Project briefing that you indicated the Planning Commission would want an update on that, what which I would agree with by the way. Could we perhaps just discuss it since we have some time? And maybe Mr. Zuraf or Mr. Harvey would know when would be a good time to do that because I'd like to do that as soon as we could if that's even doable. I'm not sure in what form this exists today, so do you have an update? Have you been tracking it? And it's okay to say no if you weren't. It's just more... I'm just trying to understand that because I also wanted to add on there if we could get the Courthouse Interchange update at the same time.

Mr. Rhodes: That's actually March 7<sup>th</sup>.

Mr. Howard: That is March 7<sup>th</sup>?

Mr. Rhodes: VDOT target the first line? Their trying to get VDOT in on first session of March.

Mr. Howard: Okay, 630 Interchange great.

Mr. Rhodes: Roger. Yes. But do we have any idea when we think, I mean that folks will be prepared to present anything on the road bond. Would that be a while or?

Mr. Harvey: Mr. Chairman, we would ask the Public Works staff if they could be available to come to the second meeting in March on the 21<sup>st</sup>.

Mr. Rhodes: That'd be great if they could. Okay, so we'll see what happened with that. So that'd be the 21<sup>st</sup>?

Mr. Harvey: Yes.

Mr. Rhodes: Very good. Anything else Mr. Howard?

Mr. Howard: No that's great... appreciate that. Thank you.

Mr. Rhodes: Wonderful. Thank you. Since it's not quite 7:30, the advertised time for public presentations and public hearings, I think we'll jump forward to the Planning Director's Report, if that's okay Mr. Harvey, if you're prepared for that one.

PLANNING DIRECTOR'S REPORT

- Discussion of April 4<sup>th</sup> meeting

Mr. Harvey: Certainly Mr. Chairman, thank you. I have a number of items that are listed on the agenda plus one other item I wanted to discuss with the Commission. The first item is the April 4<sup>th</sup> Planning Commission meeting, the Board of Supervisors has scheduled a budget public hearing for that night and it'll be in these chambers so we have a conflict between the Board public hearing and the Planning Commission meeting. Staff would like some guidance from the Commission as to what to do with that situation. Some items to consider as possible options are: flip-flop days with the Board,

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have your meeting on Tuesday the 3<sup>rd</sup> which would be in this room. It'd be televised and also on on-streaming video, another option would be to potentially go to the Board...School Board Chambers on the 4<sup>th</sup>. If we do that and go off-site that can be accomplished through recording the meeting. However, there would be no live video feed or streaming video. That would all have to be posted after the fact, and there may be other options the Commission may want to consider.

Mr. Rhodes: Now the... I think the reason for the switch was there's... that's the date of the special election on the 3<sup>rd</sup> and they were wanting not to conflict with that?

Mr. Harvey: Correct.

Mr. Rhodes: Okay and this will be... this is the budget?

Mr. Harvey: Public hearing, yes.

Mr. Rhodes: Public hearing. Okay so that'd be... I'll just share a reaction I have is, I think we've got split... with the Cluster Ordinance and other items we've certainly got things to work and I'd hate to lose an opportunity to address things. I would be sensitive to holding public hearings on that evening though, especially since there will be public hearings for topics here with the Board. I don't think we'd want to conflict with that, I think we'd want to try and schedule and preclude a public hearing aspect but...

Mr. Apicella: Wouldn't the election end at 7:00 and then normally our public hearings are at 7:30, if we did hold it on the 3<sup>rd</sup>?

Mr. Rhodes: On the 3<sup>rd</sup>? Well, the 3<sup>rd</sup> it wouldn't... at least it wouldn't conflict with the Board's public hearing. If we held it on a regularly scheduled night I wouldn't want to conflict with that but... so I'm... I think I hear from you Mr. Apicella you'd be inclined to do it a day earlier.

Mr. Apicella: That would be my preference.

Mr. Rhodes: Okay. Other comments... thoughts?

Mr. Howard: Mr. Chair.

Mr. Rhodes: Mr. Howard.

Mr. Howard: I support keeping the meeting whether it's the day before or the day of. I think as you indicated there's an awful lot of work to be done and it's either postpone the meeting or not even have, you know miss that meeting. I'm not sure what would be a good outcome, so I would support either the day before in these chambers and just start the meeting at 7, so if there were anyone for any reason that couldn't get to vote they at least have that opportunity to do that, and this is only in the Garrisonville... from my understanding is this just involves Garrisonville.

Mr. Rhodes: Special election just for Garrisonville.

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Mr. Howard: So, I'm not sure it impacts the whole County, but I understand... certainly understand that the desire to interfere with the election process. So, either one but I think... I agree with your first comment that we should hold the meeting.

Mr. Rhodes: Other comments or reactions as to how to pursue? No strong judger either way.

Mr. Apicella: Do we need to make a motion to change the meeting date or...?

Mr. Rhodes: If we are going to change the meeting date or if we're going to change the location we need to vote on location. I know we need to announce it I guess, that wouldn't need to be a vote because that's the... if we did it the 4<sup>th</sup> that's the night we normally meet.

Mr. Harvey: I'll check how we have it posted.

Mr. Apicella: Mr. Chairman, I would make a motion to move the currently scheduled Planning Commission for April 4<sup>th</sup> to the prior day April 3<sup>rd</sup> and to start that meeting at 7:00.

Mr. Howard: Second.

Mr. Rhodes: Okay. Motion and seconded to move the April 4<sup>th</sup> meeting to April 3<sup>rd</sup> at 7:00. Other discussion, Mr. Apicella.

Mr. Apicella: I agree with the comments that I heard that it's necessary and appropriate to have a Planning Commission in early April and I believe that this is the most viable solution to make sure that we carry on with our necessary business.

Mr. Rhodes: Okay, very good. Mr. Howard.

Mr. Howard: I would just concur with the comments the... it does make sense and it is a logical change to use the chambers. This way the meeting can also be streamed live for those who may want to watch this at home, and I know people do...do that and it's important to many people. So, the taped option was a good option as well but the fact that we can use these chambers and just move it a day. In my opinion makes sense.

Mr. Rhodes: Okay. And other comments? Mr. Hirons.

Mr. Hirons: I was just trying to check my schedule. It's when... I think it's sensible it makes sense, but I don't think I'll be able to be here. I believe I have a conflict with my son's scout troop. I'll check into to try to see how severe of that conflict is...

Mr. Rhodes: Okay.

Mr. Hirons: ...but I think it's a good idea and sensible to make the date April 3<sup>rd</sup>.

Mr. Rhodes: Very good. Thank you. Dr. Schwartz.

Dr. Schwartz: On Tuesday evenings I'll be arriving late.

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Mr. Rhodes: Very good. Anyone else? Mr. Harvey, is there any particular 2<sup>nd</sup>/3<sup>rd</sup> order effect of doing it on that Tuesday night that you can think of that jumps out to you that causes any concern?

Mr. Harvey: Not that I'm aware of Mr. Chairman.

Mr. Rhodes: Other than changing public notice for it?

Mr. Harvey: Yes, we would make sure that we put that out on the web for special notice.

Mr. Rhodes: Okay.

Mrs. Hazard: Mr.

Mr. Rhodes: Yes, Mrs. Hazard.

Mrs. Hazard: And any potential applicants or anything that were in the pipeline would be aware of that change as you go through the process. I assume... I mean I know you all reach out to them, but you know we...I think we are doing the right thing by moving it. Keeping it that week is just, you know getting the people who might be involved in that meeting adequate notice to that it will be changing.

Mr. Rhodes: Okay. Any other discussion? Very good. All those in favor of moving the April 4<sup>th</sup> Planning Commission meeting to April 3<sup>rd</sup> and starting it at 7:00 instead of 6:30, signify by saying aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mrs. Hazard: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye.

Dr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed nay. Passes 7-0. Very good. Thank you for that. Mr. Harvey.

- Farmers Market

Mr. Harvey: Mr. Chairman, continuing on with my report, at the last Board of Supervisors meeting they passed a Resolution referring the Farmers Market Ordinance back to the Commission. With your concurrence we'll add that to the agenda for your next meeting.

Mr. Rhodes: Okay, very good. Thank you.

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Mr. Harvey: Or if you would like we can go ahead and work towards scheduling the public hearing. I know there was extensive discussion on the Commission.

Mr. Rhodes: If I could just... no, so they didn't pass specific language, it'd just... they've taken what we...

Mr. Harvey: They took what the Commission had recommended and said go forward with the public hearing and make any modifications if you deem them necessary.

Mr. Rhodes: Okay. Thoughts?

Mr. Howard: So, Mr. Chair.

Mr. Rhodes: Yes.

Mr. Howard: The other question would be is, was there any Commissioner that didn't agree with what we had advanced to the Board of Supervisors.

Mr. Rhodes: Mr. Harvey, are you aware?

Mr. Howard: Did anyone express any concerns?

Mr. Harvey: At the Board level, no.

Mr. Howard: No, at the Planning Commission level. Along your second comment, if we're not going to make any changes it might be prudent just to schedule the public hearing this evening.

Mr. Rhodes: Great.

Mr. Apicella: Is that a motion Mr. Howard?

Mr. Howard: I make a motion to schedule the public hearing for the Farmers Market as written by the Planning Commission and submitted to the Board of Supervisors and sent back to us.

Mr. Rhodes: There's a motion on the table.

Mrs. Hazard: Second.

Mr. Rhodes: Seconded by Mrs. Hazard. Any further discussion, Mr. Howard?

Mr. Howard: No, Mr. Chair, I think it's been discussed.

Mr. Rhodes: Very Good. Mrs. Hazard, any further?

Mrs. Hazard: No, I think we made the one modification that was suggested before we sent the Ordinance up. I think people have had some opportunity... I know a lot of hard work has gone into it so I'd like to also get it to public hearing.

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Mr. Rhodes: Okay, any other comments? Any other members? Hearing none I appreciate the work of the ... that went into preparing that and getting it forward. It was very thoughtful and I'm glad to see the Board has supported that. All those in favor of scheduling this for public hearing, signify by saying aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mrs. Hazard: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye.

Dr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed? None, very good. 7-0. Please... you're doing very well Mr. Harvey.

Mr. Harvey: I'm lucking out tonight.

Mr. Rhodes: Yes.

- TDR

Mr. Harvey: Well, Mr. Chairman another item that the Board had on its agenda at its last meeting and... was Transfer of Development Rights. Staff gave the Board a briefing on that potential Ordinance. The Ordinance that was considered... requested from the Board to the Commission and also the Ordinance that the Commission discussed internally. The Board of Supervisors made a number of comments about it but were concerned that the Commission had not given a full recommendation as to whether to proceed with Transfer of Development Rights or not. So, the Board referred the Transfer of Development Rights back to the Planning Commission to either recommend to go forward or not go forward and if the... they asked if the Commission was inclined to go forward with the Transfer of Development Rights to develop an Ordinance that the Commission could support and recommend in the affirmative to the Board of Supervisors.

Mr. Rhodes: So, from that we would have the authority to develop the Ordinance as we deem best to recommend back?

Mr. Harvey: Yes.

Mr. Rhodes: And that would be to where it would apply as well? Or the TDR would be equal to?

Mr. Harvey: I assume so.

Mr. Rhodes: I mean before it had a couple of specific areas I think is what they had sent forward to us.

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Mr. Harvey: Yes.

Mr. Rhodes: Okay so.

Mr. Harvey: Also, the Boards directive was to come back with something by the end of June.

Mrs. Hazard: Mr. Harvey, was your understanding that, that was to allow anything that legislatively may be occurring in Richmond to be taken into account or did that... the Planning Commission would get that opportunity?

Mr. Harvey: Yes. There is one proposed bill that's being under consideration which expands the use of the sending property once the rights have been severed. Right now it's limited to agricultural and forestal uses, it would expand that to potentially allow a park land and camp grounds.

Mr. Rhodes: Very good.

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard. I think there was also some confusion on the... one of the calculations that were being used to determine the TDR transfers into both of the proposed RDAs, the test areas, so what I would... what I want to do right now is just make a motion to... I'd like a motion to send it back but I'm not going to, send it back as written, but for the sake of giving everyone the opportunity and Mrs. Hazards comment is correct that the general assembly is taking this up in this session and there could likely be a different version that comes back to us. So, this gives us time, but my motion would be to put the TDR Ordinance back on our agenda for the very next meeting under new business. I make a motion to do that.

Mr. Apicella: I'll second that.

Mr. Rhodes: Motion seconded. Any further comment, Mr. Howard?

Mr. Howard: Just a discussion is to get it back on the agenda quickly and make sure that we resolve some of the issues and or concerns that exist.

Mr. Rhodes: Any further comment, Mr. Apicella?

Mr. Apicella: Yes, I concur with Mr. Howard's comments. I wonder if it's possible to get a summary of the thoughts and comments that the various Board members made during that meeting. I understand the 50 percent issue came up and I'd like to better understand what their concerns were and how we may not have articulated that the right way or got the number right, but there may have been some other comments that might be useful, so we need to further deliberate on this.

Mr. Rhodes: Alright, and they were on the minutes we approved just the last session had the... a lot of that dialogue too.

Mr. Howard: No, they were... I'm using a three word level.

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Mr. Rhodes: Okay. I'm sorry.

Mr. Howard: I apologize for not stipulating that. And it's to no fault of anyone there was a lot of different dialogue going on at the same time and...

Mr. Rhodes: Okay.

Mr. Howard: ...it was not an easy conversation to follow and at the end of the day, I think the split vote is what sent it back to us. The fact that the Planning Commission didn't really have a commitment either way was perplexing to them, and that's fair... that's a fair comment.

Mr. Rhodes: Did we... I'm trying to recall if I could ask the past Chair, did we have a subcommittee that worked on that... that got that developed to that point didn't we?

Mr. Howard: We did.

Mr. Rhodes: Right. Yes... okay and I think you were...

Mr. Howard: No, I was not a part of it. It was Mr. Hirons and Mrs. Hazard.

Mr. Rhodes: Hirons... okay.

Mr. Apicella: No, that... we're talking about the TDR?

Mr. Howard: Yes.

Mr. Apicella: Yes, that was Mr. Howard and myself.

Mr. Rhodes: Okay.

Mr. Apicella: And I'd be happy to continue on in that...

Mr. Howard: I'm sorry. I'm thinking of a different committee.

Mr. Rhodes: Okay.

Mr. Howard: The issue was, I wasn't there that night to vote... in December.

Mr. Rhodes: Great.

Mr. Harvey: Mr. Chairman.

Mr. Rhodes: Yes, Mr. Harvey.

Mr. Harvey: How would the Commission like for us to convey the Boards' questions or concerns? Would you like us to make a copy of the video tape with the audio or how would... or would you like the staff to summarize what the significant questions were?

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Mr. Rhodes: I'm inclined to the former versus the latter but...

Mr. Apicella: I'd prefer the latter, then watching the video if that's possible. Just a couple of bullet points on the keys issues and concerns that were raised.

Mr. Rhodes: Okay.

Mr. Rhodes: Any other preferences?

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: Well, I don't have a preference but I know that could add some additional work I think to the work load. We can watch the videos, they are archived... it might be helpful too if staff could tell us or send an email out if you watch from this point to this point you'll get a sense of, you know what happened. It's timed and you can... that would be helpful for me, instead of watching the whole meeting. I actually sat through it so I'll sit through it again.

Mr. Rhodes: Okay. Yes Mr. Hiron.

Mr. Hiron: Mr. Chair, I'm just going to oppose the motion because I think the Commission spoke on TDRs already. We had two motions before so we opposed both of them, and we sent that on to the Board and the Board is now passing it back to us with hopes that they can just continue our work and end up with something. I'm really not particularly pleased with that.

Mr. Rhodes: Okay. Thank you. Any other comments? I would just submit that this is certainly coming with a greater degree of flexibility from the starting point, so we'll see how well we can do on it. I do think we need to get addressing it. All those in favor of the motion to put this on... as new business the next Planning Commission meeting, signify by saying aye.

Mr. Apicella: Aye.

Mr. Boswell: Aye.

Mrs. Hazard: Aye.

Mr. Howard: Aye.

Dr. Schwartz: Aye.

Mr. Rhodes: Aye. Any opposed say nay.

Mr. Hiron: Nay.

Mr. Rhodes: 6 to 1 vote. Well, I added on there and I see that a... we're 7:31. So we will interrupt... it was... I don't know if you were done there, but we're going to interrupt you. Mr. Harvey beg your

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indulgence. It is the time that we have public presentations and then we'll proceed into public hearings. Public presentations is an opportunity for any member of the public to come speak to the Planning Commission on any item that is not on the public hearing, so any item other than the Reclassification for Electrifiers Inc. or the Amendment to Zoning and Subdivision Ordinances, this is an opportunity to address the Planning Commission. Typically, it is not an... not typically. It is not an interactive dialogue but it is an opportunity to, for you to express points or views for consideration of the Planning Commission. So anyone that would like to come forward to speak for three minutes on any item other than what's in the public hearings may do so now. Hello sir, as you know the light will turn green after you state your name and address and that'll be three minutes, the yellow light will mean there's one minute to ask you... and the red light will start blinking and the three minutes has expired and ask you to start wrapping up. Thank you.

NEW BUSINESS

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**7:30 P.M.**

PUBLIC PRESENTATIONS

Mr. Waldowski: Paul Waldowski. I do watch TV and some of you don't turn on your microphones, and I got better things to do than watch the live video feed. So I... I would recommend that you do talk into the microphone so we can understand what's going on. Since this is a planning session, I thought I'd tell you something that you probably don't know, or maybe you do know, but in the last 50 years we've had a number of census and in 1960 to 1980 the population grew... it more than doubled without a Comprehensive Plan, and if you look at the census data from 1970 to 1990 it more than doubled again, and if you look from 1980 to 2000 it more than doubled again, and if you look from 1990, which is when I began my tenure here, of 61,000 to 2010 which is 128,000 it has more than doubled again. Now, as a math mathematician, you know we can interpolate or we can use inductive reasoning, however you want to do it, but if we project out at 2020, we would probably have a population of 188,000 if we more than doubled and finally we have a Comprehensive Plan, so if you look from 2010 to 2030, you're talking about 260,000 residents in this County. Now, we have limited land use and I think it's time that you go look at the Great Hotel that's on one and look at the Stormwater and Erosion capabilities. The new Colonial Forge Augustine nightmare... I just love this winter, it's been really nice but from a stormwater management aspect it's been atrocious, and my favorite storm pond is the thank heaven for 7-Eleven approval next to the new CVS off 610 and Shelton Shop Road, which has totally exposed the trailer park. So, I think it's very interesting as planners you need to look at those types of aspects in those regards. We also had a hearing in December about commuter parking and I don't recall seeing any Planning Commissioners there, and you're going to be involved in approving this use of the 22 acre lot, where if you read the documentation I wrote a five page entity, all objective, no subjective aspects because I am a commuter and I know how the process works, and the people who developed the plan are not commuters and I gave them suggestions on how they could that. That's for... oh the yellow light didn't go on.

Mr. Rhodes: I didn't see it go on either.

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Mr. Waldowski: Okay, so we have an error there so maybe we can fix that. I'll just part with those statements in regards to the growth aspects of this County. I think we need to look at what's happened since 1960, and address those roads, schools, and other key public safety infrastructures that are necessary. Thank you.

Mr. Rhodes: Thank you very much. Is there anyone else that would like to come forward for a public presentation on an item that is not on the public hearing tonight? Mrs. Carlone.

Mrs. Carlone: It's been a while.

Mr. Rhodes: It had been. Nice to see you again. Did you know if you...

Mrs. Carlone: Okay. No one should complain about low voices because I was always reprimanded, moved down. Ruth Carlone. I just want to address a problem that I foresee in its contrary to the glowing figures from our Economic Development office. I would like each one of you, if you can possibly arrange it to go with your supervisor and go out in your area and count the number of empty store fronts and empty office spaces. The UDA... this goes back to the UDAs, there is a tremendous concern with the numbers that we have if we go through with them. Each time a new one comes in then other businesses close. The same happened with Wal-Mart, when Wal-Mart came in and duplicated services that we're along 17 we lost some of those business, but primarily my point right here is, please go out with your supervisor if you can arrange it and count again the number of empty store fronts and empty office spaces, and then think again about the number of UDAs we have coming up that will also affect some of the spaces we have filled at this time and that's it.

Mr. Rhodes: Thank you very much. Anyone else who has a item they'd like to address to the Planning Commission for public presentation before the public hearings? Any item other than what is on the public hearings. Yes, sir. Please state your name and your address and then the green light will come on that'll be three minutes yellow lights...

Mr. King: I'm not sure that I can address my subject. The Cluster Ordinance, is that something I can't speak about or not.

Mr. Rhodes: Sir, that will be when we do the public hearings. Item number 5.

Mr. King: So, not at this time?

Mr. Rhodes: Not at this time. We will get to that item in a moment sir. Thank you.

Mr. King: Okay. Thank you.

Mr. Rhodes: Anyone else on an item other than the Reclassification of Electrifiers or the Amendment to the Zoning and Subdivision Ordinance dealing with the Cluster Provisions? Seeing no one coming forward, we'll close the public presentation portion and now get to the public hearings. Item number 4, Reclassification Electrifiers Incorporated, Mr. Harvey.

PUBLIC HEARINGS

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4. RC1100314; Reclassification – Electrifiers, Inc. - A proposed reclassification from A-1, Agricultural to M-1, Light Industrial Zoning District to allow flex office uses on Assessor's Parcels 44-93B and 44-94, consisting of 6.77 acres. The property is located on the east side of Powell Lane, approximately 2,500 feet south of its intersection with Warrenton Road within the Hartwood Election District. **(Time Limit: May 15, 2012)**

Mr. Harvey: Mr. Chairman, please recognize Ms. Ansong for the presentation.

Mr. Rhodes: Thank you. Ms. Ansong.

Ms. Ansong: Good evening Mr. Chairman and members of the Planning Commission.

Mr. Rhodes: Good evening.

Ms. Ansong: I stand before you tonight to present Reclassification, case RC1100314, Electrifiers Incorporated. Electrifiers Incorporated RC1100314 the applicant is Mr. Chandergupt Bajwa. The agent is H. Clark Leming and this proposal is for Tax Maps 44-93B and 44-94 and the property is located on the east side of Powell Lane approximately 2500 feet south of Warrenton Road intersection. In terms of acreage the parcels are 6.77 acres combined. This is a request for reclassification from A-1 Agricultural to M-1 Light Industrial. This is the zoning map for Electrifiers Incorporated and the parcels are highlighted in red, once again it's 44-94 and 44-93B in red. Here is an aerial photograph of the parcels highlighted in blue. In terms of existing conditions for Electrifiers Incorporated the current use as it stands right now. The property is currently undeveloped with 3 vacant sheds on the property. There are 2 parcels that are... that will make up these... that will make up this Electrifiers Incorporated project and those parcels are 44-93B, which is 5.77 acres and Tax Map 44-94, which is .99 acres. Combined that makes the 6.77 acres. In terms of topography, the topography ranges from 220 feet to 254 feet on the property. In terms of site access, there is a gravel road providing access from Powell Lane to the sites, and the floodplain and RPA are located along the northern edge of the sites. Here is a GDP for Electrifiers Incorporated. Here are the proposed proffers for Electrifiers Incorporated. One proffer states that access would be restricted to Powell Lane to one access point. Construct access between the existing cul-da-sac to the site as shown on the GDP. Provide a mix of evergreens and deciduous trees with a minimum of 10 percent evergreens. Total maximum allowable square footage of all buildings shall be no greater than 31,000 square feet. Prohibit certain by-right uses in the M-1 zoning district. Restrict the building heights at 35 feet. Construct and maintain a six foot high opaque fence to screen all outdoor storage area. Provide public water and sewer to the site. Install parking area lighting that is directed downward and away from abutting properties. Protect the RPA during construction of the sites. Consolidation of the two parcels. Remove of all existing structures and well on the site. Erect monument sign with a maximum height of 10 feet. Erect and maintain directional sign as close to Powell Lane as possible. In terms of the land use designations, stated in the Comprehensive Plan, this parcel is designated as suburban and it is highlighted in blue. In terms of the Comprehensive Plan, the site is labeled as suburban and the plan does allow for industrial use in suburban designated areas. Industrial areas shall not be water intensive and they shall be located near railroad lane...railroad lines and/or major highways. The Comprehensive Plan also states that preferable industrial development in suburban areas provide goods and services to nearby businesses and residences including warehousing, wholesaling, manufacturing, processing operations, mixed use, commercial and industrial development, and flex office space. The proposed use is consistent with the land use designation of suburban. Staff does recommend approval of the proffers proposed in

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Ordinance O12-06. However, staff also recommends some modification of proffer 12B, which deals with the location of directional signage, encouraging the applicant to locate that sign at the end of Powell Lane. Any questions?

Mr. Rhodes: Any questions of staff?

Mr. Hirons: Mr. Chair.

Mr. Rhodes: Yes, Mr. Hirons.

Mr. Hirons: What does Electrifiers do?

Ms. Ansong: I believe they go out like servicing... like doing electrical work and if someone calls with electrical problems then they send people out to fix those issues. That's what I believe.

Mr. Hirons: Okay. I guess with the name of it, but I just want to make sure because, you know for one the criteria was that... that provider, good, or service that's useful to the community and staff recommended approval based on that. Just want to make sure the service they provide is actually useful and it sounds like it is. Thanks.

Mr. Rhodes: Thank you. Other questions of staff?

Dr. Schwartz: The...

Mr. Rhodes: Dr. Schwartz.

Dr. Schwartz: The gravel road is an easement currently?

Ms. Ansong: Yes, there is an easement on the site. Yes. I think it's going through this back road.

Dr. Schwartz: And who's granting that easement? What property is that gravel road on that's granting the easement?

Ms. Ansong: Let's see... give me one second.

Dr. Schwartz: Was that easement granted for a gravel road and now we're going to hard... now we're going to black top it?

Ms. Ansong: Give me one second. The easement is actually kind of like perpendicular to the road actually. So, the road is going this way and the easement is going up and down, north... south. The VEPCO easement... is that the easement you're referring to... the vepco easement?

Dr. Schwartz: No. I'm just saying the gravel road... it accesses this property?

Ms. Ansong: Yes.

Dr. Schwartz: What property is that gravel road on?

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Ms. Ansong: I believe that's the Luck Stone property. I could be... I believe that's the Luck Stone property. I believe so.

Dr. Schwartz: So, that's on Tax Map 95?

Ms. Ansong: Yes, that's what it looks like. Yes.

Dr. Schwartz: Okay so that... and that's been an easement through Tax Map 95?

Ms. Ansong: I believe the ingress egress...

Dr. Schwartz: Gain access to the other property?

Ms. Ansong: Yes, I believe so. If I'm wrong I'll be corrected.

Mr. Harvey: Yes sir, that easement is in existence. It's previously been recorded for the benefit of this property.

Dr. Schwartz: Is there a problem with that easement when we're converting from a gravel road to a black top road?

Mr. Harvey: Not that staff is aware of because it still would provide ingress and egress to the property. Our County Ordinance requires that access for properties has to be a paved access, pursuant to our Zoning Ordinance.

Dr. Schwartz: Thank you.

Mr. Rhodes: Thank you. Mr. Apicella.

Mr. Apicella: I have some questions, all on the same lines, what would be the width and length of that private black top road?

Ms. Ansong: Let's see... It looks like it's going to be... I'm going to say 50 feet... Terms of the length I meant, I have to guess with my fingers.

Mr. Apicella: You're saying it would be 50 feet wide?

Ms. Ansong: That's what I'm looking for. I'm not exactly how sure. I don't want to give you the wrong...

Mr. Apicella: Let me just get to the core of my question. In terms of the private paved road, how does that compare to VDOT standards?

Mr. Harvey: Mr. Chairman and Mr. Apicella, if I may answer that.

Mr. Rhodes: Yes, Mr. Harvey.

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Mr. Harvey: Our Zoning Ordinance specifies that travel lanes must have a minimum width of 20 feet. There is no specific construction standard other than it has to be a paved road. The difference between a private travel lane and a VDOT road is that a VDOT road could be smaller or wider depending upon the amount of traffic volume that's required to be passed on that section of road, and VDOT has certain standards as far as base of the road as far as materials, as well as dealing with VDOT requirements for drainage. Stafford County's requirements for drainage in general, are more rigorous than VDOTs, however we do allow for a narrower travel lane in some cases. If the applicant were building homes on this property and I believe its six tenths of an acre so it's A-1, 2 houses. What would the road requirements be from Powell Lane to the site?

Mr. Harvey: Well, as the property currently exists these are two existing lots, so under today's condition with A-1 zoning they could proceed to build those houses using that existing gravel road without any upgrades to the gravel road. If that property is to be rezoned for residential purposes and a small subdivision put in, then the road would have to be brought up to public street standards. VDOT would look at the size of that project as well as what the potential is for development on other properties adjacent to it to determine what category the road needs to be. In other words, how wide does the road need to be, how many cars will it potentially carry, and what other standards will need to be applied as far as depth of pavement lane width and those types of things.

Mr. Apicella: Do we know if the applicant would be willing to construct that road to the minimum of VDOT's standards?

Mrs. Ansong: I'll have to let the applicant answer that but...

Mr. Apicella: Okay.

Ms. Ansong: ...she'll be happy to answer that.

Mr. Apicella: Thanks.

Mr. Rhodes: Thank you. Mrs. Hazard.

Mrs. Hazard: Sort of along that same line. I see in the staff report about... because of the secluded nature of this property having gone out and driven it and looked at it. There was some concern about emergency response to the property. Is that... and that is why you suggested the proffer about siting a sign on the cul-de-sac, is that correct?

Ms. Ansong: That can definitely be a good reason for having the sign at the cul-de-sac. I think another reason to have the sign right at the cul-de-sac, was so that people were aware that, that business was inside because a parcel... you can't really see the parcel standing at the cul-de-sac, so it's just a way to have better identification of what was inside, but yes you're right. It would also help with emergency personnel if an emergency situation were to occur.

Mrs. Hazard: Well, especially when, as Mr. Hirons noted too about Electrifiers, we don't want there to be... we hope there's never going to be a fire or anything, but we would want to make sure that the response teams could get there and so I was just curious. Was there any comment by, either fire and rescue or anything, and I know we can also talk about this with the applicant, but I do note that... you

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noted that which I appreciate and then having gone out and looked at it I'm like yes that would be difficult to find, so I want to talk to the applicant more about that just in general.

Ms. Ansong: Okay.

Mr. Rhodes: Thank you. Anyone else?

Mr. Howard: Mr. Chair.

Mr. Rhodes: Mr. Howard.

Mr. Howard: Did the applicant agree to your condition 12B that you proposed?

Ms. Ansong: I believe. Yes, I believe that when the applicant gets up here they will be able to discuss some further detail... what they have concerning 12B, but from what I've heard yes I do believe that there will be a change concerning that.

Mr. Howard: Okay. Thank you.

Mr. Rhodes: Anyone else?

Mrs. Hazard: I did have one more.

Mr. Rhodes: Mrs. Hazard.

Mrs. Hazard: In the M-1 district, actually that building could be... if reclassified, could be built to a height of I believe 65 feet, is that correct? 60 or 65.

Ms. Ansong: I don't know off the top of my head, but it's possible.

Mrs. Hazard: But the proffers do say that...

Ms. Ansong: The proffer is 35. Yes, the maximum.

Mrs. Hazard: It'd be 35, which is fairly standard and much more palatable. Okay, I just wanted to note that... that even though they, you know the M-1 does say it could go to 60. I believe it's 60, that they have proffered it down to the 35. Thank you.

Mr. Rhodes: Anyone else? If the applicant could come forward.

Mrs. Karnes: Good evening Planning Commissions, Planning Director, and Assistant County Attorney. My name is Debrarae Karnes. I'm an attorney with the Law Firm of Leming and Healy, and I represent the applicant known as Electrifiers. Let me give you the back story and then I'll proceed to answer your questions, including about the height, about condition 12B, and about the road. The Electrifiers business is owned by Mr. Baswa, who is sitting in the audience. Could you stand? Let them know who you are. Mr. Baswa has resided in Stafford since 2006, and he's currently running the

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Electrifiers business which is basically an electrician service. Out of his business, he receives the phone calls for service from area residents and dispatches an electrician. At his physical location, he stores parts and he maintains an office. The electricians do not come on a daily basis to the office. They are dispatched by phone. He's currently operating his business in another location and needed to relocate, and went looking for an appropriate location near Route 17 for a flex office to house his business and quite frankly he had a little bit of trouble finding appropriate locations, but he found this location. This what... not quite seven acres, and arranged a purchase contract with Luck Stone, who currently owns it and quite frankly it's a good deal, but it's more than he needs right now. He really just needs one building, instead of the proposed 31,000 square feet, but you know standard advice is when you come in and get a Conditional Use Permit, you show the County what the maximum build-out could theoretically be and that's what we've done. His potential build-out on this lot could be five buildings, which by the way, are limited to 35 feet maximum height and he proposes that perhaps in the future other buildings will be built and used for other flex offices, and we made a real attempt to proffer out any use that would be inconsistent with the suburban designation. We're talking other types of flex offices, other types of businesses serving the community. As part of his application, he designed the site and we look to make sure that the design made sure that any potential RPA was protected, there was adequate landscaping and buffering to shield adjacent property owners, and I think you'll see that there is. The biggest issue, we had to confront is that, this site is at the end of a cul-de-sac and it's approximately 500 feet from that cul-de-sac, and when we initially start working quite frankly the applicant proffered to continue using the gravel road and we had submitted a request to... that provided for the opportunity for us to ask for some kind of deviation from zoning standards. In the course of staff's review, however, it was determined that staff really supported the construction of the hard top road, and we did amend... subsequently amend the application, even though cost of making that a paved road, that 500 feet, is close to \$100,000 and would be a substantial investment for Mr. Baswa. And I guess that's the long and short way of saying that by going ahead and providing that he will make a road that is paved, he feels he's really doing his utmost to make this a suitable site for a business that, even when fully built-out will only produce 396 vehicle trips per day. And other questions were asked about the easement. The easement does originate from the parent tract, which would be Luck Stone, and in their sales contract there is an agreement for this business to be built and so the owner is supporting this, and did fact apart of the application. I will go on and address proffer 12B, but I wanted to make sure I was answering the questions concerning the roads.

Mr. Apicella: Mr. Chairman, can I follow up on this?

Mr. Rhodes: Yes, Mr. Apicella.

Mr. Apicella: Mrs. Karnes, and this question is much for you as it is for staff. If I understand the process correctly, if we ultimately... if this property ultimately gets rezoned for M-1 the fact that it's currently going to be proposed as flex off 5, 10, 20 years down the road, since there are other by-right uses under M-1 that are not proffered out there could be a significant change in what's on that site. Potentially additional traffic that would be going to that site, which we won't know, we can't see into the future so... is that correct, that down the road this site could change, it's not being proffered as flex office only, so any of these other potential by-right uses could occur somewhere down the road?

Mr. Harvey: Yes, Mr. Apicella, any use that's allowed in the M-1 zone is not excluded through the proffers would be permitted potentially.

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Mr. Apicella: Okay, thank you.

Mrs. Karnes: And just to follow up on that, any use not excluded could be built. We made a real attempt to try to look at the Zoning Ordinance and exclude any use that we felt would produce traffic in excess of what we're predicting and if there is any use that you guys feel should be excluded that we have not we'd be happy to entertain that concept.

Mr. Apicella: So, if your intent is to use this parcel for flex office only, why is that not the only designation that you would consider for this parcel?

Mrs. Karnes: I think we looked at the list of allowable uses and felt that each of those were similar in impact to the neighborhood, traffic, and other considerations as well.

Mr. Apicella: What would the cost be if you had to construct this road to VDOT standards before you mention the price tag of 100,000 for the private road that you've currently proffered?

Mrs. Karnes: I don't have a current estimate. It will be in excess of that figure. I guess their starting position was there are currently unpaved roads serving properties that are much... that have much heavier use than what we're proposing, so we're talking about properties with queries having, you know major truck traffic that continue to be dirt roads.

Mr. Apicella: Well, again my underlying question is, would the applicant be willing to consider constructing the road to VDOT standards?

Mrs. Karnes: I can look into that. I don't think we can answer that question tonight. To be honest, I think he would have to get an estimate.

Mr. Apicella: Okay. Thank you.

Mr. Rhodes: Other questions for the applicant? Mr. Howard.

Mr. Howard: Do you have an engineer with you this evening?

Mrs. Karnes: I do.

Mr. Howard: Would that engineer know what the cost per mile is to build a road to VDOT standards? They might know that.

Mr. Donahue: I don't know that.

Mr. Howard: I think... you don't know that. Okay, I think you're going to find... when you find that out you're going to find out that it's unbelievable.

Mrs. Karnes: And I think that's what we're suspecting.

Mr. Howard: Well, I don't want to say what it is... that I think you should find out.

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Mrs. Karnes: Yes.

Mr. Rhodes: Okay, other questions for the applicant? Okay.

Mrs. Karnes: I have two other points.

Mr. Rhodes: Please.

Mrs. Karnes: One is the comment I think that Mrs. Hazard made about concerns raised by the Fire Marshal. In fact, the Fire Marshal was quoted by staff when the directional sign was discussed and as soon as I heard that I made an appointment to meet with the Fire Marshal and my question to him was, take a look at this plan, tell me if there are any concerns about emergency service, getting to the site and he looked at the road and he looked at the proposed layout of the buildings to see whether there was adequate turnaround for fire trucks and he was satisfied. So, that's the Fire Marshal part. The other part involves, I think condition 12B or I should say proffer 12B. Apparently, staff and you know some other agencies such as the Fire Marshal originally raised the issue that there should be an offsite directional sign at the cul-de-sac, you know the property's interest is 500 feet south of the cul-de-sac. Now, the original problem for us was that to erect the sign we need to own land at the cul-de-sac and the applicant does not own land on the cul-de-sac and so would in normal conditions be prohibited from erecting a sign, legally at least. We have talked to the adjoining property owner, who is Luck Stone and I have a letter from them that I'll share with you guys agreeing that they will, assuming the rezoning goes through and the property is purchased, grant an easement to the applicant to erect a directional sign, and you know that would allow it to be on the cul-de-sac and so therefore I would be willing to modify the proffer to basically remove some of the wording that says as close as possible, but there's one thing I want to point out. If you look up the word directional sign, in the Zoning Ordinance, the definition is an onsite sign, and so by definition within the Zoning Ordinance my applicant would be prohibited from erecting the directional sign on offsite property, even though the property owner is willing to give him an easement. Now, what I'm willing to do with the cooperation of the staff, is to strike the word directional or change the proffer to somehow say directional or other sign as approved by staff, and I think that would solve the problem.

Mr. Rhodes: Okay. Anything else Mrs. Karnes?

Mrs. Karnes: I think that's it. I think that the neighborhood is primarily industrial and this use as proffered will be a compatible use of the neighborhood. It will allow an existing County business to relocate and it's an economic development good for the County, and I ask that you support it even with a paved road that is not to County or VDOT standards.

Mr. Rhodes: Thank you. Mrs. Hazard did you have...

Mrs. Hazard: Yes. I mean just to Mrs. Karnes about the sign. We want to make sure that the sign meets whatever the needs of the Fire Marshal or Fire and Rescue. It would seem that we would want one sign directing or identifying the location because did that seem to be crux of the discussions. It was... they would be driving down there whereas the... is it identification?

Mrs. Karnes: That's my understanding. Yes.

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Mrs. Hazard: So, it's going to the identification of the site for a emergency response vehicle. So, in some sense... since directional sign seems not to be the term of our... of what we want to use, it's some kind of sign identifying and directing traffic to that... I mean and I'm not going to spend the time doing that, but I just want to make sure that how we describe the sign that it... meets the identified needs or concerns of the Fire Marshal, which seems to be identification of the site.

Mrs. Karnes: Yes, and this is how I would propose to reword 12B. So, it currently says 12B directional sign subject to County approval the applicant shall erect and maintain one directional sign, and I would reword that to say one directional or other sign. Okay and then the second sentence now reads, said sign shall be located as near to the Powell Lane cul-de-sac as possible, okay and I would reword that to say, said sign shall be located on the Powell Lane cul-de-sac, and so we're getting rid of as near, the, and as possible, and then it will go on to say, and shall be installed on or before issuance of an occupancy permit for the first building, and I could have the applicant initial these right now, if you guys wanted to make a motion to accept revised proffers before the opening of the public hearing or we could wait for further comment.

Mr. Rhodes: I think we'll probably proceed with the public hearing. Are there any other questions for the applicant? Thank you, Mrs. Karnes. Appreciate it.

Mrs. Karnes: Thank you.

Mr. Rhodes: And how is an opportunity for anyone who's here that would like to comment on this reclassification for Electrifiers Inc., you can come forward and do so now. Just to clarify during the public hearings, it is not interactive... it's not a... we will not be responding to questions per say many times there is an opportunity that a question might be answered in the following dialogue, but it won't be one where you can ask questions and then there would be an answer coming forward, but it is your opportunity to express your position on the application or item of discussion. So, if anyone would like to come forward to comment on reclassification of Electrifiers Inc., please do so now. Yes, sir.

Mr. Waldolski: Paul Waldolski. As I was sitting there listening to this, it reminded me of one of my favorite comedians, Bill Engvall. Here's your sign. But one of the key comments I want to make is about fire and EMS especially from a 21<sup>st</sup> century aspect with the sign. If we don't have GPS in our fire engines and our EMS's today, then we're doing it disservice to all the citizens in this County, so I think you... if you're going to disapprove this, or delay it, or do whatever because of a sign. I think you need to reassess that aspect. Also, in these economic times, I know you all want the greatest roads in this County, but you have to be realistic about what you're going to get. I keep telling this to Republicans, you know you're all for lower taxes and small government. Well, you don't create jobs, it's the businessmen of this Country not just this County or this Commonwealth who create jobs, and if you don't give this guy the opportunity to get into an area that's sitting there as agricultural. He's concerned about the RPA aspects of it, so obviously he's taken all the steps to be a good citizen and I'd like to see one of your 7 to 0 votes for approval of this rezoning. Thank you.

Mr. Rhodes: Thank you. Any other comments? Anyone else who's like to speak. Yes ma'am.

Mrs. Carlone: Okay. Ruth Carlone. I just had some questions. How far is the distance to the RPA, the property line to the RPA? It was very difficult to see. This is the first we've seen this... the map. Does the RPA... is it adjacent to the property line? The floodplain, where is that to the business? But

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we'd asked before on the Planning Commission where signs, if it was right there on the RPA to say No Disturbance Beyond... words to that effect, just a metal sign. Okay. If that could be answered about the RPA, and then also it's a concern about the future usage that some time or another... the way it discussed that there would be other business. I think there should be something from the Fire Marshal signed as far as adequate turnaround, and width of the road. We went through this before I was off the Planning Commission, with one of the businesses and it was also considered the width and the turnaround for additional businesses, and I just don't feel that's been adequately discussed, and as far as the evergreens. I don't know the neighbors or what it is... what kind of buffering, but to come up here with 10 percent evergreen is ridiculous landscaping. That's actually nothing, if the applicant might consider 25 percent or greater, some place in there for aesthetic and to encourage future businesses. If they come in there and see a bunch of dead sticks out of the ground or whatever during the winter, that doesn't make for an attractive business. And... the parking spaces, has that been looked at? The max, I don't know... for maximum build-out. Okay. That's it again.

Mr. Rhodes: Thank you very much. Is there anyone else who have particular comments towards this application? Seeing no one coming forward, I will close the public comment portion of this public hearing, and pull it back into the Planning Commission. Are there particular follow on questions or comments of staff for the applicant, by any member? Mr. Apicella.

Mr. Apicella: If it's a private road, and it's not entered into the public system, who's going to be responsible for maintaining that road and if the road is in disrepair and/or there's snow on the road, who's going to be taking care of that?

Mr. Rhodes: Staff. Jeff does many things.

Mr. Harvey: Mr. Chairman, Mr. Apicella that would be a matter for the property owners of that easement where the road is built, as far as maintenance. If the situation got bad enough to where it wasn't properly maintained the Fire Marshal may be able to compel some sort of action, but in general the County is not involved in the maintenance of private roads.

Mr. Apicella: Do we have other areas in the County or where we have M Zoning where we have private roads as conceived for this particular parcel?

Mr. Harvey: I imagine we do. Right now I can't think of anything off the top of my head, but we could research that and get back to you.

Mr. Apicella: Okay. Thank you.

Mr. Rhodes: Anyone else with questions for staff or applicant? Mrs. Hazard.

Mrs. Hazard: I guess along that line, I mean many times when there's an easement and there's a shared road, there is some kind of road maintenance agreement entered into, which I would assume that potentially the applicant wouldn't want to... I mean I'm sure if he is courting other businesses, he's going to want to make sure that the snow or whatever may be removed, but I don't know if... it is common practice that a road maintenance agreement would not be needed... need to be reviewed by staff, but I believe perhaps we would want to make sure since it's on a private road and I'd just be interested in the applicant's comments on that. According to the staff report, some of the concerns I

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know raised about the CRPA seemed to have been adequately addressed, but if there is any comment on the CRPA buffer, how it worked because I know in our first... when we initially thought we were going to have this in January, there were some unanswered questions or it was open. It said... let's see, wait a minute...

Ms. Ansong: Yes.

Mrs. Hazard: I have to look between my January 18<sup>th</sup> and my January 15<sup>th</sup>, I've got them back to back. It seemed like there was some work done between our January 18<sup>th</sup> memorandum and then the one that we received for February 15<sup>th</sup>. Can you maybe just talk to that a little bit?

Ms. Ansong: Yes, looking at the GPD. In terms of the RPA, the Wetland delineation study was done, but in terms of the perennial flow determination, that hasn't been done yet, and I believe the applicant is going to send someone out to determine whether or not it is needed and if so they'll provide that study for us.

Mrs. Hazard: And that would be required at the site plan, is that correct?

Ms. Ansong: Yes.

Mr. Rhodes: Okay.

Mr. Howard: Mr. Chair.

Mr. Rhodes: Mr. Howard.

Mr. Howard: Mr. Harvey, correct me if I'm wrong. I could be wrong on this, but I... and I hate to bring this one up, but the Stafford County SPCA, there is a private road access agreement that actually involves also a small bridge that goes over a... an RPA but also a perennial stream and in addition to the three homes that share that road, there's now the operating SPCA, which is a business I guess, and there's been an existing business that no one ever seemed to want to talk about, which was a towing and recovery operation that also does automobile repair, and they share... they all share that private access road, which I know it's over 1,000 feet because I remember driving it, and it's graveled and they want to keep it that way because some of the people there are from an environmental perspective it comes down to that question pervious versus impervious, what's better, what's the best, and Mrs. Carlone's comments about the environment from increasing the buffer in terms of, you know evergreens, those types of discussions you know occur on these types of projects, and should, but I... is that correct? Is that a... I thought that was a private access road.

Mr. Harvey: Yes, Mr. Howard that is a private road and in discussions of the Conditional Use Permit it was noted by staff that when the applicant was to proceed with the site plan they would have to bring the road up to the minimum of 20 foot wide paved travel lane standard.

Mr. Howard: Correct. Right, and I remember the neighbors really did like the dirt and the gravel, and again going back to the pervious versus impervious discussion and it's a good healthy discussion to have, but at the end of the day the applicant had to do the road improvement, but in this case those... all of those homeowners are still responsible for the maintenance and upkeep. Whereas those property

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owners who shared the easement, they're all responsible and County has nothing to do with that private access, which I think was one of the questions asked.

Mr. Harvey: That's correct. In that particular case there was a maintenance agreement that stipulated who was responsible for maintaining the road

Mr. Howard: Right. And it's typically the property owners or the owners who share the benefit of the easement.

Mr. Harvey: Correct.

Mr. Howard: Okay. Then on the RPA, I thought that was a good comment and I don't know Mrs. Ansong, if you had any discussion with the applicant about increasing the screening... buffering with the trees. Percentage of 10 percent was used, I'm not even sure if that was in there or not, but was there any discussion on the screening...

Ms. Ansong: Not past the 10 percent. Not that I recall.

Mr. Howard: Alright. Thank you.

Mr. Rhodes: Thank you.

Mr. Apicella: Mr. Chairman, if I understand Mr. Howard's question and the response from Mr. Harvey in the particular circumstance that Mr. Howard mentioned the SPCA site was approved under a Conditional Use Permit?

Mr. Harvey: That's correct.

Mr. Apicella: So, any changes would have to come back to the Planning Commission, any future uses would have to come to the Planning Commission for approval?

Mr. Harvey: In the case of that property, it's zoned agricultural so they could come in with a by-right use under agricultural zone, but any other change to a non by-right use would have to come wither through a rezoning or a new Conditional Use Permit.

Mr. Apicella: So, it's not an M-1 zoned parcel.

Mr. Harvey: No, it's an agricultural.

Mr. Apicella: Okay.

Mr. Howard: Mr. Chair, my point for bringing it up again. No one wants to talk about the person that's operating a towing agency recovery with vehicles. There's an auto repair place, and it's grandfathered. There isn't much that can be done, and I'm not suggesting someone do something about it, but my point for bringing that up as a comparison, was that in fact that's a business that frequently uses that road for very heavy equipment with tow trucks and things of that nature, so that was my point.

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Mr. Rhodes: Okay. Any other questions for staff or the applicant? Thought I heard something referred to the applicant on the screening.

Mr. Howard: The screening and the buffering.

Mr. Rhodes: And the buffering?

Mr. Howard: Right. Is there a desire to increase it from 10 percent... and really more evergreens?

Mrs. Karnes: Yes, Mr. Chairman, I did not discuss this issue with staff. We would have no objection to increasing the amount of evergreens. Like to point out though that this a heavily vegetated site, so usually the concern when you're talking landscaping is when you've got a site that has been pretty much denuded, and then you start worrying about how many trees and how much evergreens. This because of the existence of the RPA is pretty heavily vegetated but we'd still be willing to increase the evergreens if that is the wish of the Planning Commission.

Mr. Rhodes: Thank you. And then the comment on buffer?

Mr. Howard: It's the same.

Mrs. Hazard: It's actually more of maintenance, but I'll defer to Mrs... about buffering, you go with the buffering first.

Mr. Howard: No, go ahead Mrs. Hazard so, thank you.

Mrs. Hazard: No, just the road maintenance agreements and standard operating, but I just wanted to give you the opportunity to comment on that potential. I assume you would be doing a road maintenance agreement or something like that or...

Mrs. Karnes: Well, at this point in time as the really only business user to use the road, it would be the businesses obligation to maintain and you know keep that good repair, snow removal, that kind of thing. If and when the site built out and two different uses at that point it would be good business practice for the current owner to enact an agreement, that set forth the responsibilities of the various parties.

Mrs. Hazard: Because that road easement only benefits that particular parcel. The parcels in between there already have their access, as I look at the map. There's two...

Mrs. Karnes: I am sure that at some point, if one of those adjoining parcels wanted to use the road there will be no objection.

Mrs. Hazard: Thank you.

Mr. Rhodes: Thank you. So, there was some discussion on possible modifications and clarifications on 12B and also on any further discussion on screening, and I know the applicant talked about potentially looking into the cost of any further improvement on the road that went, at least that was an open comment. Is there any other discussion or... Mrs. Hazard, this is in the Hartwood District.

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Mrs. Hazard: Well, I do hear that some Commissioners have some concerns about the road, so I would defer to Mr. Apicella. Having gone out though and looked at that site, I do believe the... I'm not sure that the VDOT standard for this particular road knowing that the applicant would need to maintain it in order to make his business viable. I would be... I am currently willing to move it forward in its current state, but I do know we need to revise some of the signage, but I'd defer to Mr. Apicella if you would like to get that figure, that's fine. I will defer.

Mr. Apicella: Mr. Chairman, I would move to defer this item. I believe there's a number of... or at least a few additional conditions that were suggested and I believe the applicant's willing to make some of those changes, and also I would ask that they at least consider and advise us as to the cost of developing that road under VDOT standards, and I'd ask for staff to give us pros and cons... if that road should be built to VDOT standards, what those pros and cons might be.

Mr. Rhodes: So, I think I heard a motion to defer this to the next meeting. Is there a second?

Mrs. Hazard: I will second.

Mr. Rhodes: Okay, motion second. Any further comment Mr. Apicella?

Mr. Apicella: Again, I do have some concerns. I see from the information that was provided to us that virtually all of the other M-1 and M-2 parcels have public roads. They may be based on different standards that were in place when those sites were developed, so again in this particular case, while the applicant's asking for a flex office space and only one building. We don't know what the future holds and what the requirements will be down the road, if and when the particular uses on that site should change over time and what the road conditions might be necessary for those different uses.

Mr. Rhodes: Okay, thank you. Mrs. Hazard.

Mrs. Hazard: Just following up on that. Like I said, I think the applicant has considered many of these things, but I think to highlight them regarding the cost of VDOT standards. More information on the buffering as I would see it, and working that signage... let's see, language in 12... 12A and I guess 12B. You may indicate that 12A is the sign that is on property, and 12B is the offsite property and we can just clarify that to make sure that we have identified and met the needs of the emergency response teams and I defer if Mr. Howard has any other things regarding buffering that I haven't covered, but I'll give him...

Mr. Rhodes: Any other comments?

Mr. Howard: Mr. Chair.

Mr. Rhodes: Mr. Howard.

Mr. Howard: I don't have any additional comments to Mrs. Hazard's point about the Proffer Amendment. I will not support the motion because I do not agree that we should delay for the particular reason cited, in terms of finding out whether the applicant should build a private access easement to VDOT standards that's not in our County Code. That's not something that we've ever asked anyone to do before and I would bet that it would put an undue hardship on the business owner

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to come up with the amount of money that it's going to take to build a private access easement to VDOT standards, and then I'm not sure what we accomplished because the road can never be put into the VDOT system, so I will not support the motion based on that. I do support the business and the opportunity and hopefully I'll have a chance to vote on that in the future.

Mr. Rhodes: Okay, any other comments?

Mr. Boswell: Mr. Chair.

Mr. Rhodes: Yes. Mr. Boswell.

Mr. Boswell: I also support the project. I was out there and visited it, it's an industrial park. I don't see where delaying it is going to solve anything, but I can see it improve, based on what I saw on the way in there I don't see that it's going to really... I think it's going to fit, just fine. Thanks.

Mr. Rhodes: Thank you. Dr. Schwartz.

Dr. Schwartz: I also support the project. One question I guess I should have brought up earlier was the two lots, 93G and 93J, the adjacent lots. Would they have access to this easement road because they're off of the Powell Lane cul-de-sac also?

Mrs. Karnes: Yes, very quickly. Those two lots have access to the private road.

Mr. Rhodes: Thank you. Okay. I would... I'll just share. I think we will find that the cost is going to be exceptional to bring it to VDOT standards. That's what we've found on all the Roadbond and all the other work, that just the costs are amazing. What we find they are when they try and take them up to VDOT standard, with that said there are certainly at least we can use these next two weeks to get some final clarifications and refinements on some of the proffers. We'll make those resolved and we'll have time to see them ahead of time and hopefully move this forward at that time. With that... I think we've lost someone, okay. We'll go ahead and call for the vote, and this is on the motion to defer this item number 4 to the next session of the Planning Commission and during that time get some work done to finalize the proffers and get some information back on cost of improving it up to VDOT standards. All those in favor, signify by saying aye.

Mr. Apicella: Aye.

Mr. Hirons: Aye.

Mrs. Hazard: Aye.

Dr. Schwartz: Aye.

Mr. Rhodes: Aye. All opposed say nay.

Mr. Howard: Nay.

Mr. Boswell: Nay.

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Mr. Rhodes: Okay. I think that was 5 to 2. So, we will bring this back next time. Thank you very much. With that, we're on to item number 5 of public hearings the Amendment to the Zoning and Subdivision Ordinances, as it deals with Cluster Subdivisions and Residential Cluster Provisions. Mr. Harvey.

5. Amendment to Zoning and Subdivision Ordinances – A proposed Ordinance to repeal Stafford County Code, Chapter 22, Article IX, Sections 22-266 through 22-271; entitled “Cluster Subdivisions,” Chapter 28, Article V, Sections 28-71 through 28-80; entitled “Residential Cluster Provisions,” and Chapter 28, Article V, Table 5.1, entitled “Cluster Option.” This amendment will repeal sections of the respective ordinances due to inconsistencies with the Virginia Code 15.2-2286.1, A-D. **(Time Limit: May 28, 2012)**

Mr. Harvey: We have a proposed Ordinance tonight for repeal of the Cluster Regulations and... bear with me for a second. That is proposed Ordinance...

Mr. Rhodes: O12-30?

Mr. Harvey: Thank you.

Mr. Rhodes: I don't believe we caught you off guard on something.

Mr. Harvey: The Planning Commission will be holding a public hearing as to whether to delete provisions in our Subdivision and Zoning Ordinance regarding Cluster Regulations. As discussed earlier in the meeting tonight, the Commission is currently working on new regulations for cluster standards. The Commission noted that our current Ordinance does not fully comply with State Code. There is some concern about should applications be allowed to proceed through the process as not being in compliance with the State Code. Therefore the request was made to consider repealing the proposed Ordinance. Overall the cluster concept is intended to allow compact development within residential zones in our current Ordinance. State Code stipulates that we have to address clusters in agricultural zones and are some other features that our Ordinance does not currently address. So the proposed Ordinance would be to temporarily repeal cluster regulations. Staff is supporting the proposed Ordinance.

Mr. Rhodes: And just to confirm then we have an Ordinance that is not in compliance with State Code. That having come to light we are proceeding with consideration of recommending that the... be removed. Concurrently we are working very diligently to try and develop a new Ordinance to replace that. Are there any questions for staff or Mr. Harvey on the discussion here? Mr. Apicella.

Mr. Apicella: Mr. Chairman, as a member of the sub-committee I just want to ask the question just to reconfirm as we go through this process and we are looking at the current Cluster Ordinance as I recall and if you can confirm, we have certain provisions in the current Ordinance that are... have no authority. There are other provisions that the State Code requires that are not in our Cluster Ordinance. And you mentioned one, the agricultural areas. There also certain flexibilities that are in the State Code that we have not considered for our current Ordinance. Are those 3 circumstances an accurate portrayal of the current Ordinance?

Mr. Harvey: Yes, Mr. Apicella, I believe that is correct.

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Mr. Apicella: And as I also understand it, given the size of Stafford County we are required to have a Cluster Ordinance.

Mr. Harvey: That is correct.

Mr. Apicella: And by virtue of the fact that this is a Dillon Rule State we have to do what the State tells us, and we have to have an Ordinance that is fully compliant with the State Code.

Mr. Harvey: Yes.

Mr. Apicella: Thank you.

Mr. Rhodes: Thank you. Are there any other comments or questions for staff before we go to public comments?

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: Just to reiterate some of what has been said already. Very specifically in the State Code it says any such locality which would include Stafford based on our population, shall the word shall is used, provide in its Zoning/Subdivision Ordinances applicable to a minimum for 40 per cent of the unimproved land contained in residential and agricultural zoning districts. And that was one of the major issues if you will, and just to elaborate a little further on one of the points made by Commissioner Apicella there are words in the Ordinance that would allow the county, if you will, to try and help regulate where the growth could occur and where it should not occur. And I know that is probably a concern for many people. It certainly was for me, when you look at the map and you look at all the agricultural land that is out there and you say all of this potentially could be cluster subdivisions. Well, that is not something Stafford County can do. And it is not something we can afford, we don't have the infrastructure to support that and we know that and that is not where we want the density to occur. We don't want residential density out in these A1 and A2 corridors. The fact is we are not compliant with the State Code and because we are a Dillon State we are required to do this. And we have to be as smart as possible, so things like incentives or bonuses to steer away from allowing the density to occur in the A1 and A2 are things we are trying to think through in the Cluster Subdivision Ordinance Committee and certainly if anyone has any thoughts or ideas on that we would certainly welcome emails to hear opinions. I am sure we are going to hear quite a few opinions this evening, but also hear some constructive things that can help us kind of reframe the situation that we find ourselves in. So it is not a place we want to be in but none the less we are here and we have to work through this in a way that the County does not suffer in terms of all of a sudden sprawl and crawl is back again. That is not something that we wish to see occur. No one up here wants to see that.

Mr. Rhodes: Okay, thank you. And certainly we appreciate the efforts and work and commitment of Mrs. Hazard, Mr. Apicella and Mr. Howard and the staff towards working the new ordinance. But with it are there any other comments or questions for Mr. Harvey on the presentation before we open the public comment? Hearing none, now there is an opportunity for public comment concerning item number 5, the amendment to the Zoning and Subdivision Ordinance to repeal... to recommend repealing those to the Board of Supervisors. Those that would like to speak, if you would state your

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name and address. And then a green light will come on, that will mean you have 3 minutes. Yellow light is a minute and red light will mean that the time is up and if you could wrap up we would appreciate it. Thank you very much. Sir.

Mr. Beiler: David Beiler, I am the author and sponsor of the last amendments to this Ordinance, back in 2000. The... why is this being done? We are told it is because it is not in compliance with recent State Law on the subject. Well, that is true, but it is not really significant. Because if you consult subsection 1D, of the applicable State Code and section 2, you will find that the Stafford Ordinance is grandfathered. Now, what really concerns me however is the fact that the plan here is to completely repeal this ordinance and then come back in 90 days and bring in a new one. Well, someone mentioned, quite accurately that that is not legal. You are required to have an ordinance and you cannot have this window of 90 days open legally. Now that is going to cause a lot of problems. Because originally the by-rights on these, say let's use R1 as an example. Well, it is 3 units to the acre. In 1998 the Saslaw Act by the State basically outlawed downzoning. In the 2000 amendments to this we changed the... for a standard lot R1, we changed it from 3 lots to an acre to 1 ½. Now how did we do that, because with clusters you can still get 3 per acre. Now in the ensuing years there weren't very many clusters because they don't sell. People don't like those so much. So in affect the density in R1 was greatly reduced. Now if you have a 90 day window where there is no cluster ordinance, then that by-right can be reasserted of 3 per acre, and I can just about guarantee you that there are a lot of people out there who have plans for such subdivisions in hand, waiting to run in the day this thing is repealed. And once they get those in you are dead. You cannot fight that legally because you have... you will no longer have a cluster ordinance that says that they can get 3 that way. That is going to be a very big problem. That is going to boost your overhang, you build out in this county by thousands of units and that is going to be a big windfall for some people and I hate to think that's why we have this window that will be hanging open.

Mr. Rhodes: Thank you. Anyone else that would like to come forward and speak?

Mr. Starkey: Thank you Mr. Chairman, ladies and gentlemen. I am Jack Starkey and I am from the Garrisonville District. I would like to share with you my thoughts on this subject. I don't think we should put the cart before the horse. I think it is only proper and prudent for us, in protecting the citizens, that we look at a new ordinance before we rescind the current ordinance. Thank you very much.

Mr. Rhodes: Thank you sir. Anyone else?

Ms. Muller: Good evening, my name is Linda Muller. I live in the Aquia District. Quite frankly this was brought to my attention rather recently, so I was just kind of catching on some of the information that I was able to find on line and I was not aware that the idea this evening was to repeal the entire ordinance, without having something in place. And the gentlemen who spoke previously, I thought brought up an excellent point, that there is a time, a hang time of which the State Code, I believe would apply. I don't know. I guess we are supposed to have an ordinance in place and if you repeal it we would not have one. My primary concern is that there is really no good examples given to the public as what this actually means as far as what the landscape would look like, moving from our current ordinance to a new one. And I think that would be very beneficial for the public to see that. You know seeing a plot of land before with the old ordinance and what is proposed for the future. I also was taken back when the language is stricken out regarding the purpose of the ordinance and part of it

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includes to encourage the protection and preservation of environmentally sensitive portions of sites and agricultural lands in the county and to encourage development in a manner which lessens the cost of infrastructure. To create and encourage the use of variety of development choices to satisfy the changing needs of the county and to offer flexibility to the developer in his approach and solution to land development problems. I believe the purposes here are noble purposes, and certainly not one to be put aside or scratched out or forgotten. And I only hope that rather than eliminating an entire ordinance that instead you go ahead and think proactively of maintaining protection and preservation of environmentally sensitive areas and let the State know that Stafford does care about those things regardless of what the code states. I know we can do better here and we have some excellent national resources that we need to continue to protect. Thank you for your time.

Mr. Rhodes: Thank you.

Mrs. Callander: Good evening Mr. Chairman and members of the Planning Commission. I am Alane Callander in the Falmouth District. I would like to thank our former Supervisor from Falmouth, Mr. Beiler, for paying attention to some of the details on this. Obviously most of us citizens don't study all those documents and don't know the laws and so forth. I do urge you not to vote to repeal the entire cluster ordinance this evening. It makes more sense to make any required amendments rather than to throw out an entire ordinance without a well thought replacement. It is like if you belong to an organization that has by-laws and somebody comes along and says I don't like the by-laws, let's throw them out. So then what governs the organization? I guess the membership would just do whatever it wanted to do. Well, you know I can't help but think that there might be something like that going on with this movement to throw out the cluster ordinance. That builders and developers perhaps just want to be able to do whatever they want not to worry about environmental impact if their building, not to worry about protecting open space, not to be limited in the number of houses they can build. Now looking at you and having known most of you during your terms on the Planning Commission, you seem like reasonable public officials. You seem like people who would not want to do anything that would negatively impact the future of this county or that would have serious consequences for citizens. You are citizens of the county yourselves. Most if not all of you have children in the schools. All of you deal with severe traffic congestion. I can't imagine any reason why you would want unlimited building of homes anywhere in the county. Just think about this one item, unlimited building of homes, townhomes and condos will impact the current homeowners causing our home values to decrease. I urge you to use good judgment on this issue. You should not throw out the existing cluster ordinance rather amend it as appropriate or at least wait until there is a new one to replace it. Don't blindly trust the new ordinance will be a good one. Thank you.

Mr. Rhodes: Thank you.

Mr. Schwartz: George Schwartz, I came here tonight to listen, but after listening to Mr. Beiler his remarks were succinct, to the point and I am going to take... I agree with him but I am going to just quickly take this from another approach. My question to the Commission and to legal is how did you get to this point? What kind of advice were you given? What kind of irrational minds came to the conclusion that you throw this ordinance out but don't have the other one, the new one ready to substitute? I just don't understand it. The people back here don't understand it and I think you're at this point in time, I hate to say it but you are ethically challenged. There is something really wrong. Thank you.

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Mr. Rhodes: Thank you.

Mr. Scott: I was here first.

Mrs. Carlone: Oh, I am sorry.

Mr. Scott: Go ahead.

Mrs. Carlone: No, go ahead please. I'll have my chance. Oh, that makes me feel really good. Okay, yes we are all very confused about... Ruth Carlone... confused about the process that was taken to get to this point. There are some areas that certainly need to be rectified and that's pipe-stem lots are a disaster, a total disaster. That should be considered if they can be taken out individually. I just don't know myself right now, I have looked at enough and listened to both sides, but it might be just a little premature and I would like you to have if possible, because of the time frame through May that you might be able to have a small session with people that are concerned to learn more about this. I mean this is pretty hard for some people and especially those in the rural areas, the impact it would have. So number one would be to see if you could have a little educational session of some type on this, library or upstairs, whatever and also the question is can you possibly take out some of these other ones that we do have a problem with? The density, the steep slopes, there is a lot of issue within this that really need work and I just don't know what to say whether to approve or disapprove at this time, but just that... just what I mentioned to look into it. And that's it.

Mr. Rhodes: Thank you.

Mrs. Carlone: Sorry.

Mr. Scott: My name is James Scott and I don't want to speak too much about the ordinance, but I have a personal interest in this. Because the road to this subdivision that is planned to go in by my house is 14 feet from my garage. And I did not know it at the time when I bought the property. There was a big long gravel driveway, not paved and in reality I can park 3 cars in my driveway, 2 on the left side and 1 on the right side. Anything else is going to be in the road. And there is one other thing, is this sound system adjustable? Can it be pumped up a little bit? Because I can hardly hear anybody? But I am deaf anyway. But I found all this out after I bought the property and this is the third time I believe that somebody has tried to develop this property behind me. Now there is... I am learning a few things at the meeting we had with Mr. Harvey and his associates. That half of the property has to be green or usable. Well, half of the property is not usable because it is on probably a twenty degree slope and it goes right down to the railroad. But the... myself and a few others that border this property are totally against this type of housing. Everybody in this whole subdivision, I probably have the largest lot. Mine is about an acre and some of the other are three quarters of an acre, I don't think there is any less than a half-acre in the whole division and you are going to put 26 houses on 5 acres. It is not a good idea.

Mr. Rhodes: Thank you. Other...

Mr. Waldowski: Paul Waldowski. I am well versed in the law in regards to this and one of my real pet peeves about this is there is no public PowerPoint presentation to show why you are taking away section 22-266, which I printed off, to 271. And I don't have an agenda so I can't relate it to the

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Virginia Statute because I kind of ran out of time. But this is the cart before the horse and just reading section 22, you know you can tell it really interests me because you have HOAs and storm ponds in here and two of my personal favorite aspects of this whole county. And you have 3 to 10 acre lots out in Rock Hill and I don't know what you are trying to do with this type of legislation. I don't know if you are trying to integrate this with the UDA. But I think it would make common sense to give us one slide and break it up in half and put the old ordinance and the new ordinance, because you are still going to have to follow the law. You are still going to have to have a definition section and then you are going to have to talk about the regulations. So, if you have ever written a law or done an amendment to a law or been involved in the legislative process in any aspect, you are overstepping your limits and you are exposing yourself legally. And as you all know, you know you raised your right hand and you made this solemn oath, so you are serving on behalf of us and even though you are residents you are supposed to be totally objective and look out for the county as a whole. I know you sit there and you look at your individual districts and you are trying to make all the interesting aspects, but as I said before in many of my speeches, you need to do what's the right thing. And I have closed many times with the statement, why isn't common sense common in the Commonwealth of Virginia? It just appalls me because... with an ordinance at least you have some authority and as you know we have a lot of ordinances that are outdated. They are twentieth century ordinances. The trash ordinance is one that I have been speaking to you for 3 years about and none of you have done anything about it. So thank you.

Mr. Rhodes: Thank you. Other comments?

Mr. King: My name is Donald King, I live in Mount Pleasant in Falmouth. I too was in strong opposition to this cluster ordinance. Specifically in Falmouth in Mount Pleasant South, where the majority of the residents in Mount Pleasant are retired. And the only ones that were notified about this project are the 7 residents whose property butt up against this. And you know the folks who are going to suffer the most are the ones that are going to get all the traffic. Mr. Scott, the Coopers over here, they are in the cul-de-sac on Anderson. They have been there... Mr. Scott has been there for twenty plus years. I am a lifetime resident, I am in the house that I was raised in, in Falmouth. And they have been in the cul-de-sac, the Coopers have been there for 40 plus years now they are going to have 240 cars passing by their house every day now. I mean what a way to spend your retirement, you know when you plan to retire. Like I said I am in the house that I was raised in, my father when he had our driveway paved in the late 70s a wrecker had to wench the steam roller up and down the hill to pave it. Well, there are slopes behind our house that are steeper than this, that have somehow eked in and got approved. Mr. Scott, he has an F250 truck, if he is pulling out of his garage before his front tires leave the concrete apron of his garage, his back of his truck is in this road. Now that is due to a previous owner that built this garage without a permit and it is an oversight from the county, the house was built without a garage and when it was sold it had one. So there is some oversight there on the county's part anyway as far as the assessment... of how they assessed the property. This particular piece of property has gone through 3 owners. All of them have tried to develop it, all of them have been shot down and now we have a land tycoon, Mr. Jarrell, who's getting this cluster thing approved. The cluster is totally out of character with Mount Pleasant and my suggestion or I would submit to you any neighborhood that is 20 or 25 plus years old, no clusters because it is out of the character with that neighborhood. And I got six years to retire and where I live I planned... I would like to stay there in my retirement years. But not having houses, you know 50 feet from my property now. And I looked on the internet here, it was last week. There were 172 vacant houses in Falmouth alone that have been on the market for 200 day plus. There is not a shortage of housing in Falmouth. And J. Jarrell

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Properties, they have developed Cambridge Crossing on 218 back in 07 and 08. Thirty-six 1 and 1/3 acre lots, alright there is 3 houses that have been built in there since then. So I would encourage y'all to have nothing to do with these clusters. It's the term... you know I won't, you know the explicative afterwards is exactly what it implies. So anyway, thanks for your time.

Mr. Rhodes: Thank you sir. Any other comments? Okay, seeing no one else coming forward I will close the public comment portion of the public hearing and bring it back to the Planning Commission.

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: Some questions for staff.

Mr. Rhodes: Yes sir.

Mr. Howard: Mr. Harvey when was the original Cluster Subdivision Ordinance written in Stafford? Or when was this Ordinance written that we are repealing? I should say.

Mr. Harvey: The subdivision portions of the cluster regulations were written in 1987, they have been modified a number of times over those intervening years.

Mr. Howard: Do you know when the last modification was? Was it in 2000, 2001, sometime there about?

Mr. Harvey: There was a change to the zoning provisions with regard to overall development that affected clusters, as was represented earlier tonight, by the public testimony. The zoning districts allowed a higher density than they do today. The densities in the R1 zone were 3 units per acre, R2 was 7 units per acre and R3 was 15 units per acre. There was an amendment to the code that through the text of the code reduced that density in half. The only way that someone could achieve the old density was through a cluster subdivision.

Mr. Howard: Okay, and then when did the General Assembly change the Commonwealth of Virginia's regs around cluster subdivisions?

Mr. Harvey: I believe the State Code was modified regarding clusters in 2007.

Mr. Howard: Okay. So we have been sort of in violation for the last, sound like 4 or 5 years, is that right?

Mr. Harvey: Yes, I believe the county was, or at least some of the staff were under the impression that we compliant based on the grandfather provisions within the statute. But since that time we have been told that... we have reconsidered that position because of the number of areas where we are not compliant.

Mr. Howard: Right, so we have been advised by legal counsel that we... they don't believe that we are grandfathered as the way the State Code interprets that. Is that correct?

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Mr. Harvey: Yes.

Mr. Howard: Okay. And is that what brought it to the attention of the county?

Mr. Harvey: Yes, there was some question about cluster development and how we comply or don't comply with the State Code.

Mr. Howard: Then the decision was made that we don't comply and that we ought to comply and that's the process we are going through today?

Mr. Harvey: Yes, the Board sent a request down to the Planning Commission to reconsider the cluster regulations and modify them to comply with State Code.

Mr. Howard: Okay. Thank you Mr. Chair.

Mr. Apicella: Mr. Chairman.

Mr. Rhodes: Mr. Apicella.

Mr. Apicella: I am not sure if these are comments or questions, but I am just going to throw them out there. I was looking at the January 4<sup>th</sup> meeting minutes and as it indicates we went into closed session being advised that we were woefully out of compliance with the State's requirements for cluster subdivisions. We came out of that... and part of that closed meeting was just to understand in what ways and how. We came out of that closed session and a question was asked of Mr. Harvey, and I don't mean to throw you under the bus Mr. Harvey, but again as the minutes accurately portray you were asked by the new Chairman what advice or recommendations do you have given the set of circumstances we are in. And your response was, I think you gave us 3 recommendations. The first one is that given the fact that again in several ways we were not in compliance with the State Code requirements that we should expeditiously repeal the current ordinance and replace it with a set of provisions and an overall ordinance that was fully compliant with the State's requirements. That we should ask the Board for more time to make sure that we get it right and that we establish a sub-committee to work on that revised current ordinance to bring to the Planning Commission for consideration. At no time did any of the other members... did the Planning Commission members make that suggestion, but we obviously took your expertise under advisement and legal counsels advice as well and that was what brought us to the point where it was determined that the best course of action was to repeal the current ordinance given again it's woeful noncompliance with the State's requirements. That is all I have right now.

Mr. Rhodes: Thank you. Any other comments or questions from the members of the Planning Commission? Mr. Hiron?

Mr. Hiron: Mr. Chairman I just want to kind of address some of the comments that were made. The reason I am eventually going to support this repeal is because of my neighbors there on Anderson Drive, there in the Falmouth District. They have kind of highlighted what the problems are with this ordinance. Developers are able to take advantage of a weak ordinance and create projects that are detrimental to the area and detrimental to the existing neighbors there. This is the route we need to take in order to protect that existing neighborhood as well as get an ordinance that is good for the

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entire community. Frankly the by-right use of the piece of property that the folks from Anderson Drive spoke about is better than what the cluster proposal is. So I appreciate everyone's comments tonight, but like I said I am here to defend and work for the people of the Falmouth District and I hope we do the right thing tonight.

Mr. Howard: Mr. Chairman, if there is not comments I just want to have another comment.

Mr. Apicella: I...

Mr. Howard: Well, you can't comment, that would be twice for both of us.

Mr. Apicella: Okay.

Mr. Rhodes: Is there anyone else? Mr. Howard.

Mr. Howard: Thank you Mr. Chair. Mr. Harvey, in the absence of a Cluster Subdivision Ordinance for that period of time there is going to be... obviously there could be a gap, depending on how... what happens. So in the event there is a gap of the Cluster Subdivision Ordinance and somebody came forward to attempt to seek and application for a Cluster Subdivision Ordinance, what would occur?

Mr. Harvey: Well, with regard to a new application submission we would advise the applicant that we do not have regulations that allow that type of activity or that use. So then we would return the application. For those applications in process, we would notify them that the Ordinance has been repealed, there is a new Ordinance being considered, they can make their decision whether they want to withdraw the application or hold it in abeyance until the new Ordinance is in effect, to see if they can comply with the new Ordinance.

Mr. Howard: Okay, thank you.

Mr. Rhodes: Mr. Apicella.

Mr. Apicella: Mr. Chairman I was appointed to this panel and came onboard in October and fairly soon thereafter we had several cluster proposals put before us. There was some concern that the flood gates were now open and as I think Mr. Hiron indicated, that people were taking advantage of what appeared to some of us, if not all of us, to be a very weak ordinance that provided a significant amount of bonus density for minimal open space, contrary to the intended purpose of Cluster Subdivision Ordinance. And consequently while we may not have wanted to approve those cluster subdivisions philosophically, we had a requirement to pass those cluster subdivisions because they met what I would consider minimal requirements in some cases. I will just give an example, by providing a minimal amount of land potentially less than one acre, someone could for a school or a park get a significant amount of bonus density, which seemed again to me contrary to the purpose of a cluster subdivision, which is to protect as much land and environmentally sensitive land as possible. So again we were, I believe, required to once an affirmative decision had been made and the cluster concept had been approved and there was nothing wrong with the proposed cluster subdivision we had to therefore approve those cluster subdivisions. So our intent, I believe, is noble to achieve the very ends that were discussed by many of the speakers to come up with an ordinance that truly does protect as much land as possible using the cluster approach. I certainly welcome, as I think Mr. Howard said earlier, anyone

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and everyone who is here to provide us with your recommendations, to attend our sub-committee meetings. I think we are having one next Wednesday. We certainly have every desire to be as open and as transparent as possible. There is no hidden agenda here other than to get a tight Cluster Subdivision Ordinance that achieves the State mandated goals for clustering. And I think you will see during the course of the conversation both at the sub-committee level and I believe here at the full panel that your concerns about where we are headed, while I respect and appreciate those concerns, really are a misunderstanding of what we are really trying to achieve here. Which is, one more time the protection of open space using a right and appropriate Cluster Subdivision Ordinance that is in compliance with the State Code.

Mr. Rhodes: Okay, thank you. Mrs. Hazard?

Mrs. Hazard: I guess just one overall comment. We have received a fair amount of legal advice on this particular ordinance and I believe it did cause concern among many of the members. I am one who many times am happy to amend something and just pick at something and see if we can just change it, but I believe that when we looked at the full measure we needed to look at the concept of clustering and how it would work in this county. And to sit and sort of say well we are going to modify line 2, 4... we did not feel or I believe the majority of the members did not feel that was the way we needed to approach this. We needed to look at the big picture of clustering, we are required to do it in the R1 districts, the A1... we need to look at it in a total package of what are we doing here and I guess I speak for myself, I did not feel that we could tinker around at the edges if we weren't looking at the big concept of how clustering should work, how it is envisioned by the State but also how Stafford individually is going to look at the whole concept of clustering. I personally didn't feel we could do it through amendment. We really have to start at the beginning, look at the State Code and see where we are. So again like the other two members of the Committee and I am sure even the members up here, we really do want to hear about this and maybe we will need to get a big room for the 22<sup>nd</sup>. Thank you.

Mr. Rhodes: Very good. Thank you.

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: I make a motion to defer item 5, on the agenda this evening, amendment to the Zoning and Subdivision Ordinance to our next meeting and allow the sub-committee to vet the comments that were received this evening and just walk through all of them again with the County Attorney and the Committee to understand and make sure that we have thought through this as carefully as we can and then come back to the Planning Commission obviously with their finding and their recommendations to the next meeting.

Mr. Rhodes: Thank you, Mr. Howard.

Mr. Apicella: Mr. Chairman, I would offer a substitute motion which is to approve the proposed Ordinance or recommend approval of the proposed Ordinance O12-30.

Mr. Rhodes: Okay, so there is a substitute motion on the...

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Mr. Hirons: I would second the substitute motion if that is in order.

Mr. Rhodes: Okay. So there is a substitute motion to recommend approval of repealing the said Ordinances referred to in item 5 and recommending that forward to the Board of Supervisors. As the motioner, further comment Mr. Apicella?

Mr. Apicella: Again, I greatly appreciate the comments and concerns that were raised. I would again publically say that there is absolutely no hidden agenda here. That we want a solid Cluster Subdivision Ordinance, we currently do not have one. I think you could drive a mac truck through our current Cluster Subdivision Ordinance and it is being abused from my vantage point. I think it is overly generous and it does not achieve the ends of a cluster subdivision regime and I think it would behoove us, to as quickly as possible, repeal the current ordinance and replace it with one that is fully compliant with the State Code. I think we would be remiss to not do so and again not doing so I think will actually achieve the concerns that you currently have. So that is why I think we need to do it now rather than waiting. Again I would suggest to anyone and everyone here to please attend the next meeting, your comments about the concerns that you have by themselves won't necessarily change the reasoning why we want to repeal it, but it could help us to craft the best Ordinance possible. Thank you.

Mr. Rhodes: The seconder, Mr. Hirons.

Mr. Hirons: Yes, to kind of echo what Mr. Apicella said, this is the right thing to do and the right time to do it and I will use the cluster project off of Anderson Drive to kind of highlight it again. One of the weaknesses of this is a definition of good usable space. What the developer there is using as usable space is basically along a rail line that is typically underwater. If you want to tell the county's children... tell the county's parents that their children should be using open space and recreating in open space that is along a rail bed... along an active set of train tracks that is typically under sometimes feet of water, well then you can go ahead and support that. But I am most certainly not going to do that. We've probably created some dangerous situation in this county before and I want to make sure that we put a stop to it as soon as possible.

Mr. Rhodes: Thank you. Other comments? Dr. Schwartz? Mr. Howard.

Mr. Howard: I call for a point of order from the parliamentarian on the process that we are...

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: So, I am calling for a point of order to the parliamentarian and the point of order I am asking you to I guess make a determination on is was the motion made properly?

Ms. McClendon: Mr. Chairman and Mr. Howard, what motion are you referring to?

Mr. Howard: Mr. Apicella's motion.

Mr. Rhodes: Substitute motion.

Ms. McClendon: Yes the substitute motion was made correctly.

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Mr. Howard: So, the substitute motion is a main motion or it's a substitute motion.

Ms. McClendon: In the Planning Commission's by-laws in section 4-3, the Planning Commission by-laws slightly differ from Robert's Rules. When a substitute motion is made and it is seconded it becomes the main motion and then it can be voted upon. If it does not dispose of the main motion, then you go back to the main motion. So staff sees the substitute motion is now the main motion on the floor until it is disposed of.

Mr. Howard: So in fact the substitute motion became the main motion when Mr. Apicella initiated that?

Ms. McClendon: That is correct in accordance with your by-laws.

Mr. Howard: Okay, alright. I do have a comment, but I want to let Mr. Schwartz go first.

Mr. Rhodes: Dr. Schwartz.

Dr. Schwartz: Help me grasp this. By repealing the Cluster Ordinance tonight will that help us expedite the new Ordinance any quicker? So basically we are just standing around with no Ordinance because we have thrown out the bad before we got the good and Mr. Harvey you are telling me that anybody that comes to the gate and we don't have an Ordinance in effect, the gate is closed as opposed to what they are telling us out there, that it's a free lunch.

Mr. Rhodes: There will not be an Ordinance to proceed with the cluster subdivision application if we have repealed that Ordinance. Now our action tonight will be just to... if... should we positively act on the motion that is on the floor now, our action would be to recommend it forward. The Board would still have to hold another public hearing and actually vote to repeal the Ordinance.

Dr. Schwartz: Thank you.

Mr. Rhodes: Yes. Mr. Howard.

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: Thank you. I obviously can't support the motion. I think to not allow the sub-committee, which I thought was put together to vet through the process and the issues as well as try to craft... along with help from staff and the Zoning Administrator and the County Attorney, craft an Ordinance that would meet the needs not only of the state requirement but also the needs of Stafford County in general. I absolutely do not see a two week delay, recognizing we actually have a meeting next Wednesday and can talk through some of the issues just to insure that we have again looked at this properly and we have considered all of the comments that were made here this evening in an effective way. I think to vote tonight to move this forward discounts every single person that came and spoke before us and I am not signing up for that personally.

Mr. Rhodes: Thank you. Any other comments? Mr. Boswell.

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Mr. Boswell: I am not real comfortable with throwing out the current Ordinance that we have apparently been using since, I think I heard 1987.

Mr. Rhodes: Current I think is 2005 or something.

Mr. Boswell: Yes, but we have been with an Ordinance for that period of time. So I am really not comfortable with just throwing it out. I don't really see the harm in... or at least I can't right at this second, see the harm in leaving it in place until we get a new one ready to go.

Mr. Rhodes: Thank you. Anyone else?

Mr. Apicella: Mr. Chairman, if I could just address and reiterate what Mr. Hirons said. Every day that goes by, every week that goes by someone could submit a cluster subdivision proposal to staff that is based on a weak Ordinance, that provides a significant and generous bonus density for minimal, in my view, open space including a small parcel that may be needed by schools or parks, increasing the overall number of units that can be built in Stafford County. And that is why I believe we need to move as expeditiously as possible to repeal the current Ordinance to keep bad plans and overly generous bonus densities occurring in Stafford County.

Mr. Rhodes: Thank you. I think everybody has had an opportunity to comment. I would just share that I believe that probably the best course will be to repeal this which shuts down the future applications for an interim period until we can get a better Ordinance crafted. It does depend on the actions of the Board of Supervisors, however I don't think that a couple of weeks will be problematic in that regard though, that is ultimately where barring other information, other understandings, I think we need to head. So I will not vote for this to support motion that is on the floor at the moment, though I believe that is ultimately what we need to be doing. With that I will call for the vote. All those in favor of the motion, which recommends to the Board of Supervisors to repeal the Ordinance referred to in item number 5, signify by saying aye.

Mr. Apicella: Aye.

Mr. Hirons: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: I think I heard 3. All those opposed nay.

Mr. Boswell: Nay.

Dr. Schwartz: Nay.

Mr. Howard: Nay.

Mr. Rhodes: Nay. That is voted down 4 to 3; 4 for and 3 against. Therefore, it is not approved and does not pass. I will go back to the original motion that now becomes the motion on the floor, which I think I failed in getting seconded.

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Mr. Boswell: I will second it.

Mr. Rhodes: Therefore we have a motion and a second to defer this until the 7<sup>th</sup> of March, which gives time for the sub-committee to meet on the 22<sup>nd</sup> to consider the items heard and then we take it back up on the 7<sup>th</sup> of March. Are there further comments by the motioner? Mr. Howard.

Mr. Howard: Mr. Chair, thank you. Yes, it's not to say I don't think we are heading down the same path eventually. But I think to not allow the citizens of Stafford County to come to a public hearing, voice their opinion and give the Planning Commission, the County Attorney and the planning staff of the County a chance to hear, absorb and understand their comments is always a mistake when you try and rush through that. There will be no more harm that comes to Stafford County as a result of us postponing this by two weeks. And if the flood gate opened up and a hundred people came forward with cluster subdivisions, at the end of the day, it is probably unlikely, but it may improve the economy somehow, but doubtful. Obviously the Subdivision Ordinance as it is written is a concern to just try and amend it as Mrs. Hazard indicated earlier, was very, very difficult to try and work through that. We are working on a recommendation of staff and also the County Attorney and in my world when you have an Attorney who gives you advice and it is a good Attorney and it is more than one Attorney, you typically take that advice and you try and do the best you can and come up with the best solution. I do think there were some things said this evening that require some further examination and clarification and I think we can do that at the sub-committee meeting and that is my desire to see that through and I hope that we get support on the motion. Thank you.

Mr. Rhodes: Thank you. Any further comment by the seconder, Mr. Boswell? Okay, thank you. Any other comments? Mr. Hirons.

Mr. Hirons: You know we are kind of left without an option but to defer. So I just beg of the Committee members, please, please do your due diligence, but please do the work as quickly as possible and please bring up back something that we are ready to vote on at our next Planning Commission meeting. It's a very important issue that we really need to have resolution to and a clear path to doing what is right for the citizens of Stafford County.

Mr. Rhodes: Thank you. Mr. Apicella.

Mr. Apicella: With all due respect to my colleague, Mr. Hirons I appreciate the urgency of trying to get an Ordinance to the Planning Commission, by the same token I would not want to rush it. I want to get it right and so if you are requesting us to, as a condition of getting a repeal to bring a document to the table on the next meeting, I think that is a huge lift. I hope that Mr. Howard is working in earnest collectively and still agrees that at the next meeting we are going to vote on the repeal of the current Cluster Subdivision Ordinance and not delay it any further beyond that.

Mr. Howard: Point of order, Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: One Planning Commissioner may not challenge another Planning Commissioner in terms of their integrity.

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Mr. Rhodes: Thank you Mr. Howard.

Mr. Apicella: I am sorry, I did not mean to say it that way. I guess what I am trying to get to the underlying motion which is that we are going to...

Mr. Rhodes: The motion at this juncture is to defer to 7 March and take up the issue then.

Mr. Apicella: Great.

Mr. Rhodes: Yes.

Mr. Hirons: Yes, and I have had my integrity attacked in this room and I certainly did not take that as an attack on my integrity. So you are right that is all I am asking for, is the repeal process.

Mr. Rhodes: Any other comments?

Mr. Hirons: That is all I am looking for.

Mrs. Hazard: Yes, Mr. Chairman.

Mr. Rhodes: Yes, Mrs. Hazard.

Mrs. Hazard: I guess what I would say being a member of the Committee and also being one who is very concerned about the current status of the cluster subdivision. I believe that the members and the people who came and spoke tonight really were speaking much more to the essence of what the new subdivision... the new Cluster Subdivision Ordinance should look like as opposed to whether the current one was a great idea or not. And I felt what I was hearing was that there was some concern about the current one. So, in my opinion it was time to get rid of it. However I do defer to that, but I certainly hope that those who came and spoke tonight believe that their comments should come to the sub-committee. Tonight's public hearing was about the repeal of that particular Ordinance, not the re-write. That will be coming later, but I do invite you all of course to the sub-committee. Thank you.

Mr. Rhodes: Thank you. Okay, so the motion on the floor then is to defer this until the 7<sup>th</sup> of March and take up this item for further discussion on the 7<sup>th</sup> of March and form by the sub-committee's further update in their meeting that they will hold on the 22<sup>nd</sup> of February which certainly anyone is welcome to attend. All those in favor or deferral until the 7<sup>th</sup> of March signify by saying aye.

Mr. Apicella: Aye.

Mr. Hirons: Aye.

Mrs. Hazard: Aye.

Mr. Boswell: Aye.

Dr. Schwartz: Aye.

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Mr. Howard: Aye.

Mr. Rhodes: Aye. Passes 7 to 0. Thank you very much and thank you everyone for coming out and sharing your thoughts and comments and forming the discussion even further. With that, Mr. Harvey I believe we are back to the Planning Directors report. I think you had a couple of other items you wanted to discuss.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Yes, thank you Mr. Chairman. I wanted to gauge the pulse of the Commission with regard to the minutes. Staff currently provides verbatim minutes and wanted to see if the Commission thought that that was value added to the Commission's work. For the Commission's information it does take substantial amount of staff time to prepare the minutes. In general it takes...

Mr. Rhodes: If we could ask the discussion to go outside please. Thank you very much. I am sorry, Mr. Harvey.

Mr. Harvey: Thank you, Mr. Chairman. In general to transcribe approximately 10 minutes of the Planning Commission meeting it takes about an hour for that. So for an hours' worth of the meeting it is approximately six hours of transcribing. We also have to proof the minutes after they are transcribed. So it requires a significant amount of staff effort, which at times is being stretched a little bit to try and meet those goals that we have for ourselves.

Mr. Rhodes: Mr. Harvey, do we now save as part of the record the electronic recording, which is verbatim?

Mr. Harvey: We have the audio recording that is archived as well as the video recording. I don't recall what the time frame is for the video recording to be eliminated or if we put it on diskette. I would have to confer with staff on that.

Mr. Rhodes: But what about the audio recording, is that archived as long as the minutes are?

Mr. Harvey: No, currently it is not full length.

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: Mrs. Hazard, I am sorry you buzzed in first.

Mrs. Hazard: We may have the same question, we will see. I guess I would actually ask Ms. McClendon, from a legal perspective of exactly what our requirements are and I am sorry I don't know them. Under what retention policy is the policy required by the State as well as... I mean we may have our own minutes. But now that we have gotten into such technology I know many places are changing how their records retention or other policies are done. I may or may not be comfortable... I actually would like some legal advice on what you think is appropriate and acceptable under the Commonwealth's standards as well.

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Ms. McClendon: Sure, Mrs. Hazard. I know that the Planning Commission is required to have minutes. It does not state in the Code whether they have to be verbatim or some type of summary. With regards to the record retention aspect, I would have to do some research and get back with you. It is not in the same section of the code as the minutes requirements are.

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: Mr. Harvey, what are you proposing? So what is the alternative to the long hand verses short hand? I mean what would it be, executive summary?

Mr. Rhodes: Summary minutes that we used to get?

Mr. Harvey: Well, that would be the question that staff would have for the Commission, if there was any preference on any other type of minutes. In the past we have had summary minutes. Which is a staff's attempt to summarize the discussion. At times there have been concerns about that because there were feelings that certain aspects of the discussion were not emphasized as much as others or omitted.

Mr. Howard: Right.

Mr. Harvey: So, that kind of puts the staff in an awkward position. There are other ways in which minutes can be taken. We do keep the permanent record of the written minutes and we keep them on file and we have minute books that we have gone back for numbers of decades and we will continue to do that. We will continue to have the written record. The question would be to what extent, do you want detail in those minutes and does it add value to the Commission?

Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: As a follow up question to my first question. Mr. Harvey, how many times have you had to go back to the verbatim minutes that you recall or has the public requested a copy of the verbatim minutes?

Mr. Harvey: We have...

Mr. Howard: Not an exact number, just kind of generally. Is it frequent, not frequent, occasionally?

Mr. Harvey: Well, since they are posted with the Planning Commission meeting agenda, we typically don't get many requests for them. Now if we did not have them, I don't know if that would increase or number of requests.

Mr. Rhodes: Mr. Harvey, what was it, we went to verbatim about three years ago?

Mr. Harvey: I believe so, yes.

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Mr. Rhodes: Two and a half, three years ago. I do know that when we didn't have the verbatim we spent a little bit more time approving minutes because folks were working through to make sure that an intent or a point was characterized, because as you said staff did a pretty good job at capturing them but sometimes folks would want to clarify some points in there. But to me, just one of seven here, but if we were now, because it is electronic age or digital files, if we were saving the audio recording then I would be very fine with the summary minutes and how that is represented in should I think that it is not necessarily representing it, I will make my modification at the time that we are approving the minutes. But I would be very comfortable with that if we were also saving, in some form, the electronic file of the audio recording. Is that something that is done in a digital form or is that done in the old tape form?

Mr. Harvey: It is digital.

Mr. Rhodes: Digital.

Mr. Harvey: Mr. Chairman, if the Commission would like we can come back with some examples of how the minutes may look with a different format.

Mr. Howard: I think that would be very helpful.

Mr. Rhodes: We can just pull one from four years ago. Yes, that would be great.

Mr. Hirons: Mr. Chair, also I would like to understand and get an idea of the process of how the audio and/or video copies are archived.

Mr. Harvey: I am sorry, could you repeat the question.

Mr. Hirons: I would like to get an idea and understanding of how the audio and/or video copies are archived.

Mr. Harvey: Yes.

Mr. Hirons: For how long and where and types of storage and number of copies in storage.

Mr. Harvey: Will do.

Mr. Rhodes: Mr. Apicella.

Mr. Apicella: I would recommend that if we go to a summary version that it accurately reflect to the extent there is, a majority view and a minority view. Not to the full length and degree that might be portrayed in an actual document that is verbatim, but at least to insure that the minorities view is well understood and part of the public record.

Mr. Rhodes: Okay, what I think I have heard is a receptivity towards the possibility and staff will come back with a couple options of how it might be done, some further information how digital record might be archived and Ms. McClendon opportunity to just kind of look and see if there are any other legal implications on the record storage in that manner.

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Mr. Howard: Mr. Chair.

Mr. Rhodes: Yes, Mr. Howard.

Mr. Howard: Just one more question.

Mr. Rhodes: Please.

Mr. Howard: How does the Board of Supervisors currently handle their minutes?

Mr. Harvey: Mr. Howard and Mr. Chairman, the Board minutes are much more truncated than the Planning Commission's. They essentially list the action item, the motion, who made it. The second, what the vote was and would also encapsulate whatever the Resolution or the Ordinance was that relates to that. There may be more, I will provide a copy to the Commission if you would so like.

Mr. Howard: Yes, I think would be helpful to understand and I am assuming it is not the same number of man hours to produce their minutes and I don't think the Planning Commission should be spending more man hours to produce their minutes. There should be something on par with that. But who knows. That would be helpful. Thank you.

Mr. Rhodes: Thank you. Is there anything else Mr. Harvey?

Mr. Harvey: That concludes my report. Thank you Mr. Chairman.

Mr. Rhodes: Thank you very much. Ms. McClendon.

COUNTY ATTORNEY'S REPORT

Ms. McClendon: No report at this time Mr. Chairman.

Mr. Rhodes: Thank you. Is there any further for the Committee reports? I think we hit that fully. Very good.

COMMITTEE REPORTS

- Planning Commission Subcommittee – Cluster Ordinance

CHAIRMAN'S REPORT

Mr. Rhodes: Nothing on the Chairman's Report other than to remind, next time I would ask as we get to this point in the agenda the next time I would be asking for inputs if we have not received them prior to then as to what objectives would be and topics would be and outcomes associated with off-site and different preferences for how we might accomplish that, be it a Saturday or another context. Okay other business, TRC information on the 22<sup>nd</sup>. Ma'am.

OTHER BUSINESS

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- TRC Information – February 22, 2012

Mrs. Hornung: Good evening Mr. Chairman and members of the Commission.

Mr. Rhodes: Good evening.

Mrs. Hornung: I placed before Mrs. Hazard and Mr. Boswell their copy of the plans for the TRC next Wednesday.

Mr. Rhodes: So Griffis-Widewater is 8:30?

Mrs. Hornung: Yes sir.

Mr. Rhodes: And Hartwood 9:30?

Mrs. Hornung: That is correct.

Mr. Rhodes: Okay. Very good.

Mrs. Hornung: And there is only two items next week.

Mr. Rhodes: Okay.

Mrs. Hornung: And then there will be one about a month away, but that's... well I will have that at the meeting before.

Mr. Rhodes: Very good.

APPROVAL OF MINUTES

*January 4, 2012*

Mr. Howard: Mr. Chair, I make a motion to approve the minutes of January 4, 2012.

Mr. Rhodes: Motion for approving the January 4<sup>th</sup> minutes. Is there a second?

Mr. Hirons: Second.

Mr. Rhodes: Seconded by Mr. Hirons. Any comment? Hearing none, all those in favor of approving January 4<sup>th</sup> minutes signify by saying aye.

Mr. Howard: Aye.

Mrs. Hazard: Aye.

Mr. Boswell: Aye.

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Dr. Schwartz: Aye.

Mr. Hirons: Aye.

Mr. Apicella: Aye.

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

*January 18, 2012*

Mr. Howard: Mr. Chair, I make a motion to approve the January 18, 2012 minutes.

Mr. Rhodes: Thank you Mr. Howard, is there a second?

Mr. Hirons: Second.

Mr. Rhodes: Second by Mr. Hirons. Is there any discussion on January 18<sup>th</sup> minutes? Hearing none, all those in favor signify by saying aye.

Mr. Howard: Aye.

Mrs. Hazard: Aye.

Mr. Boswell: Aye.

Dr. Schwartz: Aye.

Mr. Hirons: Aye.

Mr. Apicella: Aye.

Mr. Rhodes: Aye. Any opposed? None. They are passed. We are done.

ADJOURNMENT

With no further business to discuss the meeting was adjourned at 9:35 p.m.