

STAFFORD COUNTY PLANNING COMMISSION MINUTES
July 9, 2014

The meeting of the Stafford County Planning Commission of Wednesday, July 9, 2014, was called to order at 6:30 p.m. by Chairman Michael Rhodes in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Rhodes, Apicella, Coen, Bailey, English, Boswell, and Gibbons

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, McClendon, Stinnette, and Baker

DECLARATIONS OF DISQUALIFICATION

Mr. Rhodes: Are there any Declarations of Disqualification? Yes Mr. English.

Mr. English: Mr. Chairman, me and Mr. Coen met with the group again last week.

Mr. Rhodes: Okay, very good.

Mr. Coen: And Mr. Chairman, not only was it that meeting, but I've received numerous emails, telephone calls, and whatnot on all sides of different issues that's really before us this evening.

Mr. Rhodes: Any particular ones though that you want to...

Mr. Coen: Both, the first two items on the agenda.

Mr. Rhodes: Oakenwold and Crow's Nest; thank you very much. Any other not declarations of disqualification obviously but clarifications of communications that have occurred? I do know there were a number of electronic messages that have been sent to the Planning Commission. Several have been sent to the applicant to make sure there's awareness, just restating some different positions. Okay, so while no declarations of disqualification, certainly an opportunity to just clarify discussions that have occurred. So thank you very much for that. Are there any public presentations this evening? This is an opportunity for any member of the public to speak on any item they would like to. There are no items for public hearing so therefore you can speak on any item you may wish to present to the Planning Commission this evening. When you do, I'd ask that you state your name and your full address please, then a green light will come on meaning there are 3 minutes available to you. A yellow light will come on when there's 1 minute remaining, then a red light we would ask that you wrap up your comments. Please sir.

PUBLIC PRESENTATIONS

Mr. Coady: Mr. Chairman and members of the Planning Commission, this is to repeat. We are here to hope that you will reject the application of item number 2 with respect to sewer and water to Crow's Nest Harbour. We distributed some additional material. I just want to call your attention to something we've talked about in the past, but it's easier to see it on a map than sometimes it is to think about it.

Mr. Rhodes: Computer please.

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Mr. Coady: So I think you have this. The simple point I want to make is, if it had been easy and feasible, Crow's Nest Harbour should have been, and it should be, part of the existing preserve. Because of its ownership and its complications, that didn't happen at the time that the preserve was created. But it's critical to the completion of the project in our view. So I just want to call your attention to there's the red section called Section A that's part of Crow's Nest Harbour. And the important thing about that is it basically juts into the preserve. So you would be inserting houses really into the middle of the preserve. The second part relates to, and we have four lots in parts of Crow's Nest Harbour, and then the southern part is the herony and depending on the year it's... there are three large herony's in Virginia of 400 or 500 nests. The rest of them are like a hundred nests. They used to be all 500 nests but as growth's taken place, and so there are state and federal guidelines about buffering with respect to the stewardship of them. So there is quarter mile buffers which is the orange line around the herony and then there's a half mile of buffering which is like for heavy (inaudible). So connection with the Brooke Road project, we have an agreement with the Department of Transportation to stay out of there during nesting season. So these are critical parameters for us, as I say, under federal and state blue heron guidelines. And then the top part, which I call the western part, to the left of Section A on the map, is kind of where... and you can see the geographical integrity that's achieved when Crow's Nest Harbour can be included in the preserve. But that's kind of where the public access is going to take place. So, if that were all developed, it makes it a lot more complicated to get there. So thank you very much.

Mr. Rhodes: Thank you very much. Is there anyone else who would like to come forward and speak? Please.

Mr. Singh: Good evening. My name is Ranjit Singh. I am a member of SaveCrowsNest.org and we urge you, as an organization, as our organization, not to support extending sewer and water into the Crow's Nest area. We believe that in order to protect Crow's Nest, we truly have to protect that area in general. And extending water and this kind of infrastructure into Crow's Nest would be contradictory to protecting that area. So, at SaveCrowsNest.org, we are also reviving a tradition that we had in years past which is awarding herons to those who vote to protect Crow's Nest and awarding the bulldozer to those who do not protect Crow's Nest. So, we urge you again to take action on behalf of protecting Crow's Nest and earn a heron. Thank you very much.

Mr. Rhodes: Thank you. I like trucks. Anyone else please? I had a Tonka.

Dr. Federoff: Good evening Mr. Chairman, members of the Planning Commission; Dr. Dean Federoff. Tonight you are considering the Oakenwold reclassification from Agricultural, A-1, to a Planned Traditional Neighborhood Development. This property is listed as planned M-1, Light Industrial, in the 70-page prospectus... whew, that's a hard word... published by the County Economic Development department and in thousands of Google search results. It should be noted that in the commercial phasing proffer, number 2A, that the developer has only committed to 60,000 of the proposed 250,000 square feet of commercial. Is that because their own expert concluded that we have a glut of commercial space that will last till 2040? It's a request to rezone property valued at \$8 million to build 650 residences next to an investment of more than \$50 million in federal, state, and local funds. The airport investment, and everything that I have read, proves that there is no public necessity, convenience, general welfare, or good zoning practice that supports a yes vote. I suggest you vote no. The second item is a request to determine compliance with the Comprehensive Plan for the extension of public water and sewer outside the Urban Services Area to 260 parcels within a portion of Crow's Nest Harbour subdivision. The staff report that you just received clearly outlines the non-compliance issues. The Virginia Department of Conservation and Recreation and Stafford County have purchased 2,872 acres in 2008 and 2009 for

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what is now Crow's Nest Natural Area Preserve. This investment proves that there is no public necessity, convenience, general welfare, favoring a positive review. It simply an attempt by the developers to recoup losses from poor business decisions that go back to the early 70s. This is a no-brainer. Vote no.

Mr. Rhodes: Thank you very much. Is there anyone else who would like to come forward?

Mrs. Hazard: Good evening. Holly Hazard. I am a Hartwood County resident and that's how I am speaking to you all this evening. Again, with the Oakenwold proposal that you have before you, I think there are three questions that need to be asked. Is it the right time? Is it the right place? And is it the correct zoning category? With regard to the correct zoning category, the P-TND has only been used once in this County, and that is at Aquia Harbour, which, as we all know, has not particularly turned out too well. I'm not sure that that is a P-TND is something that is feasible right now in Stafford County. It could be; I'm just not sure that it is at this point. My other concern about the zoning category part of this is, there is supposed to be the business component and we have that linked with the rooftops that there has to be a certain amount, 20,000 after I believe 375 dwelling units. My concern is, as referenced by the prior speaker, reading the 5-page report you all received about business property in this County, we're at a glut; 20/40 maybe. My concern is we are going to link it to business, and we are going to, in 3 years or 4 years after we start down there, there's going to be a person standing in front of you saying I need to change this proffer amendment because guess what, we can't put the business in there because there's a glut in Stafford County. And we know that right now. I'm not saying that that's not a bad future thought, but I have sat in your shoes and had those same people stand in front of me and say, please change a business category. Recreational Business Campus was changed from what it was originally meant to be. P-TND -- I want it to be a mixed used development, not only rooftops. I don't know if you can come up with a way, but that is of concern to me going forward based on the available information. Is it the right place? Obviously it's near the airport. Those are decisions that you all need to make. However, I would say, again, these are housetops. If we don't get the business there, that is going to be a housing community near an airport. And in prior life I worked for the FAA. They do look at what is around those facilities when giving out their money. Is it the right time? I think that's final question. Is it right now that we need to do it? I'm not convinced. The schools are doing an analysis of their students and trying to figure out where are our students in light of the recent development? We need to know what that's going to be before we go forward. Even if all the proffer money came in at over \$20 million, that doesn't even build us one school for potentially a thousand new students. I just ask you to ask those questions tonight before you vote on that this evening. Thank you.

Mr. Rhodes: Thank you very much. Is there anyone who would like to speak?

Ms. Franke: Hi, I'm Antoinette Franke. And, you can tell from my shirt, I also belong to the group that wants to save Crow's Nest. The land and this Crow's Nest Harbour does not perk. So what you want... you know, what is on the table is possibly changing the policy to put water and sewer there. As I said before, if land doesn't perk, I really believe it's God's way of saying leave it natural. I think that if we wait awhile, there will come along... maybe the County, maybe the state, maybe the Nature Conservancy... somebody that would buy the land to keep it preserved. I don't think that we should step out and make an exception to put water and sewer there when it wasn't, you know, not in the plan just because somebody made a decision to build some homes there. And probably knew at that time that it wasn't going to perk, so that was a risky decision anyway. So, I'm asking you to vote no for water and sewer to Crow's Nest, and, you know, just think about how much we have developed Stafford County. I mean, I came here about 25 years ago and it looks a lot different than it did back then. And we just don't need homes on every piece of natural area. And I would like you to consider that. You

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know, there needs to be a balance, there needs to be a place for people, a place for animals, a place for the herons -- everything -- a place. Thank you for listening.

Mr. Rhodes: Thank you very much. Is there anyone else who would like to come forward and speak?

Mr. Scharpenberg: Mr. Chairman, members of the Planning Commission, I'm Hank Scharpenberg. I'm also serving as Chairman of the Airport Authority. Starting in 1987, Stafford County aggressively pursued funding for the creation of what became Stafford Regional Airport. With the support of the State of Virginia and the Federal Government, \$55 million has already been invested to build and improve this facility with the written understanding that the County would not take actions that would promote incompatible use of adjacent properties. The construction of the I95/Centreport Parkway interchange was a direct benefit of the County's commitment to Stafford Airport. Additional federal, state, and local funds will be expended over the next 3 years lengthening the runway to accommodate increased corporate traffic. And with that construction, additional jobs will be created, more tax revenue will be collected, and there will be minimal demand upon taxpayer funded services such as schools and roads. The Oakenwold zoning request clearly violates that written understanding. If approved, high density residential development under the airport's flight patterns will create unnecessary safety hazards, substantial noise impact to quality of life, and a disincentive to companies seeking to locate aviation related businesses at our airport. Your decision in this matter will affect Stafford, Prince William County, and the City of Fredericksburg. For the economic benefit of all citizens, we strongly urge you to deny this request.

Mr. Rhodes: Thank you very much. Is there anyone else who would like to come forward and speak?

Mr. Hornung: Good evening members of the Planning Commission, my name is Philip Hornung. I speak to you this evening as a former Chairman of the Joint Stafford County Planning Commission and Stafford County Board of Supervisors Airport Committee. I want to thank you for the opportunity over the past several months to express my concerns about the proposed Oakenwold residential rezoning. As noted in an earlier correspondence, on November 7, 2013, the Virginia Department of Aviation expressed in writing its opposition to the proposed residential rezoning, Oakenwold, adjacent to the regional airport noting that "it does not consider residential development within the traffic pattern of a public use airport as a compatible land use." Furthermore it stated that the Department of Aviation, on behalf of the Virginia Aviation Board and the Commonwealth of Virginia, has invested over \$6 million in development of the Stafford Regional Airport. And it further noted "as a condition of this investment, the Stafford Regional Airport Authority is expected to protect the Commonwealth's investment to the greatest extent possible. Failure to protect the airport and the Commonwealth's investment may result in loss of future funding." A recent governor's study of the impact of its general aviation airports on local economies determined in 2011 that the Stafford Regional Airport generated \$4.4 million in payroll benefits, \$18.4 million in economic activity, 107 jobs, and \$45 million in investment. The regional airport has begun its 1,000 foot runway extension with the approximate cost of \$9 to \$12 million, 95% of which expected to be funded by the FAA and the Virginia Department of Aviation. We can ill-afford risking our prestigious reliever airport designation as national competition for the scarce grant funds is intensified. It would be disastrous if Stafford did anything at this time to cause the loss of this funding when the runway extension would bring Silicone Valley within 6½ hours from downtown Stafford. This is especially important since the federal government has advised government defense contractors diversify their operations due to reduction in defense funding. Stafford County's economy is more dependent upon these contractors than the surrounding jurisdictions. Recently, Virginia was rated the friendliest state in the country for small businesses. As competition across the state intensifies for new business and existing business expansion, we should not sacrifice this unique strategic advantage in an

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effort to gain 650 residential units. If we want these businesses, we first have to commit to protecting the future of the airport before we can expect them to invest here. Thank you.

Mr. Rhodes: Thank you very much. Is there anyone who would like to speak?

Ms. Knight: Good evening. My name is Jo Knight. And, you know, I find life so interesting. I can recall when the airport came in for approval and the whole community came out and opposed it. Well, it passed and we have the airport. And I support the airport. However, I am going to also say that the County put a document out and, in good faith, they approved it, everyone had chances and I don't know why at this late date it all surfaces that the airport feels that they cannot live with this development. I don't know, but somehow it just seems terribly wrong that there's a document out there leading folks to believe that this type of activity should be there and it's brand new, newly approved. And it seems that there really ought to be some special effort made to help these gentlemen who've put hundreds of thousands of dollars into abiding by a document that our County approved. Trying to abide by the law and the guidance that we've given them, and then we turn on them, reject and in support of something that seems we really should have known about. It seems so difficult for me to comprehend this happening. And all I ask is that please, give some major consideration to making this up to people who did abide, in good faith, with County ordinances they believed to be in the right direction. Thank you.

Mr. Rhodes: Thank you very much. Is there anyone who would like to speak?

Ms. Kirkman: Good evening members of the Planning Commission, my name is Cecilia Kirkman. I'm here to speak to you tonight about item number 2 regarding the Comprehensive Plan Compliance Review for Crow's Nest Harbour. We're here tonight to urge you to vote no and to find that this request is not in compliance with the Comprehensive Plan. That is your task tonight. It is to decide whether or not it's in compliance with the plan. And we hope you will vote tonight because you have been provided with sufficient information to make that decision. You have the staff report which looks at the criteria in the Comprehensive Plan for extending water and sewer beyond the Urban Services Area and staff has clearly concluded that this particular request does not comply with those criteria. You also have the report from the Utilities Department which clearly outlines several concerns. It notes that it is not... that these features are not located on the Master Water and Sewer Plan which is part of the Comprehensive Plan. That utilities report also reports concerns about the cost to the County because of the way this particular system is set up. And it notes that because of the way this particular system is designed, it could lead to both odor and water quality problems. For all those reasons, we urge you to vote no tonight and to find that this request is not in compliance with the Comprehensive Plan. Thank you.

Mr. Rhodes: Thank you very much. Is there anyone else who would like to speak?

Mr. Logan: Hi, my name is Mike Logan. First off, thank you for speaking of Staff Sergeant Stewart... now I'm going to get emotional. I just have one thing for you to think about, you know, when you vote on this thing about the Oakenwold development. If the tables were turned and we were wanting to put an airport in now, would you put it next to a development where you'd have unhappy citizens? I don't think you would. And this land use is incompatible with the airport. The sound issues that they talk about saying it's not a sound issue because sound doesn't travel outwards from the airport. Well, that's not really where the bad sound is going to be coming from; it's when the aircraft are in the flight pattern directly over the development with people outside picnicking in good weather when the flying is there, that's when it's going to be bothered. And I can guarantee in 15 years you're going to have these people complaining wanting to shut the airport down. Thank you.

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Mr. Rhodes: Thank you very much. Is there anyone else who would like to speak?

Ms. Lof: Good evening, I'm Marsha Lof, and yes, I am related to the company who has submitted the Oakenwold development plan to you for approval. But I address you today not as a representative of the company, but as a resident who has lived in Stafford County for over 30 years and have known some of you for many of those 30 years. I worked for the County school system for almost 10 years and I am a member of a church in Stafford County that has been in existence for over 107 years, so my roots run very deep in this County. I have watched this County grow in leaps and bounds, and have been amazed at the amount of residential and commercial development projects that have been approved by the County. When my husband and I first moved to Stafford, Garrisonville Road was two lanes wide with one traffic light in front of the original Giant Food store. We lived for over 25 years in a subdivision in North Stafford which was within a few miles of Quantico Marine Corps Base. Over those 25 years, we spent many days with windows and dishes rattling, and nerves feeling like we needed to duck for cover. These were days when the testing ranges of Quantico were doing their live fires and bombing training. I don't believe residents affected by those loud noises made efforts to have Quantico closed or felt in fear because of the closeness to the base. It was there long before these subdivisions were approved and built and residents were aware of its existence before they chose their homes -- which would be the same case with perspective residents of Oakenwold. Today there are many homes and businesses with properties who literally border up to the land belonging to Quantico. Yet those developments were approved by the County despite their proximity to the Base and its noise and safety concerns. Again, the Base was there many years before the developing community, as would be the case with Oakenwold and Stafford Regional Airport. As we know, Stafford Regional Airport has been a part of the County for a number of years and, as we have all learned, is a well-established part of the County and its economic growth. You have heard the thoughts and concerns of supporters of the airport and the histories of their local owned airports being closed and sold. We have also learned that these actions were business-related decisions and not due to community efforts to close the airports. I urge you to consider the proposal by this company as presented to you. They have long been a part of Stafford County as they were the engineering firm used in the challenging groundwork involved in developing Stafford Marketplace Shopping Center at the intersection of Garrisonville Road and I95. This is a prestigious highly respected company, both professionally and by other counties where they have previously built. Their building designs stand out from others because of the quality they bring to their structures. Their original proposal met Stafford County's existing Comprehensive Plan for this site and they have continued to meet your every request, including making road changes to the intersection of 1 and Centreport Parkway, which is miles from the Oakenwold development, yet the company has agreed to make these changes. As you have requested, they have redesigned an overall layout of the community to accommodate your request, they have changed the number of planned residential areas and businesses of the community to meet your request. Their proposal includes donating a portion of the land in the community to the County for fire and rescue use. In other words, they have made every effort to be a strong supporter of Stafford County. Again, I urge each of you to favorably consider approving this proposed community. Thank you for your time.

Mr. Rhodes: Thank you very much. Is there anyone else who would like to speak?

Mr. Sala: Good evening ladies and gentlemen, my name is Tony Sala. There's been a lot of discussion about Oakenwold and I'm here to support it. I'd suggest that if you question the amount of M-1 property, take a look at your tax maps in the County. Within thousands of feet, not miles, but within thousands of feet of the airport, there are more than 1,005 acres of presently zoned M-1 land which would allow more than 20 million square feet of M-1 to be developed without any rezoning. This excludes nearly 1 million square feet that the Airport Authority says they can put on their own property.

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It also excludes any additional land that you might take essentially through your policy if you were to deny this rezoning, based on what we've heard about the need for M-1 land around the airport. Speaking about financial impacts, the M-1 land in the County, on average, I checked the records today, is assessed at \$25,000 an acre. Vacant R-1 land in the County is assessed at \$60,000+ an acre. Ag land, consistent with the Oakenwold property, is assessed at \$9,500 an acre. Were this property to be rezoned, not even considering proffers and related improvements, you'd have increased taxes of more than seven times the current rate that the property is generating. The property around the airport that's zoned M-1 has been... much of that property has been on the market for an average of 1,677 days; that's 4.5 years. I'd suggest that if the human cry for additional M-1 property was so strong, we would definitely see more than FedEx in the area of Centreport Parkway. Another thought to be considered is the amount of available leasable property M-1 space across the street from the airport, across 95 and Route 1. In the present industrial complexes along Route 1 there are more than 160,000 square feet of vacant M-1 property. That's just across the street from the airport, not across Stafford County. So there is a tremendous amount of opportunity for M-1 property presently. Now, to be sure, none of this property is in a planned environment such as Oakenwold which generates a great deal of the synergy to create the demand for that type of use. It's all just sitting along the road. I would suggest also that indifference to the Airport Authority, nothing stops them from purchasing the additional property that they feel so important to protect their boundaries, but certainly it should not be a County policy which would be confiscatory at best. Thank you.

Mr. Rhodes: Thank you very much sir. Is there anyone else who would like to speak? Seeing no one come forward, I'll close the public presentations and move onto the... there are no public hearings so we'll move onto the Unfinished Business. The first item is RC1300324, Reclassification for Oakenwold. Mr. Harvey.

PUBLIC HEARINGS

NONE

UNFINISHED BUSINESS

1. RC1300324; Reclassification – Oakenwold - A proposed reclassification from the A-1, Agricultural Zoning District to the P-TND, Planned Traditional Neighborhood Development Zoning District, with proffered conditions, to allow a planned community, including up to 695 residential units and up to 250,000 square feet of commercial floor area, on Assessor's Parcel 37-80. The property consists of 231.6 acres, and is located on the south side of Centerport Parkway and east side of Mountain View Road, within the Hartwood Election District. **(Time Limit: July 9, 2014) (History: March 26, 2014 Public Hearing Continued to April 23, 2014) (Deferred on April 23, 2014 to May 19, 2014 Work Session) (Deferred on May 19, 2014 to June 11, 2014) (Deferred on June 11, 2014 to July 9, 2014)**

Mr. Harvey: Thank you Mr. Chairman. Kathy Baker will give the staff update.

Mrs. Baker: Good evening Mr. Chairman, members of the Commission; Kathy Baker with the Department of Planning and Zoning. As you recall, this reclassification from A-1 to P-TND was held at public hearing on March 26th. The hearing was continued to April 23rd and then deferred to two additional meetings, May 19th and June 11th, for additional information. The applicant has submitted additional information since your last meeting. This includes the attachments in your package, the first one being the Commercial and Industrial Land Use Analysis that was prepared by Dr. Dean Bellas. The

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second is a memo, along with maps, that address the prior comments regarding noise and safety impacts and operations of the Stafford Airport. The third is a revised Proffer Statement from the applicant dated June 5th. I will note that in the Ordinance, in your packet, the date of the proffers on the very last paragraph did not get changed to reflect this June 5th date, but that would be reflected on a future document. The proffers do include several amendments from the last time, including in proffer 2A, phasing of the commercial development, and 2B, location of commercial development which specifically deals with no multi-family units within 500 feet off of Centreport Parkway. It also includes sound attenuation for all residential structures. In 2C it talks about excluding some of the commercial uses, which you'll see those underlined, and then proffer 7E is regard to eagles' nest and retaining a distance of 350 feet... excuse me, 330 feet from active eagle nests. So I will be happy to answer any questions but the applicant is also here; they can discuss more thoroughly the information that they have submitted to you all.

Mr. Rhodes: Questions of staff before we go to the applicant? Yes please Mr. Gibbons.

Mr. Gibbons: When I got all my emails, the original tract... what is the density on the Moncure tract?

Mrs. Baker: The allowable uses?

Mr. Gibbons: No, the density I thought was 30 units and then the applicant says he has 100 to 120.

Mrs. Baker: Well staff determined approximately 33 by-right developments at 3-acre minimum lot size. That's based on the acreage to the north of Potomac Creek. There probably is some additional buildable area on the southern side, but just in general, without us doing a full-blown study, we estimated approximately 33 units out of the entire tract.

Mr. Gibbons: Thank you.

Mr. Rhodes: Any other questions of staff before the applicant? Yes Mr. Apicella.

Mr. Apicella: Mr. Chairman, when this was first presented to us in March, staff supported the TND proposal. Since that point in time, several changes have been made to the proposal, to the proffers, and we've also done, as requested by the Board of Supervisors, some research on land use compatibilities. So, all those things taken into consideration, where is staff in terms of having a perspective or an opinion on this project?

Mrs. Baker: I'll defer to Mr. Harvey to answer that.

Mr. Harvey: Mr. Apicella, at the initial staff what we indicated, this proposal was in general consistent with the UDA and the concept is identified in the Comprehensive Plan. There were a number of issues yet that staff had identified. The applicants made efforts to try to resolve those. From the staff's perspective, it is generally conforming with the Comprehensive Plan.

Mr. Apicella: Thank you. There was a report that was provided as part of our package. It looked at industrial parcels certainly close to the airport but I think beyond the airport, and it made some analysis about build-out potential, both in the short and the long term. Has that been provided to our Economic Development staff or has the EDA looked at it? Do we have some sense of what their perspective is in response to that report?

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Mr. Harvey: No sir, that's not been forwarded onto them.

Mr. Apicella: Okay. With the Commission's indulgence, I'd like to pull up the Airport Impact Overlay map.

Mr. Harvey: Mr. Apicella, this is the map that shows the Comprehensive Plan Land Use with regard to the Airport Overlay Zones. Is that the map you're referring to?

Mr. Apicella: I was interested in the one with zoning.

Mr. Harvey: Okay. This is the map that shows the zoning.

Mr. Apicella: Great. Can you just pull it up just a little bit... there you go. So, when I look at this map, and I appreciate some help and input from staff on this, a lot of tension rightly so has been focused on the flight pattern associated with the airport. And a lot of legitimate questions, concerns, and issues have been raised. But when I look at this map, what I see... and I'm trying to get some context here... I see a lot of A-1 parcels, some developed, some not developed, and A-2, some developed and not developed. And I'm just kind of curious... I'm not looking for an absolute number or precise number, maybe a range, maybe some generalities... within the flight pattern, what number units do we think are possible? And I realize that, again, it's not going to be a hundred percent accurate, but I'm just trying to have some perspective in comparison of what's being proposed here tonight.

Mr. Harvey: Mr. Apicella, there's two flight patterns associated with the Regional Airport. We have an interior flight pattern that's generally associated with small piston engine aircraft and then you have an outer flight pattern which is associated with turbo prop and also jet aircraft. In looking at the outer pattern, the question came up fairly quickly this evening, so I counted approximately 51 A-1 and A-2 zoned parcels along that pattern. I don't have the full buffer here in this map to draw even more definition to it, and also we didn't have an opportunity to take a look at how many of those parcels are currently occupied versus vacant. You'll note that there are several large parcels that have future subdivisions already planned or discussed. This is the area where Clift Farm neighborhood is currently planned, as well as Potomac Creek Overlook in this area. This property here is part of the Centerport tract; it's zoned for up to 600 units. And we also have the Colonial Forge neighborhood up here.

Mr. Apicella: Okay. And so, at a minimum, there's 50 or so development units; probably more if some of those large lots got subdivided. When I look at the A-2, it looks like there are actually a lot of parcels there. I don't know whether all of it's buildable or not. And then I also look at the approach to the east and that's a fairly long swath. I would say, just from a glance, there's probably hundreds if not well over a thousand parcels in that approach area. Is that... again, I'm not looking for a precise number, I'm just looking for context here. Would you say that's accurate? Some of those developments are pretty large? Again, the approach to the east?

Mr. Harvey: Mr. Apicella, the approach to the east extends into King George County. If you look at the whole approach area, I'm sure you're in the hundreds of parcels. Some of them are already occupied, some of them are not.

Mr. Apicella: Okay. Again, I'm just trying to look at that in a fair and objective way. I think people have brought up a lot of interesting and, you know, potentially safety and noise concerns. But I just wanted to get a sense of what's already on the ground now or what's possible, even in the absence of what we do tonight... so, thank you.

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Mr. Rhodes: Okay. Any other questions of staff before the applicant comes forward? Okay, thank you. Applicant please.

Mr. Leming: Good evening Mr. Chairman and members of the Commission, I'm Clark Leming; I'm here on behalf of the applicant. I wanted to... if you haven't seen it, there was an email from Ms. Moncure that was sent out this afternoon. I have copies of that if you did not see that. I think Ms. Moncure was trying to figure out how she should communicate with the Commission. She is in South Carolina, considered coming up here, and the result of this email. Let me start by expressing, on behalf of my client and myself, our appreciation for the Commission's work on this application, for the courtesy you have shown to the applicant, the willingness to meet with the applicant, the willingness to share your thoughts on the application, and changes, amendments, adjustments that you would like to see in the application. And I think you probably all would agree that the applicant has been very responsive to those comments and suggestions. I've been doing this for, as some of you all know, quite a long time. And when I began, a zoning application, start to finish, usually took a period of months... usually not a substantial period of months; not like looking at a year or anything like that. Under Virginia law, applications are supposed to be considered within one year. But it doesn't happen like that anymore. These applications start way in advance of the time they ever reach you. And in this particular case they began with negotiations between the landowner and the applicant, in this case the Groupes. Those discussions began over two years ago now. And at that time, the 2010 amendment to the Comprehensive Plan was fresh; it was not even 18 months old. It indicated a particular use vision for this property designating it as an Urban Development Area, along with a narrative that explained what that was and what the County wished to see for that area. Plans proceed and at a reasonable pace given the number of issues that must be addressed even before an application is made; the environmental issues, the traffic study, all of which have to be in hand before application is made to the County. We're approaching our 1 year anniversary on the application. Did I give the staff a letter about that one year, extending that? We might want to talk about that later. But we are approaching our 1 year anniversary since the filing of the application. The applicant did their due diligence. They met with the home district Supervisor, the home district Commissioner, they responded significantly... made significant changes in response to the guidance that they were provided by the home district Supervisor including moving the entire development to the north side of the perennial stream that runs through the property and concentrating it in that location. The result is a true TND proposal. You've had a PND zoning district since 2007 I think, Jeff, maybe a little bit earlier, that was developed specifically for the Aquia Towne Center project. The Aquia Towne Center project and Clift Farm are two other P-TND applications that have come before you and, even though I represented both of those applicants, neither were true TNDs. Aquia Towne Center was a redevelopment project; it has a very limited amount of residential that has become something of a controversy in the context of a large commercial development. Clift Farm had a limited amount of commercial all out along Route 1, as opposed to being interspersed within the community. But, what you have before you now is the first I would say true TND application that has come before the County. Now, in putting this together, the applicant relied on the 2010 Comprehensive Plan amendment. The amendment doesn't say anything about where things go within the UDA. As Mr. Harvey indicated, we are in general conformance with the UDA and the Comprehensive Plan. So we come in, we meet with staff, we meet with the other interested parties and try to figure out what's appropriate. And the result is the application as a result of those discussions. The applicant took their proportionate share of the residential that was indicated for the UDA and their proportionate share of commercial and used those figures as a basis to develop a proposal for this particular property. Now, since we have advanced and you all understand, I'm sure, at least as well as I do, that the Planning Commission is one stop along the way in this process. Since we have been involved in that process and been before you all, there have been a number of significant additional changes that have been made to the application in response to issues that you have raised. Mrs. Baker

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went through the ones that have occurred most recently but, since we have been before you, there have been numerous other changes that have been made to the application. Changes that have been made with regard to the commercial build-out as we've inched our way up to 60,000 square feet which somebody a little while ago said what a small amount of commercial. To put it in some sort of context, the large office building in back of Stafford Marketplace that has the imaging center up there, that is approximately a 20,000 square foot building. So it's about 3 times that. So 60,000 square feet is not insignificant. In addition to the commercial phasing, which nobody wants to commit to... no developer wants to commit to because they don't have a crystal ball, but we understand the County's concern about those links. In addition to that we've added language to the historical proffer, preservation of the Oakenwold tract, tightened that up. We'll take immediate steps to stabilize what is on the property now. We've committed to preserving the house and possibly other buildings on the property, if they can be preserved. And even if not, to do the full inventory studies that are appropriate for those outbuildings. One issue that we've not really had here is transportation. And the reason is because of the proximity to the interstate. The transportation system works very well from this property. We have, nonetheless, agreed to make significant intersection improvements at Mountain View and Centreport, including a signal under certain circumstances, and turn lanes. We've agreed, even though it's not dictated by our traffic study, to put an additional turn lane in at the southbound entrance to I-95 off of Centreport. We have agreed to add a lane and adjust the signal over where Centreport comes into Route 1. That's something that has come up in probably a half a dozen applications now, and everyone is focused on that even though no one property drives the need for that. The recreational amenities are significant that have been offered. We have offered, in response to issues raised here, the opportunity for the County to acquire the approximately 50 percent open space of this tract, if the County has a desire to use that for passive recreation. If not, it stays open and belongs to the Homeowner's Association and is still used for passive recreational purposes, just not for the entire County, for the development. We have added language about, as Kathy indicated, about staying away from the eagle's nest. Now, if we could stop here, if that's all there was to this application, I hope you would agree with me that what we have is an application that is consistent with your Comp Plan, you have a reasonable applicant that has proceeded in good faith to address the relatively minor issues up to that point that have come up, and the application is on its face, what's envisioned in your own Comprehensive Plan for this area and this UDA. But we all know the story doesn't stop there. And enter the Airport Authority, which I will describe as (inaudible) advocates for a good cause. The intensity of their interest in preserving the options for the airport is very obvious, I think, to everyone. The value of the airport, I think, is very obvious to everyone. The issue is, what's compatible with the airport. And, not too long ago, just a couple years, in the Clift Farm hearing, Mr. Scharpenberg also came and spoke at that hearing and described that proposal as arguably compatible with the airport. The Eskimo Hill UDA, as you know, is just on the other side of Route 1, approximately the same distance from the airport but right next to the approach pattern. We're not even argu... Oakenwold is not even arguably compatible with the airport, according to the Authority. I think it makes sense to engage in the effort to develop and compatibility matrix. My reaction to what has been... what I've seen so far is that in every single study, every single model that we've looked at, mixed use development is something that is deemed potentially compatible in some cases, outright compatible in others, at this distance from the airport. We see examples of this around the Manassas airport, around the Leesburg airport. In the Airport Contractors' own compatibility matrix, they designate as potentially compatible a number of zoning districts: R-2, PD-1, PD-2. For some reason, P-TND is shown as not compatible. The fundamental difference... the lack of fundamental difference between the PD-1 and the PD-2 and the P-TND ordinance I'm sure is a point not missed by you all. These are fundamentally the same kinds of developments, the same kinds of zoning districts, yet one of the zoning categories ends up in another column. Now what I would like to do... I do want to focus a little bit... you heard some statistics with regard to the amount of business and industrial acreage that is out there now. That is an area of significant concern probably more so for the

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underlying property owner, Ms. Moncure, than it is for the applicant here. I mean, you all are going to either send them on their way or not successfully. But, Ms. Moncure is stuck with whatever remnants are left after this exercise is over. Mr. Sala, I believe, gave you some figures. We had our planner look at the area that you have designated for business and industry in your latest recommended amendment to the Comprehensive Plan. It includes the northern portion... and of course the Board has not acted on that... but it includes the northern portion of the Centerport UDA. Just in that portion alone, the old UDA now designated for business and industry, which we equate to probably M-1 zoning or possibly B-2, but M-1 is a little more inclusive, just based on that area alone we're talking about the potential for 5 million square feet of that kind of development. Now, Mr. Sala did talk to some extent about the market; I'm not able to do that. But we did also go and look at Manassas, and we looked at Leesburg to see how much of that type of development was in the vicinity of those airports. And those figures are approximately 2 million square and approximately 1 million square feet, respectively, in and around those airports that already is established. Those airports have been in place for quite a significant period of time. Now, if we add to the 5 million square feet that comes from what was in your all's recommendation, the northern portion of the UDA, if we add to that, all of the area in the vicinity of the airport that you designated for this kind of use, our planner comes up with a figure of 38 million square feet of light industrial, business industrial type of use. That's an incredible amount of acreage. I'm going to ask our economist to talk about, in a moment, the absorption period that would be required for that amount of that type of use. But it's a significant figure; it's a figure that... that in my view condemns -- I don't mean that in a legal sense -- but condemns these properties to either no use, if you zone consistent with that for the foreseeable future and beyond, or their by-right use. Whatever it is that they can do by-right if they're lucky enough to have A-1 zoning, at least they can do a cluster subdivision or 3-acre lots. But that's the only way they're going to be able to turn. It's simply too much of that particular product. Now, and that doesn't count... those figures don't count... the million square feet of that same use that already is on the airport property that has not been developed yet. So you're overloading this particular use in this particular area. And, M-1 designation, light industrial designation under your Comp Plan, is all over the County too. Hundreds and hundreds, if not thousands and thousands of acres already designated for that. Now, what I would like to do... I'm going to stop talking... what I'd like to do is to, I wanted to talk to you or have somebody talk to you a little bit more about the different compatibility models that are out there, decibel levels and things like that. It'll be brief. But we have retained an expert in this field. He's with Gensler and I'm going to ask him to come up now and just... and there's a report from Gensler that we provided to you prior to this meeting. And he's going to give you a synopsis of his review of these materials and based on his expertise, his recommendations. Bill, if you would introduce yourself.

Mr. Rhodes: Thank you.

Mr. Hooper: My name's Bill Hooper, I'm a Principal with Gensler. I'm responsible for our aviation and transportation practice nationwide and actually overseas. I'm going to ask us right now, because we've used some very broad terms this evening, to take us to a little bit greater degree of specificity and precision about the issues that have been raised previously this evening and in some of the meetings before. One of the first of these is a question about compatibility and I would offer to you this evening that the compatibility issues that have been outlined and that are part of this conversation today are remarkably similar and have been well-tested, and there are precedence for this same sort of proposed development in and around the airport. And I would offer to you that those have been successful without impinging upon the ability of the airport to be able to grow. Now, the comment was made earlier, briefly, from an FAA perspective, that the FAA watches like a hawk to be able to make certain that the growth around the airport does not constrain the airport. This is where I'm going to be a little bit more precise. At the airport, not all land is created equal. Sensitivities on the approach at the

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runway (inaudible) are clearly the area of greatest sensitivity. They are sensitive because they are defined in terms of making sure that there are obstacle free areas, to be able to make sure that uses do not constrain on them, but those are the areas of greatest sensitivity in and around the airport. I don't want to diminish it, but as you move further to the sides of an airport, to the sides of the runways, that is a very different area and somewhat less sensitive. Perhaps the best example of that would be, and the comment was made earlier, about safety factors. First off, the airport is obviously compliant and has met all standards in terms of FAA requirements, including what we call the Part 77 surfaces. Part 77 surfaces actually take a look at what cannot penetrate an imaginary plane coming from the ends of the runway? Or, at a different pitch on the sides of the runway? And frankly, the sensitivity for what happens to the sides of the runway actually allows you to build higher, at a 1:7 ratio, than the 1:20's at the end of the runway. I mention this to you because when we deal with safety, I believe that the airport is safe and I believe that what we're talking about this evening is absolutely consistent and not in any violation of any of the Part 77 surfaces. Now, those Part 77 surfaces, I want to come back to them a little bit more, sensitivities at the end of the runways because when we talk about compatibility, we need to be talking about compatibility for different functional areas. For instance, the overall approaches as you come to the airport have been very well maintained and, of course, are sacrosanct. You're not going to violate them. What we're talking about today is, as we are set off to the site we are talking about, is more than 4,000 feet from the side of the runway. It is significantly removed and I want to talk about the significance of that in a half second, but here's the big thing that I'd like to get to the FAA piece. The FAA looks very kindly upon large scale reconsideration and protections of its airports. If we were to allow it to be a wholesale sort of wild west approach in and around the airport, the FAA might be interested, and they'd certainly be interested at the ends of the runways. But the larger that you end up getting to wholesale re-understanding of what will be happening around the airport so that it is defined, it is consistent, and it ends up being planable. The FAA is actually remarkably supportive of that. The comment was made earlier about the possibilities of choking down financing. The FAA uses two kinds of financing... well, let's call it, the FAA uses one we'll call it, the AIP funds. The AIP funds are for primary improvements to runway, taxiways, operational approaches at the airport. As long and as clearly being maintained, the airport is living within its and anticipating its growth and protections with the runway zones that we're talking about extending, they're clearly taking the care of their sensitive areas. So to be able to in a wholesale manner say that there are concerns about safety to the sides of the runways or much greater distances away I think is a bit imprecise. Now I'd like to go back a little bit further because when you take a look at sound attenuation, that's come up as a repeated issue. I'd offer to you that sound attenuation is not... especially at an airport... is not like dropping a pebble in a pond. It's not omni-directional. I think everyone who's had a chance to be able to take a look at sound patterns at airports realizes they're more like, as I've described it, like a flame. There's a plume that actually comes based upon how sound moves, whether it ends up being a propeller aircraft, any kind of an aircraft, jet aircraft, regardless. It is of course at the point that it aligns where the greatest speeds need to be able to be maintained. When you're looking to be able to create breakaway movement for an aircraft, as you rev an engine, or a jet as the case may be, you end up creating the highest level of sound. Where will that likely occur? It will likely occur and breakaway points at the ends of the runway. Let's take a look at it down the runway 33 end because you're going to end up likely losing whatever spike of sound you're going to be getting down there and the ambient sound of 95. Now, again, the airport has been very clear and as that good neighbor policy has set its standards that 65 decibels is what we're looking to live within. And all the analysis that we've been able to do ends up indicating that that is not going to be violated and, if anything, if they live within the 65 decibels at the airport, by the time sound migrates out, meaning further down the runway or even after the aircraft takes off, the dissipation of sound reduces it considerably so that it should be largely unobjectionable. Now that may be somewhat subject, but the overall decibel levels will end up being below the 65 decibel levels, especially as the aircraft takes off. Now, one of the other things we've talked about is, how do we end up talking about

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sound and approaches and patterns? Let's be again a little bit more precise. For starters, as you're ending up taking off, if you will, to the north and west, off the runway 33 end, you're going up, you're banking. As soon as the aircraft actually becomes airborne and is eventually going down to be able to bank into its flight pattern, that sound again is dissipated. And although there's hard science behind it, the physics are pretty real. The sound dissipates to a significantly greater level, of course, as you're going higher, and you'll be taking off and pulling up at a pretty good pitch. So we believe strongly that the sound issue will be frankly irrelevant to the homeowners and, again, the consideration that's already been taken into the architecture of the residential units should obviate that considerably. I also go back and would point out that as we end up talking about sound, and we also have talked about it as if aircraft might be circling overhead... I think it came up in one of the previous meetings... I would offer to you that we've talked about approaches and those are well understand. But then there's the discussion of a circling pattern. And if that was to occur, what would its impact be? I'm frankly hard-pressed even reading the information, of course, that the airport provides in terms of its operations when that situation in circling would occur. But let's assume that it occurs with some frequency or at some irregular operation that the airport has to deal with. I'd offer to you that, again, at the elevations that that aircraft must be to recirculate around the airport has to be far enough up to still allow the airport to operate; meaning, the approaches and the operation of the airport will still keep it in operation and it'll have to be far enough up to allow aircraft to come in and land. Again, the whole point is, that the use of air and its dissipation of sound I think hasn't been well discussed but it has a huge impact on what we're dealing with today. I would also go a couple of other issues that you've raised. One is in terms of flight patterns and the like. Again, taking a look at where the site is located, the site is located approximately 4,400 feet away from the side of the runway. And I go and took a look at it to be able to see, we've talked about comparable situations. If you take at Leesburg, if you take a look at Manassas, you will find that in many cases they are exactly the same distances to residential property and, in some cases, the residential property is closer. The advantage to what we've talked about this evening is that the placement of some of the non-residential property actually acts as a buffer. It acts to dampen sound down, and again, using topography and using the natural vegetation that's there, it will significantly reduce the overall sounds levels to make it inconsequential to the inside development that we're talking about today. There are a number of other issues; I won't go through them all right now for brevity sake. But I do think it would be very fair to say... and my job, quite frankly, more often than not is actually designing compatible use functions for airports so that they can be able to maximize their land value and be able to maximize their utilization, and so it's interesting this evening that most of our airport clients that I deal with end up looking to be able to try to find development opportunities that they can end up working with to be able to create a compatible function. And I believe that that's what we have here this evening. So, thank you very much.

Mr. Rhodes: Thank you very much.

Mr. Leming: If anyone has questions for Mr. Hooper, I'll bring him back up here. In summary, with regard to the airport issue, airport seeks to control within the overlay zone in fairly absolute terms, at least as far as residential development is concerned, seeks to control some 13-14,000 acres that they say they need to... for what? The issue comes down to complaints. These are... the concern that is expressed in the writings that we have from the Virginia Aviation Authority comes down to that... complaints that may evolve into political opposition when the airport wants to expand or take other steps consistent with its mission. But that's what it comes down to... fear of complaints. Fear of complaints that are somehow going to get out of control. And, on that basis, no residential development within that 13-14,000 acres. Now, from our standpoint, we think that's an unreasonable posture. Mr. Hooper touched briefly on the three things... in our view this is very much a non-issue, given the location of Oakenwold. But, erring on the side of caution, we have tendered three proffers that address the issue of

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noise, attenuation, notice, and so forth. The first, which has been in the proffer from the beginning, has to do with notice of perspective purchasers. I was privy to a conversation... I went to the Airport Committee meeting on Monday night and I heard Mr. Apicella talk about some broader concerns, acknowledgement, and we do have some language that we're happy to add there. The second thing that we've proffered is the construction standards indoor noise down to 45 decibels. And the third thing we did was to establish what Mr. Hooper was talking about, and that's basically a 500 foot commercial buffer that acts as an additional collector of possible sound that would come from the airport and then the residential is on the other side of that. So those things are all in the proffers right now. Now, what I'd like to do now is to have Dr. Bellas address you for just a few minutes on the two points; one has to do with what I would characterize as the glut proposed of light industrial business and industry type land. And the other is the economic benefit to the County of the UDA, the Centerport UDA, as presently constituted. And what if built-out the County would realize from something like that. Dean?

Dr. Bellas: Good evening. It's a pleasure to be here again this evening. If I may have the computer please. I've prepared three slides, very short, very brief, to bring the point across. As Mr. Leming has noted prior to me coming up, there is a glut of space around the airport. What we've looked at since we've last met, we looked at Leesburg Airport and we looked at Manassas Airport. We actually went out and counted the buildings and the square feet around those two airports. We have a million square feet of actual building space built around the Leesburg airport and 2 million around Manassas. Applying the M-1 standard for Stafford Airport, we come up with 38,332,800 square feet.

Mr. Rhodes: That is, just to confirm, that is if you built on... a certain amount on every acre of M-1?

Dr. Bellas: Correct, applying all the standards that are in the Comp Plan.

Mr. Rhodes: Do you know how much undeveloped M-1 there is around the Manassas or Leesburg?

Dr. Bellas: I have to defer that to Mr. Groupe and we do not know that at the present time.

Mr. Rhodes: Okay, thank you very much.

Dr. Bellas: Based on my analysis on the economy and the growth of the economy in Stafford County, through 2040 we are estimating that a forecast increase of 46,710 jobs in the County. Through 2040, 26 years from now, and that will support 14,452,506 square feet. So, to do just a short quick analysis, the absorption of 38 million square feet would take you to the year 2090, or 76 years from now. And that is based on three assumptions: 1, ideal conditions, no economic shocks to the Stafford County economy or no shocks to the national economy, and number 2, a growth rate of 2.32% per year which, as you know from following the national economy, we're not doing that in the United States right now. The short conclusion to this slide is, business and industrial space planned around Stafford Airport is unrealistic. The next slide please. There's been quite a bit of talk this evening about the economic benefits of the airport. Yes, there are economic benefits from the airport to the County, but let's put this into perspective. One of the speakers earlier this evening said that based on the State of Virginia study of the economic benefits, the airport creates total economic activity of \$18,408,000 to the County. The full build-out, maximum build-out of the Centerport UDA would be \$144,591,000, or the economic impact being 8 times greater the impact from the airport. The previous speaker mentioned that the airport generates or supports 107 jobs. The economic impact of the full build-out of the Centerport UDA is 769 jobs, or a factor of 7 times greater. In the nutshell, total economic activity, the build-out of the Centerport UDA is \$1.2 billion, and total jobs, not just construction jobs but all jobs in the County associated with the multiplier effect of spending all that money is almost 6,000 jobs. If you fully

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develop the Centerport UDA as currently contained in the Comp Plan, clearly the point of this slide is that the full build-out of the Centerport UDA is a financial or economic winner, is an economic engine to the County and it far exceeds any economic benefits that the airport provides. If I may have the third slide please. In conclusion, planned commercial industrial space or supply of that space exceeds demand through 2040. Absorption will not occur for decades. New housing stock and higher household incomes are needed in the County to support future office and retail space. And finally, the point I just made, the development of the Centerport UDA as currently contained in the Comp Plan is an economic engine that far exceeds any economic benefits from the airport. And Mr. Leming and his team has shown that it is compatible.

Mr. Rhodes: Okay, thank you.

Dr. Bellas: Thank you.

Mr. Leming: Any questions for Dr. Bellas?

Mr. Rhodes: Questions?

Mr. Leming: Thank you Dean. Alright, I'm going to wrap up here. As you know, I represent a lot of developers. I don't represent any developer, but in this particular case, I have a unique client. I have a unique client because they're an engineer. It's an engineering firm. They bring to this process a level of creativity and I would even add to that responsibility that I don't see with all of my applicants. And I think you've been party seeing that to some extent. This organization is very well respected in Prince William County, where they've ventured into development as well. But I'm pleased to represent them and believe that they are capable and committed to a quality product. Back to the Comp Plan for a minute. Comprehensive Plans are the County's blueprint, what you want to see for the future. What you designate that you want to see. What you consider and spend hours and hours debating and then commit and vote and the Board adopts it, and it's in place. It is an evolving process. It is something that is always subject to amendment. But, from the standpoint of the landowner or the developer trying to do something, trying to follow your Comprehensive Plan, they have to be able to rely on a static plan at least for a period of time. If it's a moving target, nobody ever catches up with it. In this particular case, this applicant came in reasonably soon after the 2010 amendment with an application that was consistent with that Urban Development Area. Now, you could say, well, it's all very general; maybe residential should go here in the UDA rather than there. But, he used all the guidance that he had, all the guidance that was available in your Comprehensive Plan, all the guidance that could be derived from staff to put together the application. So, they relied on that. The Comprehensive Plan is a guide. It is not something that you're legally obligated to follow. But, I know that the County utilizes the Comprehensive Plan... in fact, I was in court last week in just such an instance where the County utilizes its Comprehensive Plan to say something shouldn't happen. It's inconsistent with the Comprehensive Plan. Well, what happens if we turn that around and something's brought to you that is consistent with the Comprehensive Plan? If you don't follow that Comprehensive Plan, reasonably follow that Comprehensive Plan, we're not talking to the T, but reasonably follow that Comprehensive Plan, the downside of that is not that someone's going to win a lawsuit against the County. The downside of that is the message that you send to landowners, to developers, trying to do things in the County. Nobody has a crystal ball. Nobody knows what adjustments are going to be necessary here. But, we had a process, we went through it, and these guys complied with that process. The Airport Authority had an opportunity to participate in that process. But they come in now, not then. When I started practicing law a long time ago, I was a party to some early litigation. Someone wanted to build a... you won't believe this... someone wanted to build a subdivision next to my farm. And I opposed it.

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And the attorney that represented the developer, his name is Dick Nagoette. Some of you know him and Dick is my good friend. And at the conclusion of the process, the Board of Supervisors voted ultimately against the application. I think it was a 4 to 3 vote... Mr. Hornung voted against it... 4 to 3 vote and the basis for it was a draft Comprehensive Plan showing that the area where they wanted to put the development was in the Aquia Creek watershed which fed Smith Lake. And they wanted to protect that from development. But it wasn't part of their Comprehensive Plan, it was just in the draft plan. But the draft plan got cited all over the place. Here's what we really want to do, here's what we're moving toward. Well, Mr. Nagoette sued alleging that that was an illegal basis for the County's consideration of that application. You couldn't base your decision on a draft Comprehensive Plan. Where it is that you want to go, if you're going to use your Comprehensive Plan you've got to use the one that's in place. And it looked like that lawsuit had a good bit of traction. Now, just to sum up the story, there was... the other lawyer involved in it also figured out that Mr. Nagoette missed his statute of limitations on suing the County, so the whole thing went away. But the point that was made, I think, was quite significant. You base your decisions, your land use decisions, on what's in place, on what the Board has adopted. In conclusion, I think that what you have before you is an opportunity to bring something to Stafford that we don't have, and that is a true TND. The applicants work hard to address your concerns, to address the concerns of the Airport Authority in a reasonable fashion, and I appreciate your all's consideration and hope that you will support the application and permit them to move forward with what they have started here to the next step. And I'll be happy to answer any questions. I do have some additional language with regard to the notice proffer that I'm happy to tender at the appropriate time, and I'm happy to share that with you. It goes a little bit further than what we had advocated previously.

Mr. Rhodes: Would you like to address that?

Mr. Leming: Sure. I'd be happy to put that before you. The language is this, and this would be added to... and I've not actually typed this in but the original notice proffer is at section, part 7 of the proffers, and it's D. within that area. And right now there are two sentences there that require that marketing literature and handouts, any potential purchaser will include the notification of the Stafford Regional Airport's proximity to the property. In addition, the application agrees the provision will be included in the deeds of all new homes sold within the development advising them of the proximity of the airport. What we propose adding to that is this language: At closing on any new home, the buyer shall be required to acknowledge, in writing, as to the receipt of such notice. Similarly, a tenant executing a lease for any multi-family or apartment product within the development will be required to acknowledge, in writing, as to the receipt of such notice. So substantively what we've done simply is to add language that would create an additional step to ensure that everyone understands that there is an airport in the proximity of the property that they're seeking to purchase or that they are seeking to lease. I'll be happy to answer any questions.

Mr. Rhodes: Questions for the applicant?

Mr. Leming: And we'll get a hold... we've tendered that we'll be happy to get... we'll get the original proffers -- I don't know who actually has them -- and insert that language and then have Mr. Groupe initial them.

Mr. Rhodes: Mr. Coen.

Mr. Coen: Just one real question, hopefully. Way back when, one of the questions I believe was raised was about fire suppression in the transect zone 6, as far as the apartments and the offices and the

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buildings in the commercial. And I was just curious; I hadn't seen anything that gave any indication of what was the intention of how to address with fire suppression.

Mr. Leming: Well, the code addresses some of that. Who can speak to that? Maybe... Jeff... I think what we did was to look at the issue and understand that in certain context in the apartments and so forth, there are requirements for fire suppression... You mean sprinklers? Yeah, those are required in the multi-family. We did not agree to put those into the single-family detached units or into the townhouses, correct? We are bound by the fire code.

Mr. Rhodes: Okay. Mr. English?

Mr. English: Mr. Leming, if this is approved tonight, what is the timeline for build-out?

Mr. Leming: Well, there are a number of other steps that they... they've got to come back and see you guys... there are a number of other steps. There's the, of course, the zoning step before the Board of Supervisors, then preliminary subdivision plan which comes back to you guys. And that's something that typically would take in the realm of 6 months to put together after the zoning. After that, there are construction plans that have to be approved and plats that have to be recorded. So, I think if the Board of Supervisors acted on this in the... this fall, in the fall of 2014, the earliest that they could expect to break ground would be probably the spring of 2016.

Mr. English: Okay, thank you.

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

Mr. Apicella: Mr. Chairman, I greatly appreciate the many significant modifications that you all have made, some of which I had asked for, to mitigate the impacts and to address some of the noise issues that were raised. And I also appreciate that you're adding this disclosure statement; it was something we talked about on Monday, something that we have researched to some extent. And it goes beyond just, you know, some verbiage buried in a contract that says, oh by the way, online 17 there's an airport close by. It requires, as I think what we're talking about here, whoever is buying a home or whoever is leasing the home would actually sign some notice that says they acknowledge that they were advised that there's an airport.

Mr. Leming: But they receive materials also.

Mr. Apicella: Right. So, one of the modifications that you all have made is moving the residential further away from the runway. And I'm curious as a result of the modifications that you've made, where would the first... in terms of proximity, where would the first residential unit be in terms of feet from the runway? And I think those are the apartments.

Mr. Leming: Sure. Can we bring up the...?

Mr. Rhodes: Computer please.

Mr. Leming: They're all just blocks on a map to me. But Deja's going to tell you which are which. They have a way that you can actually draw on this, right Jeff?

Mr. Harvey: Yes sir, there's a cursor.

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Ms. Burt: If you consider that this would be the closest point to the airport which is, I have an arrow that way but it's more like that way, this point is approximately I think 3,600 feet from the airport... the centerline of the airport runway. This distance from the right-of-way along Centreport Parkway to this line here, that's 500 feet. So, total 4,100-4,200 feet before you get to your first residential unit.

Mr. Leming: And can you identify the first residential unit? So it's the two buildings just on the, I guess basically the south side of the 500 foot line.

Ms. Burt: And it's worth noting that much of this area here is commercial or mixed use, and then this is the house, the safe-house. So this would be the community center.

Mr. Rhodes: A little over three-quarters of a mile.

Ms. Burt: Exactly.

Mr. Apicella: And... don't leave yet... so those are the apartment buildings and based on what you said and the modifications that you made, those apartment buildings, as well as other residences, would have some sound attenuation measure built into the construction materials, right?

Ms. Burt: Correct.

Mr. Apicella: And so the next, I'll call it generation of residences, those look like those are the also multi-family something different than an apartment though, how much further away from that 500 foot line is the first set of other types of residential units?

Ms. Burt: You're asking me questions that I usually have my computer in front of me for. So, let's say, if this is 500 feet, let's go another 150 feet and draw a line here. That's when you start getting into your townhouses, your single-family, that sort of thing. And that's just in this area here. If we go to the north, another 200 feet before you get, so we're getting into a mile, a little more than a mile away from the centerline of the runway.

Mr. Leming: Do your math for Mr. Rhodes.

Ms. Burt: Okay. So if we say that this is going to be 3,600, this is going to be 500, let's call this another 200... somebody do that math; 4,300. So we're approaching a mile right at the roundabout...

Mr. Rhodes: It's a little closer to three-quarters than you are a mile.

Ms. Burt: But primarily the residential is...

Mr. Apicella: So the bulk of the residential is more than a mile away from the airport.

Ms. Burt: It's more than a mile.

Mr. Apicella: Okay. Thank you.

Ms. Burt: Sure.

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Mr. Leming: Now we did retain... one rationale for retaining even these apartment buildings is that it is still a TND. And so some distribution, some interspersing of the commercial and the residential is still necessary otherwise you get back to sort of a Clift Farm model where you've got all the commercial here and all the houses over here and it's not really a TND. But we think we preserved enough to keep the TND spirit alive here, and still comply with the Ordinance.

Mr. Apicella: And, again, it may be apartments, it may be commercial, if that's how things play out, but I'll presume the size and scope of the apartment buildings are also part of this longer term sound attenuation as well. That's one of the reasons why a multi-story building would help.

Mr. Leming: That's right, that's exactly right. And even if they do turn into apartment buildings over here, outside of the 500 feet, those provide additional attenuation for the units further to the south.

Mr. Apicella: Thank you.

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

Mrs. Bailey: Mr. Chairman, the written acknowledgement for the airport proximity, how would that be monitored? Is that going to be a part of the Homeowner's Association or the association for that complex?

Mr. Leming: If this is approved, what will happen is that the developer will enter into agreements with builders. It will be a requirement of the contracts with those builders that they ensure that this happens. At Embrey Mill right now, we've set up a CDA for the construction of the rest of Mine Road and some other infrastructure there. And in order to ensure that residents coming into Embrey Mill know about the CDA, because they're going to be paying some more money, what we did was to include a similar provision in the conditions approving the CDA, so that what's going on now and hopefully it's running smoothly is that the developer of Embrey Mill is entering into contracts with particular builders and requiring that they provide that notice. And in that case, it's not a receipt written kind of thing like it is here. But that they provide that notice about the presence of the CDA. So that's how it gets to them. The Homeowner's Association, I think this would be something somewhat beyond the purview of their review, something like this. I think this is something that the builders have to be responsible for because they're the ones selling the houses. In the rental context, when if those units are sold or if the Groupes maintain them, then they would be required in the context of those leases or agreements with whoever purchases those buildings to require those disclosures. And I point out, it's interesting... in the context of the leases, I think it's something that you can keep doing perpetually as new lessees come onto the scene. A little harder to do with resales on houses because in that instance, even though all of that notification is in the chain of title from the first purchaser, what you have is an individual who obviously is not... we don't have any contact with, don't know who they're going to be, selling that house to that second purchaser. So, you know, in that sense, that's where that part of it breaks down. But for the lessees, then I think it goes on in perpetuity.

Mrs. Bailey: So, for that particular development, will there be an association of sort for the homeowners?

Mr. Leming: Oh yes.

Mrs. Bailey: Or be in the covenants and restrictions and disclosures?

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Mr. Leming: Well, you mean put something in the covenants and restrictions about the proximity of the airport?

Mrs. Bailey: Right.

Mr. Leming: Uh, you don't have any objection to that, do you? I don't... it's somewhat unusual. I mean, off the top of my head I don't know of any reason why it would not be legal to do that. So, you know, I guess it's another way, another form of disclosure.

Mrs. Bailey: Just an added assurance for subsequent homeowners. I know it'll be in the deed, correct?

Mr. Leming: Yes. If you would like... and it certainly could go into the covenants as simply a statement, a fact as to the location of the development. So if you'd like us to do that, I don't think I have any problem with that, if you're okay with that. Okay.

Mrs. Bailey: I would like that please.

Mr. Leming: Okay, I will give Kathy some... we'll broaden that proffer a little bit more.

Mr. Rhodes: Thank you. Other questions for the applicant. Okay, so we did have discussion about a modification to the proffer. We would need to, before we could act, we would need to get that modification and then vote to accept the new information received tonight, correct, before we could act one way or another on that? Bring that back to the Planning Commission. I don't know if there's other questions of staff or any others...

Mr. Apicella: Well, again, before we take any action, can we... I don't think I have any further discussion, if there are no questions can we wait to see what the language looks like and then dispose of that first?

Mr. Rhodes: Yeah.

Mr. Leming: Give me about 3 or 4 minutes to (inaudible).

Mr. Rhodes: Mr. Harvey, what are your thoughts? You always tell me what to do.

Mr. Harvey: Mr. Chairman, Mr. Leming is also representing the next case on the agenda. It may be advisable to wait.

Mr. Rhodes: Then we will just... okay. So our Parliamentarian, we just wait right? Give me some smart thing to say.

Mr. Apicella: Mr. Chairman, can we just take a 5 minute break?

Mr. Rhodes: I'm asking my Parliamentarian.

Ms. McClendon: Mr. Chairman, that's what I would advise, a recess.

Mr. Rhodes: Okay. We will take a 5 minute recess then. Thank you very much.

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The meeting was recessed at 8:10 p.m.

The meeting reconvened at 8:16 p.m.

Mr. Rhodes: Ok, we'll resume again. If you could, Mr. Leming, if you could read the modification and then we'll provide it over to Ms. McClendon, just to make sure she can look at it and confirm she's comfortable with it and then we can determine to consider acting on adding...acting on the new material.

Mr. Leming: Okay and I will read, just to put it in context, two sentences that precede.

Mr. Rhodes: I appreciate that. Thank you.

Mr. Leming: So you'll understand a little better. This is proffer 7d; Stafford County Regional Airport; all marketing, literature and handouts to any potential residential purchaser will include notification of Stafford Regional Airport's proximity to the property. In addition the applicant agrees that a provision will be included in the deeds of all new homes sold within the development, advising of the proximity of the airport. At closing on any new home the buyer shall be required to acknowledge in writing the receipt of such notice. Similarly, any tenant entering into a lease for a multi-family unit or apartment shall be required to acknowledge in writing the receipt of such notice. The applicant further agrees to include a statement regarding the proximity of the airport and any covenants recorded for the development.

Mr. Rhodes: Okay, thank you.

Mr. Leming: I think those were the things we talked about. You won't be able to read it.

Mr. Rhodes: Lawyers write like doctors.

Ms. McClendon: Mr. Chairman, I believe that was an adequate representation of what's in writing and I am fine with the language.

Mr. Rhodes: Okay, thank you very much. So first of, if interested, I would entertain a motion to accept the new information and be able to act on it that was received tonight.

Mr. Apicella: So moved, Mr. Chairman.

Mr. Rhodes: Motion by Mr. Apicella. Is there a second?

Mrs. Bailey: Second.

Mr. Rhodes: Second by Mrs. Bailey. Any further comment, Mr. Apicella?

Mr. Apicella: I think it's a good change to the proffers and it ensures greater transparency to the both, buyers and renters, in the subdivision.

Mr. Rhodes: Very good. Thank you. Further comment, Mrs. Bailey?

Mrs. Bailey: No further comments.

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Mr. Rhodes: Any other member? All those in favor of the motion to accept the new information in order to be able to act on it tonight signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mrs. Bailey: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None opposed; passes 7-0. Now we're back to the action at hand. I don't know if there's further discussion or if we want to move forward toward a motion but the action is the RC1300324 Reclassification of Oakenwold. And it's Hartwood, yes.

Mr. English: I'll make a recommendation to deny RC1300324.

Mr. Rhodes: Motion that recommends disapproval of RC1300324 Reclassification Oakenwold. Is there a second?

Mr. Coen: Second.

Mr. Rhodes: Second by Mr. Coen. Okay, very good. Further comment, Mr. English?

Mr. English: Yes, the reason I'm going to deny is because the fact of the matter is, this is in the flight plan and I think we have an obligation to the health and welfare and safety of the residents that do go in there and I feel that it's going to be detrimental if we put those 600 homes in there and it's over a flight path and also I'm concerned about the school issues, that within 2 years and more students moving in, I think the school is not going to be able to handle it and that's the reason that I would deny this project.

Mr. Rhodes: Okay. Further comment, Mr. Coen?

Mr. Coen: Yes, if I could. As the applicant's people said, this is the beginning of a process and so it's sort of incumbent on us to sort of give some thought as to why we're moving the way we are and so from my standpoint, first of all, there were some issues that I raised early on in the process and I continue to bring them up. The first was transportation. And that's nothing new. I brought it up 2 weeks ago on a property that was only 55 units. I brought it up that there is only one entrance and exit to this property for this number of units and I brought it up for two reasons. One was for public safety and for ambulances, police, fire, and rescue. The applicant has addressed that in proffer number 3, by saying that after the 201st unit they will put in another entrance for emergency services, but the second reason why I brought that up is just the general number of 650 units going in and out of one entrance and the very first time this came brought this up. If we go conservatively, two cars per home or home unit, that's 1,300 cars going through one entrance onto one road and just from a planning construct I find that troubling. And again, this is the thing I brought up with other units and other properties and developments. Secondary of that, I raised some concerns with environmental. When it was proposed

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and in the proffers it talks about protecting the open space and un-disturbing the open space and I was very appreciative of the fact that when I brought up about the two eagles nests, they added in the proffer about a 330 foot buffer. However the language of the first sentences that there will be...within 330 of any active eagles nest. The next sentence is: In this event an established nest becomes vacant, the restrictions shall no longer apply. So, if we have a storm like last night where we had 60 mile an hour winds and the nest is disturbed and the eagles build a nest in the next tree or move for whatever reason, the whole proffer is negated. And so it defeats the whole purpose of what we were saying. The other environmental aspect I brought up was about the creek. When the whole concept of putting a public park on the other side of the creek I brought up that people who will live in this development will be crossing the creek, particularly pre-teen will be doing it for the adventure, teenagers for some of the adventure and to go to the park and I was concerned about that. And as it's gone through it stayed as, as the proffer says: An opportunity for passive recreation. I checked with staff. We have no real guidance as to what's passive recreation so we don't know whether passive recreation is going to be knocking down trees to put in an open area and pavilions and picnic tables, or a soccer field, or putting in turf, or...there is no guidance as to what this will be and so therefore it sort of negates the whole concept of this being preserved for some reason, which brings us to the other issue. If it is given to the County, it's the cost of whatever we do to create the park and then to maintain the park. And as Mr. English pointed out, there are costs involved with a number of individuals in this development and the ramifications of that and here is yet another one, of maintaining the park. The offsuit of the cost was supposed to be the business and at the very beginning of this, and perhaps it was on me, but I envisioned a large enough commercial that it was going to not only serve this one community, but it would serve other areas, other people on Mountain View, Ramoth Church, other developments, other people, so they wouldn't have to go down the back roads to get to 17 or up to 610, go on 95 to go to Central Park. It would be a commercial center. And the more as this is discussed, it's more a commercial center just for this single development, these 650 units. So we have the great expense, but not a great amount of economic benefit in real time. Lastly, a lot is discussed about the UDA and the commercial aspect and several of us served on the steering committee that really went into the development of the comp plan. And we really went into the UDAs and what UDAs would be where and what will they be doing. And I remember very distinctly a meeting up in the ABC room, several of us were there, several other members of Planning Commission and other bodies were there, in the discussion of this UDA and it was always meant, the intent was for this to be business and commercial. That is why, as they kept saying to us this evening, there is so much light industrial and other business in this area, that was the intention because of the airport, because of the highway, to make this a business and commercial. I believe I had a sidebar conversation with Mr. Apicella and Mr. Pitzel, or maybe both, where we just sort of bemoaned the fact that the language from the state creating UDAs did not allow us to say this UDA is for business and commercial, whereas the other ones would be residential, but it was clear through our deliberations, and I can't speak to what the Planning Commission and the Board of Supervisors did, but our deliberations and my deliberations that this UDA was heavily to be business and commercial. And unfortunately this is more heavy to the residential and not to what to me was the intent of the law. The letter may say, of the UDA XY and Z, but the intent of our actions was for it to be business and commercial and so Mr. English sort of used language, and I'll just state the State Code, 15.2-22883, which deals with working for, as he said, the public welfare, the safety and etc. for the community and unfortunately I just don't think the details of this, and you notice I haven't even gotten into airplanes, the details of this proposal do not meet the requirements and the long term needs of this County and so that's why I'm going along with Mr. English and denying this.

Mr. Rhodes: Comments by any other member? Mr. Boswell.

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Mr. Boswell: Yes, I just want to say that I'm in support of Mr. English's motion. I too share the concerns of my fellow Commissioners of the...I'm real concerned about clustering houses, townhouses and apartments this close to the airport since we started looking at this. And I'm not sure this is fully mitigating the impacts it's going to have on the schools either.

Mr. Rhodes: Any other comments from any other member. Yes, Mr. Gibbons.

Mr. Gibbons: Sherry even typed it out tonight so I wouldn't get lost. I was appointed to Planning Commission 1982. Between '82 and 2000 I conducted the planning efforts on behalf of the Commission for the airport and I was the Chairman conducting the public hearings on this effort. And it was a long and arduous effort. I also participated in the submission of the request for the Interstate Interchange as Chairman of Board of Supervisors along with Congressman Bateman. We presented our County's request for this Interchange to Congress. Senator Warner who also was supporting the Colefields Highway, but he also backed our request. The Chairman of the Congressional Committee was Congressman Mineta out of San Jose, and the request was approved of the new regional airport being built in Stafford. I've supported the effort of this airport and I support it today. We've invested \$60 million in the Interchange project, \$7 million of County and \$1 million of VDOT money to the Centreport Parkway and \$55 million in the airport with \$2 million of local contribution to terminal and proposed \$8 to \$12 million for extension of the runway. So we have, to date, approximately \$123 million invested and a proposed further investment of \$12 million. In 2011 the Virginia Department of Aviation reported that the Stafford Regional Airport created \$4 million in payroll benefits, \$18.4 in economic activity, 107 jobs and \$45 million in investment. This area, as well as the Corporate Center, are part of the effort of the elected body of this County to generate employment in the County better stated as in-lace employment. The Board of Supervisors are currently undertaking, seeking employment generators for this part of the country and I wish them well. The airport effort rose out of the greatest financial crisis the County ever had. In 1981 we couldn't even make payroll. And with this new terminal is a gateway to the greater Fredericksburg area. The subject zone is on a parcel that has significant flood plain and wetlands that limits the location of extended buildable areas. The staff reports that the owner 33 lots, could be yielded from the property, the owner claims 100 – 140. This property has in the past under proposed development efforts with no final results. The Commission recognized that the airport needed to be buffered before the development of noise becomes critical. The Stafford Regional Airport Authority and Planning Commission formed a Committee under the leadership of our Vice-President and should forwarding a proposal sometime in the September / October time frame. When looking at the declaration of legislative intent on creating this Commission by the Virginia Assembly that residential areas be provided with healthy surroundings for family life, agriculture and forestal land be preserved, as the growth of the community be consonant with the efficient and economical use of public funds. With the recent adopted budget schools, fire and rescue, and the sheriff's department are very thin in the ranks. I don't think this application helps at all in the current financial time where we recovering from a down economy. The proposal is well presented. The applicant is very sound financially and professional in his presentations. I think the proposal is premature therefore I cannot accept it in the current time line.

Mr. Rhodes: Okay. Comments by any other member? Mrs. Bailey.

Mrs. Bailey: Mr. Chairman, just a couple of brief comments. I really do appreciate the tremendous amount of details and work provided by the applicant as well as the information from the Airport Authority. The concerns that were presented, I think, were covered by the applicant, versus the information provided by the Airport Authority. I don't agree with my other fellow Commissioners. I do believe that the airport can continue to be a vibrant entity in our county, but to do that, there's got to be a

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balance and there needs to be a continued balance residential, commercial and industrial. And to presume or to assume that the majority of one certain type of growth would occur in on area I'm not so sure is the right balance for that and I've done a lot of research on my own and I've looked at many, many airports in the state of Virginia and outside and you very rarely find airports that are going to be successful when they're stuck in a rural area with nothing else surrounding them and I think that the airport has made great strides. I support the airport whole-heartedly, but I would like to see moving further, more work being done with the Airport Authority and Stafford County so that we can come to a consensus of some sort of rural balance for a County. Thank you.

Mr. Rhodes: Thank you very much. Any other member? From the commentary I find that I will probably be voting with the majority. I will tell you, in 9 years there have been about 3 cases where I've been pretty split, pretty torn and I wrestle with this one. I don't know that I have quite as many concerns as may have been expressed here. It really falls down into two things and I share this to the applicant, you're going to go forward to the Board of Supervisors, we're just making a recommendation, but I would share two observations. Primarily out of the 12 criteria I really look at two of them and it's actually it's a kin to a lot of the points that you were making, Mr. Leming, and... not trying to use your words against you, but it is really what I wrestled with in the last couple of month. I greatly appreciate the applicant's efforts to try and address things here, I sincerely do, and I respect what you've done. I like a lot of the application, the proposals and the plans that are there, but on criteria 10, the most consistent with land uses and criteria 12, dealing with the comp plan, I would repeat exactly what has been stated tonight and that is that the UDA and the Comp Plan that was in place, which did have a general area for an amount of commercial development, but also an amount of a number of homes. I understand and appreciate that. In the discussions my interpretation of the way that was laid out where the residential was going to be more towards the south of that UDA and that parcel and the area towards the north was going to be more heavily weighted towards the commercial aspect and if there were a lot of development already there and this was more infill, I might be of a different position, but seeing that there is really nothing yet developed to do the first ones and to bring it up onto the closest end of that area towards the airport. I just don't think that's as consistent with the vision of what the UDA and the Comp Plan had for us and in our responsibility to try and interpret the best we can, the Comp Plan and the UDAs, but there's a lot of elements here that I think that are positives. And so in the end state I certainly will wish the best, but from what I'm hearing there, I think we're going to have our recommendation going forward probably to disapprove. So with that, if there are no other comments, I'll call for the vote on the motion which is...the motion is to recommend to the Board of Supervisors disapproval of the Reclassification Oakenwold RC13003245. All those in favor signify by saying aye.

Mr. Coen: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed?

Mr. Apicella: Nay.

Mrs. Bailey: Aye. I mean...

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Mr. Rhodes: Nay, got it. So it's a 5 to 2 vote. The recommendation on the Board is to recommend disapproval of the reclassification. Thank you very much for the efforts; appreciate it. Thank you very much for your time as well. Okay, we will move onto item number 2 which is Comprehensive Plan Compliance Review, Crow's Nest Harbour (portion), COM1400218. Mr. Harvey.

2. COM1400218; Comprehensive Plan Compliance Review, Crow's Nest Harbour (portion) - A request to determine compliance with the Comprehensive Plan, in accordance with Virginia Code Section 15.2-2232, for the extension of public water and sewer outside of the Urban Services Area to serve 260 parcels, within a portion of the Crow's Nest Harbour Subdivision. The subject Assessor's Parcels are located along both sides of Raven Road, approximately 5,000 feet east and 1,400 feet south of Brooke Road, within the Aquia Election District. **(Time Limit: August 13, 2014) (History: Deferred on June 25, 2014 to July 9, 2014)**

Mr. Harvey: Thank you Mr. Chairman. Kathy Baker will give the staff update.

Mrs. Baker: Good evening again, Kathy Baker, Department of Planning and Zoning. This request is for a Comprehensive Plan Compliance Review for Crow's Nest Harbour. It's to determine whether the extension of public water and public sewer service outside the County's Urban Services Area is consistent with the Comprehensive Plan. If you recall, the Planning Commission conducted their public hearing on June 25th and deferred to tonight's meeting. You all had requested a copy of the 1995 court order regarding the subject property, which we've included in your package, and we also have attached comments from the Utilities Department that were sent to the Planning Commission separately; they were not included in the original staff report but you all have received that. So, with that, I will just be happy to answer any questions. We have any of the maps available (inaudible).

Mr. Rhodes: Questions for staff before we go to the applicant?

Mr. Apicella: Mr. Chairman?

Mr. Rhodes: Yes please, Mr. Apicella.

Mr. Apicella: I apologize if some of these questions were dealt with the last time and I wasn't here, but I would appreciate your indulgence. So, as I understand it, the applicant's property is outside the designated Urban Services Area?

Mrs. Baker: That's correct.

Mr. Apicella: And how far would water/sewer have to be extended in this case?

Mrs. Baker: Approximately 30,000 square feet, a little over 5 miles for each. The sewer is going to be a little bit farther than the water extension.

Mr. Rhodes: So as the crow flies to Crow's Nest... hahaha... it's about 2 miles, but the linear footage is between 5 and 6 miles depending on water/sewer, correct?

Mrs. Baker: For the alignment. I have a map if you need to look at that.

Mr. Apicella: Nope, but that helps. Now, how would the extension, if it were approved, impact other parcels along the way, as well as abutting parcels at Crow's Nest Harbour?

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Mrs. Baker: Well, I think under our current guidelines in the Comprehensive Plan, we don't recommend extensions other than to the property that it would be serving. In the instance of the sewer line, it would be a force main which would preclude connections other than to the property that it's designated for, to a large extent.

Mr. Apicella: I thought there were some requirements though that folks along the way would have to tap into either water or sewer if it were available. Is that not correct?

Mrs. Baker: Our Utility Ordinance addresses that but, with the sewer force main, that's a different story than a sewer line that would be able to connect to other properties. You couldn't make just a single connection to a property, new development being able to add to that. Mr. Harvey may have some more insight on that.

Mr. Harvey: Yes, Mr. Chairman, Mr. Apicella, Chapter 27 of the County Code requires connection to public water lines if you're within 300 feet of that water line for your location of your future home, as well as meeting certain cost thresholds. There is no mandatory connection requirement for sewer. As Mrs. Baker said the sewer is proposing to utilize a force main which is a high pressure... or a pressurized sewer line which is very difficult to connect in and the Utilities Department normally does not allow connections into force mains.

Mr. Apicella: Thank you. And, from what we've gathered so far, what are the impacts to the current public water and sewer infrastructure if this were to be approved?

Mrs. Baker: I think if you refer to the memo that was included from the Utilities Department, they spell it out. If you'll give me a minute to pull that up. They have listed 7 comments with their concerns on this connection. They reference inadequate sewer capacity in the watershed. Limited capacity is available at the Potomac Creek Sewage Pumping Station. This capacity is available on a first come, first served basis. Additional sewer projects, to include either upgrades or replacements, will probably be necessary to serve this project. Second is the number of sewage pumping stations is high relative to the number of connections envisioned. This would result in a higher than normal maintenance costs to operate the facilities. Number 3, the length of the force main is high relative to the expected sewage volume. This exacerbates the potential for odor complaints and will require extensive use of odor control chemicals. Number 4, the sewage facilities shown were not included in the 2005/2006 Water and Sewer Master Plan. There's been no capacity planned to serve this area. Number 5, the water storage tank shown will probably be required due to the long distance from the existing system. The tank and long transmission main coupled with load demand in the service area will result in high water age and resulting deterioration in water quality. In addition, a water booster pump station will probably be required. Number 6, the transmission main will make public water service available to properties along its alignment. Number 7, the water facilities shown were not included in the 2005/2006 Water and Sewer Master Plan. There has been no capacity planned to serve this area.

Mr. Apicella: Thanks, I appreciate that overview. And remind me again... we've got some new members on the Commission... what's the purpose of a Comp Plan Compliance Review?

Mrs. Baker: We're determining compliance with the Comprehensive Plan...

Mr. Gibbons: You could always look in the code.

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Mr. Apicella: I understand that Mr. Gibbons. And so, do we have some criteria, specific criteria in our Comp Plan related to extensions of water and sewer outside the Urban Services Area and what is that criteria?

Mrs. Baker: Yes we do and I don't have those at my fingertips. Do you have those Jeff? It would take me a minute to look up the criteria.

Mr. Harvey: Mr. Apicella, the standard in the code is that, for any public facility that's not identified in the plan, the Commission would have to determine whether it's in general accord with the nature and extent of the Comprehensive Plan.

Mr. Apicella: Right, but in granting it, isn't there some criteria that must be met? I thought there had to be demonstrated risk to public health and safety?

Mr. Harvey: Oh, in the County's... you're referring to the County's policies.

Mr. Apicella: Right.

Mr. Harvey: Yes, the policies speak to having demonstrated that there is a public health need for extension of the utilities.

Mr. Apicella: And that's the sole criteria, right? In the County's Comp Plan?

Mr. Harvey: Generally speaking, yes. It says it should not be extended except for limited circumstances. That was one of the of the limited circumstances. Another was potentially if there was commercial or industrial development but suggested that could also be accompanied with a Comprehensive Plan Amendment.

Mr. Apicella: So, given those say two criteria, has either one of those criteria been met in this case?

Mrs. Baker: No.

Mr. Apicella: No. Okay. And the last question is, if the water and sewer extension is not approved, are there any other remedies or options that the applicant can pursue in this specific instance?

Mrs. Baker: I'm going to defer.

Mr. Harvey: The applicant could consider a Comprehensive Plan Amendment application to designate that area as something similar to what we see elsewhere in the County, as a limited sewer and water service area and also could request an amendment to the Sewer and Water Master Plan.

Mr. Apicella: Okay. I thought I read also, there was an article on June 25th following the Planning Commission's meeting entitled Dispute Over Water; Sewer Still Unresolved, in the Free Lance-Star, that there were a couple of other options too like getting the plat requirement removed or working with all the residents in the subdivision as well. I can't remember what that resolution was, but it seems to me there are several avenues that could be taken that have not been exhausted yet.

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Mr. Harvey: Yes, that could potentially be a remedy. Right now the subdivision is restricted to have the lots served by public water and sewer. There is a possibility that restriction could be lifted, but there's a process in which to do it; it's not guaranteed it would occur.

Mr. Apicella: But there are other processes that the applicant could pursue... bottom line.

Mr. Harvey: Yes.

Mr. Apicella: Okay, thank you.

Mr. Rhodes: Other questions for staff?

Mr. Coen: Yes, two quick ones. Do I recall correctly that last meeting, Mike Zuraf, when he was presenting this, said there were 125 other parcels that could be impacted by extending the water and sewer out to this one?

Mrs. Baker: There are approximately 125 parcels that are along the route, the planned route of the extension.

Mr. Coen: And then I emailed you just to get some clarification... we can't get a definitive number but it is possible that some of them can be subdivided.

Mrs. Baker: There are lots that are large enough to potentially be subdivided, that are larger than say 6 acres.

Mr. Coen: Thank you Kathy.

Mr. Rhodes: Other questions for the applicant... I mean for the staff, before the applicant comes forward? Okay, very good. Thank you very much. Applicant please.

Ms. Karnes: Mr. Chairman, my name is Debrarae Karnes. I'm an attorney and land use planner with the law firm of Leming and Healy. I promise I will make this short because I know time is passing and this is the second time. And since I'm being concise, if any member of the Planning Commission has questions, I'll be happy to elaborate. Basically, we are here to request extension of water and sewer to a project that was approved in 1973. This is not new development. This is not bringing additional density to the County beyond those lots already recorded and platted on a valid subdivision plat. The plat specifically requires service by water and sewer. And I heard questions -- what was the purpose of a Comprehensive Plan Compliance Review? The purpose is not to see whether the facility is shown on the Comprehensive Plan. By definition, this is not currently shown on the Comprehensive Plan. It's whether on balance it meets all of the goals of the Comprehensive Plan, which is, as you heard from the previous case, merely a guide. We are saying that given the totality of the history of this property, it is consistent with the overall goals of the plan which are no new density and environmental protection of sensitive environmental resources. You've also heard last time and tonight from some area citizens who quite justifiably support the environmental sensitive Crow's Nest park. I'd like to point out that these... the Crow's Nest Harbour development, is not part of the 3,000 and plus acres purchased by County and State entities in, I believe, 2009. The purchase price was approximately \$34 million and we just want to point out that if you're seeking, if anyone is seeking to totally prevent development at this site, the appropriate way to do it is to purchase the land, not to prevent development on platted lots that have been previously approved to be served on water and sewer, and who have owners that have paid taxes

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for over 30 years. Okay. The second point I want to make is that you inquired about alternatives of development. And there's apparently at least some belief from some audience members that the land won't perk and that's why the developers are here asking for extension of water and sewer. However, in fact, at least one property owner has gone to the County to request development on private septic. And he was turned down for the reason that the approved plat requires development only by public water and sewer. That individual filed a lawsuit and a decision was recently reached on July 1st in the Circuit Court of Stafford County. And it's my understanding you've gotten a copy of this. And basically, that opinion says the County was correct in refusing development by private utilities because the plat clearly intends the development be by public utilities. There is money currently being held by the County for that purpose. If water and sewer was extended, the developer would supplement that money and install the needed infrastructure at his own cost. And that includes any upgrades that the Utilities Department say may be needed. Bottom line -- we've got property owners who want the right to develop the land as the County approved 30 years ago. They can't do it by private septic as indicated by the Court. The plat specifically calls for public water and sewer. And finally, Mr. Apicella asked for any other alternatives. The Court talked about how if the individuals wanted to use private septic, the alternative would be to vacate the plat, which can be done by two ways: either having every single property owner agree to it, which is impracticable and probably not possible, or having the Board of Supervisors have a hearing. Right now you're serving as the eyes and ears of the Board, I think, in making your decision for the public facility review. I'm here to say that it's ecologically much more sensitive to extend water and sewer to this property and at the additional benefit of having the applicant pay for it. It's unfair to reach any other decision but an approval of the extension of water and sewer. And I'm here to ask that you approve it tonight. And I'll be happy to answer any questions.

Mr. Rhodes: Questions for the applicant? Okay.

Ms. Karnes: Thank you for your time.

Mr. Rhodes: Thank you very much; appreciate it. Okay, it's back to the Planning Commission. Again, this is an action for a Comp Plan Compliance Review which is a requirement for us to make a determination to whether it is substantially in accord with the Comprehensive Plan, not a decision on the approach they should take to develop or whether or not they should develop. It's just a requirement to determine if the request that's here is substantially in accord with the Comprehensive Plan. So I hand it off to my fellow Commissioners. This is in the Aquia District.

Mrs. Bailey: Mr. Chairman, I'd like to make a motion to deny COM1400218.

Mr. Rhodes: Okay, that's a motion to disapprove the COM1400218, Comprehensive Plan Compliance Review. Is there a second?

Mr. English: I'll second it.

Mr. Rhodes: Second by Mr. English; further comment Mrs. Bailey?

Mrs. Bailey: No further comment.

Mr. Rhodes: Any further comment Mr. English?

Mr. English: No sir.

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Mr. Rhodes: Any other member? Please Mr. Coen.

Mr. Coen: Yeah, again, just because, as been stated, things move on up to other chains of command and other entities, I understand and can empathize with the complexity and the difficulty of the issue. But there's a couple broad things that need to be addressed, I think, that are fair. First, the applicant themselves said that this is a special area. And it is. Whether we're talking historically from the Patowomeck tribe to the Civil War or to, as we learned when we went on a tour, to the United States Senator that wanted to have a parcel on that lot, it is historically important, it is environmentally important. As we saw earlier this evening about the heronry, the rookery, for the herons there it's an important area. And it has yet to really be explained to us how this proposal will dog-tail into what the State Park and what the state is intending to do and how it would actually mesh. And so that's a concern. There is the broad concept of whether or not this is in compliance with our Comp Plan. And the extending of the USA and the water and the sewer out about 5.7 miles, while technically as the crow flies 2 miles, it would impact 125 other parcels. It is a major change to our Comp Plan and the direction of it. A couple things that were raised two weeks ago, I just want to mention to sort of refute them as they go forward under the idea that if you don't refute it then it's obviously true, it was mentioned about that there was a Comp Plan developed in 1975. But apparently, in checking with staff, it applied to the entire County. So it's not a situation where something was done in 1973 and then the County rushed in '75 just to do something to one area of the County; it was a Comp Plan for the entire County. In '78 it was mentioned there was some type of downzoning. Again, that was done for the entire County. So this is not a bill of attainder type issue where there was something done to this one parcel. You know, the individuals in the '70s had time to do something in a timely fashion. Lastly, it was raised by people that there's nothing else that can be done with this property. Mr. Apicella brought up and raised there are different avenues to go forward. The fact that the initial action was in 1970 and then here we are 30 to 40 years later doesn't mean that in the next 40 years something else could be done with this property. Technology is a darn site different nowadays than it was in the 1970s, so who knows what a future Comp Plan will look like, where the USA will be in another Comp Plan. So a vote tonight does not preclude them from doing anything ever. I mentioned two weeks ago about the PDR. We have a terrific program in this County. The entities could have pooled together and taken part and entered into that application process to enter into a PDR. There are numerous entities in this Country that do conservation easements, which they could get into. There are state tax credits that they could try to get into and take advantage of. So there are ample opportunities besides this one opportunity, so that that claim that, you know, if we vote that this is not in compliance, that they cannot do anything is not really valid. So just looking at the goals of the Comp Plan, this is not in compliance and so I support Mrs. Bailey and her motion to deny.

Mr. Rhodes: I would just... any other member? Mr. Apicella?

Mr. Apicella: Yes Mr. Chairman. With all due respect to the applicants, I support the denial of this request. Under the State Code, the purpose of the Comp Plan Compliance Review is to determine if the request complies with the provisions of the most current version of the Comp Plan. The current Comp Plan designates the subject area to be significantly beyond the County's Urban Services Area and, in fact, much of the parcel, if not all of the parcel, is designated as park area and the Comp Plan does not identify the citing of public water and sewer in this area. The Comp Plan is updated to discourage growth in the rural areas and only supports extensions of water and sewer outside the USA when there's a documented risk to public health and safety. Mr. Harvey mentioned another rationale and I didn't find that either one applied in this case. As staff noted in their report, there is... there was and is no documented risk to public health and safety in this case stemming from the absence of public water and sewer. Also, the applicants in my view did not make a compelling or sufficient case that their request is

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in substantial accord with the Comp Plan or that they had met the threshold requirement for extending public water and sewer outside of the designated USA. In the past few years, I've sat on this Commission and we've denied similar requests and also where the applicant was willing to pay for the infrastructure associated with the water and sewer improvements. In my view, approving the extension of water and sewer under these circumstances would be contrary to the Comp Plan and the State Code. I think it also could set a precedent that parcels significantly far from the USA should be allowed water and sewer extensions even though the Comp Plan says otherwise. And lastly, as noted in the recent article that I mentioned previously, there are other mechanisms the applicants can pursue to address the water/sewer issue associated with Crow's Nest Harbour or to pursue development of Crow's Nest Harbour. So, for these reasons, I believe the request is not substantially in accord with the Comp Plan.

Mr. Rhodes: Okay, so the motion before us is to deny the application which is a request for the extension of public water and sewer outside the County's designed Urban Service Area, and, in fact, finding that it's not substantially in accord with the Comprehensive Plan. So, all those in favor of the motion signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mrs. Bailey: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? Okay, so 7-0. Thank you very much. We now move onto item number 3, Comprehensive Plan Amendment, Urban Development Areas. Mr. Harvey, an update on that?

3. Comprehensive Plan Amendment; Urban Development Areas - Amend the Comprehensive Plan recommendations for Urban Development Areas and targeted growth areas in the County. **(History: Deferred on February 27, 2013 until further information from staff) (Scheduled for June 21, 2014 Retreat)**

Mr. Harvey: Yes Mr. Chairman, Mrs. Baker will give the update.

Mr. Rhodes: Thank you. This is an update from our Saturday morning upstairs.

Mrs. Baker: Yes. As you recall, June 21st, at our retreat, the Planning Commission did discuss amendments to the Comp Plan's Urban Development Areas based on the latest feedback from the Board of Supervisors. And as a result, the outcome of that meeting the Commission did recommend setting up a meeting between the Chair and the Vice Chair of both the Board of Supervisors and the Planning Commission to further discuss particularly two items. One is what the remaining future residential density amount and location would be; specifically, the amount of multi-family development. And, just to let you know, staff is in the process of conducting this analysis and we will share that once it's complete. The second issue was the future direction of the Brooke Urban Development Area and the

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vicinity. Staff has prepared three existing condition maps to identify the opportunities and constraints to any future development. We've included those in your package and, if I can have the computer please, I'll briefly take a look at those.

Mr. Rhodes: Computer please.

Mrs. Baker: So, the first one is just the environmental resources as shown on here. You see primarily the green and blue areas are wetlands and Resource Protection Area. You also see the topographic lines on there which shows your steeper areas primarily north; just to orient you all a little bit, as we're going through, this is the rail line. The purple boundary is the Urban Development Area for Brooke. We have Andrew Chapel Road and we have Brooke Road in this location. This is the railroad underpass in this area. So, we'll refer to the south side and the north side of the railroad tracks. You are going to see the blue area, again is the Resource Protection Area and the green areas are basically wetlands and associated areas. If we go to the next, this just shows your existing land uses; dark green being Agricultural Forestry, the lighter green being vacant land, the gray is your transportation facilities, and again the blue and the aqua blue are your water resources. And on the next map, this just shows the aerial view. What you see to the... in this area is the VRE commuter lot. These are several existing ponds. You can see the majority of this quadrant being undeveloped. You do have some residential, rural residential development throughout the other two quadrants. You have one small commercial site and the corner of the intersection and a couple of churches in the area. You also have one public facility, the Brooke Fire and Rescue station there. So, that's just an overview of the area. And of the total approximately 210 acres we do note that about 40% or 85 acres is within sensitive resource areas, including the floodplain resource protection area and wetlands. The Commission had also asked at the meeting to research potential development scenarios that might support more intense development without the need to extend water and sewer in this area. We are still working with GIS on this request and hope to have that at a future meeting. The Commission did also discuss two other issues and acknowledged those would be addressed at a later time; that would be the George Washington Village UDA, as well as the Redevelopment Area. So, with that, I'll entertain any questions.

Mr. Rhodes: Okay. And then, just to... on the first item, looking at some way to try and create a map or map with an overlay to provide us the information as to with a plus or minus, what is a range of growth we're looking at, what can be accommodated right now in the by-right, which leaves what needs to be addressed in the targeted growth areas. And then from that information, we'll use that to talk with the Chairman and Vice Chair of the Board of Supervisors to just have a talk about trying to get a little clarity on what they want us to plan to absorb and what they want us to plan to just assume will overflow into suburban areas or by-right areas. Okay. And is there any, just rough, prognosis as to when you think you might have that information given the other things on your plate?

Mr. Harvey: Mr. Chairman, we'll have it before your next meeting.

Mr. Rhodes: Okay, as soon as you can share, I think that'd be great. So the next meeting is not until August 13 and so we can look at opportunities to talk. Okay, great, that's wonderful. Oh please, I'm sorry.

Mr. Apicella: I apologize. I just, and I guess I'm stating the obvious here, but looking at the last slide... if we could pull it up...

Mr. Rhodes: Computer please.

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Mr. Apicella: So you take out the sensitive areas, the commuter lot, and what is already developed, really the focus area absent redevelopment of the already existing parcels is in the upper left quadrant... I don't know how many acres that is, but I'm not what you can do. And I'm pretty sure we wouldn't do anything with the commuter lot and the VRE station. So, again, we're looking at maybe ¼ of what's in this boundary as a potential UDA. So, that might help to kind of focus our attention on that rather than talking about the other stuff that, again, we talked about the viability of what's doable here. And it seems to me that a significant portion of it's probably not doable.

Mr. Rhodes: Yeah, and I think this is a big part of the answer. They asked us a question what else could be done there, so I think this is a big part of the answer. And then, just if there's anything else from the brainstorming of staff that if there is something creative you can do without both water and sewer, we can say okay, here's what you can do and here's the only area of space in that whole UDA you could really do it at. That kind of answers the question I think.

Mr. English: (Inaudible - microphone not on) this water and sewer that stops right there at Courthouse (inaudible).

Mrs. Baker: Water I believe is at the high school, Brooke Point.

Mr. Harvey: Yes, water and sewer stop at Brooke Point High School. Actually, water extends a little bit further past Brooke Point High School but the sewer serves the high school and the middle school.

Mr. English: And that's it?

Mr. Harvey: Yes.

Mr. Rhodes: Yep.

Mr. English: All right, we'll talk about it later (inaudible).

Mr. Rhodes: It's a long way. Okay, great. Any other questions for staff? Okay, super. Item number 4 is Zoning and Subdivision Ordinances. Did you have anything on this Mr. Harvey?

4. Zoning and Subdivision Ordinances - Review the definitions of the Zoning and Subdivision Ordinances for consistency with each document and the Virginia Code; and make necessary recommendations to ensure consistency and any changes deemed necessary to ensure the definitions are understood in a clear and concise manner. **(History: Deferred on May 14, 2014 to June 21, 2014 Retreat) (Deferred at June 21, 2014 Retreat to Subcommittee)**

Mr. Harvey: (Inaudible - microphone not on) that staff and yourself are seeking input from Commissioners, if they have any concerns about any of the definitions.

Mr. Rhodes: Yeah, we kind of left that a little bit open we said in a few weeks if we could get emails. You got all the definitions and so if there are any inputs on the definitions or any other area that you want to throw some suggestions out there, if we could get that in the next week or so it will have been close to a month, four weeks from that Saturday afternoon. So if we get them in the next week or so and then I'll work with staff on those.

Mr. English: And we send it to... Susan.

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Mr. Rhodes: Yeah, Susan. Yeah, that'd be very helpful, and we'll get started on working those and framing those to bring back to the Commission. Okay, great. And then the last one Mr. Harvey.

5. Community Meetings - Discuss requiring community meetings prior to rezoning application submittals. **(History: Discussed at June 21, 2014 Retreat) (Deferred at June 21, 2014 Retreat to July 9, 2014)**

Mr. Harvey: Yes, Mr. Chairman, at the retreat there was discussion about community meetings in advance of zoning cases moving forward. And staff had provided the Commission with information from various localities. The Commission asked for specifically additional information with regard to Spotsylvania County. Staff would note that there was discussion about possibly coming up with a recommendation to forward to the Board of Supervisors for discussion. Staff would be glad to entertain any and all discussions from the Commission as to how to proceed.

Mr. Rhodes: I'm trying to relook at my notes. Okay, we were all about different... or most were all about different approaches towards, most not all, different approaches towards expanding the awareness or notice or having a requirement that applicants do this in some cases. But we never could quite zone in on exactly what the scope of that would be to suggest back to the Board.

Mr. Apicella: Mr. Chairman, I think... first of all, I would say Mr. Gibbons made some good points about again working collectively together to get advanced information and early warning of things that are getting on our radar screen. And I think that's a great idea. And I hope we continue to make progress in that arena. I think that's certainly helpful to Planning Commissioners and will give us more insight into what's on the way and how it might impact things that are already in front of us, or things that have already occurred. But I still believe requiring a public meeting would improve community visibility or transparency. I personally could live with some threshold that triggers it. You know, there may be something below that that might not be particularly efficient or useful. But nonetheless, I think there is a point where it would be helpful to the public to also get early warning of what might be in front of them. Remember, the first time they have an opportunity to publicly comment on something is at a public meeting. And often they have just days in advance... well, a couple weeks in advance notice of what's coming ahead because there's something in the paper that alerts them to it. But they don't have the specificity because that's not put on the website until we get our agenda package, usually the Friday... and they get the same information that we do the Friday before the Wednesday when the item is up in front of us. So, it's great to have an advertisement but it doesn't always give the public the level of specificity that they need to understand what's going on. And I would also say that it's all well and good for staff to encourage, nudge, strongly suggest, or recommend that the development community provide public meetings. That's available to them today. It's not happening with any great frequency. In fact, I only know of a few rare instances where that's occurred. And so that's why my point of demarcation is, I think it really helps public visibility and transparency to require these things, not just to leave it open at the discretion of developers to decide when and if they're going to do it, again, not just for my vantage point as a Planning Commissioner but for the public good and public transparency. So, I know there's some disagreement amongst my peers that they would prefer to leave it kind of open ended and, again, suggest that staff kind of work with the development community to try to make these things more often times than not but I'm not convinced that's going to happen absent a requirement. I think the Spotsylvania approach is a good one. It seems to work for them. I haven't seen a whole lot of backlash against it or heard anything to say that the development community doesn't want to do it. And, at the end of the day... sorry to keep using that term, I know some folks don't like it... I think it really facilitates the process and benefits the developer because they'll know in advance what some of the issues and concerns are from the public. We just had a big project in front of us; it ultimately got

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denied. I think if the public had a chance to weigh in on it early on before the application had gotten submitted, I think that could have help mitigate the time, energy, and money the applicant spent on the project and maybe they would have a significant course correction had they engaged the public early on. So, I think there's good rationale to require it rather than to suggest it. So that's kind of where I am and where I was before and where I am today.

Mr. Rhodes: Other thoughts?

Mr. English: Are you talking about when you're... I think me and Mr. Coen agreed that all of them should go through this community meeting, not just pick and choose. So, what if we took this document that we have now and kind of tailored to what we want to do and we can scratch stuff out of it. Or should we go to the Board first when you do your meeting and say this is what we're intending. And if they say yea or nay, go in that direction. If they say no, we don't want to do this, then there you are.

Mr. Apicella: I mean, I'm asking you to at least take me at face value in this sense that I have at least mentioned it to two Supervisors and they gave a thumbs up to the idea. I certainly haven't socialized it with the entire Board. At best, I think we'd only be reaching the Chairman and the Vice Chairman; that doesn't necessarily reflect the entire will of the Board.

Mr. English: So, maybe should we send a draft document asking them that's what we want to do and just get their blessing on it before we go deep into it?

Mr. Apicella: I think that might be one way ahead.

Mr. English: That's what I recommend we do then.

Mr. Rhodes: I think what we would need to do it frame a concept, present it to the Board to consider referring to us for formal development and public hearing, right? Isn't that kind of how this would work if we really were proceeding to an instate of a new requirement?

Mr. Harvey: Mr. Chairman, this is a policy...

Mr. Rhodes: This would just be a policy so it doesn't do that?

Mr. Harvey: ... so it wouldn't necessarily require a public hearing but you certainly could have one.

Mr. Rhodes: Okay. Other thoughts?

Mr. Coen: To support both Mr. English and Mr. Apicella, I think it's a good idea to have more public input. I also like the idea of taking the burden off of staff. If there's a set process, then it isn't up to them to try to decide and coerce, you know, pick and choose. So I like that idea. I just want to make sure I get... so which way, Mr. Harvey, do you think is best? Should we propose something and send it or should we go and sort of seek their input before we go to all the trouble of proposing something? I mean, I understood the thing about the public hearing but which way is going to be the best way to sort of get this moving rather than waiting?

Mr. Harvey: Mr. Coen, my recommendation would be to have the conversation first and then get more feedback as to what direction the Board would be inclined to go in, whether it's all or nothing or somewhere in between. And then the Commission could come back with a draft based on that feedback.

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Mr. Rhodes: Could we, Mr. Harvey, from the information you got, particularly Spotsy which has the more fulsome requirement, the others have different variations of thresholds, could we get like a little one page talking paper outline that we could all have so we could talk to our respective Supervisors, but we could also raise this when we meet with the Chair and Vice as well on the other issue. But just something that kind of outlines, you know, here's a few six bullets under what Spotsy does just to kind of recap it and then how some of the softer tailored ones do it in a couple of the other counties that you had some information which were kind of if it passes this threshold or if we think it needs to. But just to give a range and get a reaction, that way each could take it to their Supervisor individually but we'll take it both to the Chair and the Vice to get a reaction as well and see where we go from there.

Mr. Harvey: Certainly, we can do that.

Mr. Rhodes: Okay, great. Other comments on this one? Cool, awesome; thank you very much. And we have no New Business; Planning Director's Report.

NEW BUSINESS

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. Staff has included at your desk two Resolutions that were passed by the Board of Supervisors. Resolution R14-167 grants the Planning Commission additional time with regard to considering Transfer of Development Rights. Currently, the Planning Commission had a deadline to September 30 and that's been extended to October 30 based on the Commission's request. Also, there's a Resolution R14-142 which refers an amendment to the Subdivision Ordinance to the Planning Commission. This year there was new state legislation that went into effect July 1 that stipulated that the County can no longer require preliminary subdivision plans for 50 or fewer lots. The developer could proceed and go forward with construction plans and not have to do a preliminary subdivision plan. The developer still has the opportunity and the option to pursue a preliminary subdivision plan but it's not something the locality can require.

Mr. Rhodes: So this here would just... these are the changes necessary to comply with that new change?

Mr. Harvey: Yes sir. You will note in the draft ordinance that we include with preliminary subdivision plans and cluster concept plans. A cluster concept plan is in some localities very similar to a preliminary plan. Right now the cluster concept plans are approved administratively and the preliminary plans are approved by the Planning Commission. So staff felt it would be desirable to have both listed in the Ordinance to minimize any potential challenges and conflicts.

Mr. Rhodes: So this is what we would want to take forward to public hearing?

Mr. Harvey: Yes sir.

Mr. Rhodes: Since this is new information, do we... if this is ours, can we just act on this? Okay. Does anyone want to make a motion to take this to public hearing?

Mr. English: I'll make the motion.

Mr. Apicella: Can I just get some clarification on how this would work?

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Mr. Rhodes: You want to withdraw your motion?

Mr. English: Yes.

Mr. Apicella: So, when we have... if someone had a parcel say with 200 lots, would they be able to break it into smaller sections to kind of get under that 50 lot threshold? Or is the totality of the entire subdivision in play?

Mr. Harvey: It may be a possibility if someone would try to go around the requirement. Generally speaking, our ordinance requires you to define the total tract of which you're intending to subdivide. If someone proposed a portion of a piece of property, they may be able to potentially get around that. But then we'd have the conversation with them, are you trying to circumvent the Subdivision Ordinance and we would get into other issues that we would have to consult with our counsel on.

Mr. Apicella: Thank you.

Mr. Rhodes: Okay. Any other questions?

Mr. Gibbons: Mr. Chairman, there was one bill that the Senate (inaudible) sent out to all of us, I thought it was SB51. It was a significant change. I'll have to pull it up when I go home because it affects Planning and it went into effect on 1 July. I'll get that back to you.

Mr. Harvey: Thank you.

Mr. Rhodes: Okay. So now maybe if we could entertain a motion to recommend for public hearing the proposed Ordinance O14-27...

Mr. Gibbons: You need a second, I'll second.

Mr. Rhodes: He withdrew his motion so we could have discussion. Now we're going back to the motion.

Mr. English: I'll make the motion.

Mr. Gibbons: Second.

Mr. Rhodes: Mr. English, motion, second by... nah, he beat ya... second by Mr. Gibbons; any further comment Mr. English? Mr. Gibbons? Any other member? All those in favor signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mrs. Bailey: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

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Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None? Very good. Okay, thank you; we'll set that for the next available public hearing.

Mr. Coen: Mr. Chairman?

Mr. Rhodes: Yeah, please.

Mr. Coen: Just for point of clarification on the R14-167. I gather we get the extension to the 30th. But is anything going on before the 30th of October?

Mr. Harvey: Mr. Chairman, Mr. Coen, the Commission had requested that when this issue was first brought up that it be discussed in August.

Mr. Rhodes: August 13th. Okay, anything else Mr. Harvey?

Mr. Harvey: That concludes my report for right now, thank you.

Mr. Rhodes: Very good, thank you. County Attorney's Report?

COUNTY ATTORNEY'S REPORT

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

Mr. Rhodes: Thank you very much ma'am. Committee Reports. How was the meeting last night?

COMMITTEE REPORTS

Mr. Apicella: Mr. Chairman, the Airport Subcommittee met this past Monday. As usual, we got some really great staff support. They provided some specific recommendations on a land use compatibility matrix and they've really done some great homework and provided some great counsel to us. In my view we're making some headway and we'll be meeting again on August 7. Our goal is to try to put together a package and a recommendation for the full Commission's consideration sometime in early fall.

Mr. Rhodes: Okay.

Mr. Gibbons: I'd like to make a recommendation and, Mr. Chairman, they're doing a great job. Seems to me that when we get done we should have a joint meeting with the Airport Authority and the Planning Commission and hold a joint public hearing so you'd get the input from both.

Mr. Rhodes: Okay, well we can pursue the best way (inaudible) but that's a good suggestion.

Mr. Gibbons: It's just a suggestion.

Mr. Rhodes: Sure. Okay, anything else from Committee Reports? Yes Mr. Harvey.

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Mr. Harvey: Mr. Chairman, I failed to mention something in my report. The Board did refer another ordinance amendment to the Commission, and I don't have a copy here at your desk, so we'll provide it to you at your next meeting. It deals with the Historic Resource Overlay Districts and it was based on a recommendation that came out of the Architectural Review Board that right now the ordinance stipulates that any change in paint color for a structure has to go through the Architectural Review Board. That's been modified to reflect that only changes in paint color to concrete and similar type of materials would have to go to the ARB. Normal paint change for the exterior of buildings would not.

Mr. Rhodes: Okay, very good.

Mr. Gibbons: I thought they were going to increase the membership to, aren't they?

Mr. Harvey: Yes, the Board of Supervisors did increase the membership of the ARB to seven members.

CHAIRMAN'S REPORT

Mr. Rhodes: Okay, very good. On Chairman's Report, I just would highlight for all, the staff did send out the Board of Supervisors monthly report. There's great information on pages 29 through 35 of that that I think did a good deal to address some of the questions we had at our retreat on getting a more comprehensive awareness. They've got some great recaps and restatements of a lot of the work going on in the County so that as we look at individual applications it's easy to look at it in context to some of the other things surrounding. I do know staff is still working on a couple other items possibly to give us that greater whole list of awareness but I think that will be a very helpful resource since one that they're already doing anyway, so it will be easy to share out with us. So I do thank them for that. And certainly one of the things that came up from some of the preparatory work for the last subcommittee meeting with the Airport Authority, the joint committee, was just once again the great support of staff and a desire to make sure to share that to the County Administrator and to the Board of Supervisors, and we'll certainly to a communication in that regard. It's a wonderful thing to have to do to find many different creative ways to say they're just damn great, but we will do that again because that's certainly well deserved. We do get tremendous support from our staff. Other Business, TRC; I got one. Anybody else got one? Okay, cool. Approval of minutes from May 19th? I'll entertain a motion to recommend approval.

OTHER BUSINESS

6. TRC Information - July 23, 2014

APPROVAL OF MINUTES

May 19, 2014

Mr. Gibbons: So moved.

Mr. Rhodes: Motion by Mr. Gibbons. Second?

Mrs. Bailey: Second.

Mr. Rhodes: Second by Mrs. Bailey. Further comment Mr. Gibbons? Mrs. Bailey? Any other member? All those in favor signify by saying aye.

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Mr. Apicella: Aye.

Mr. Coen: Aye.

Mrs. Bailey: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? Uh-uh. Okay, very good; passes 7-0. Anything else? Did we forget anything folks? Woohoo! Thank you very much!

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 9:27 p.m.