

**STAFFORD COUNTY PLANNING COMMISSION MINUTES**  
**October 8, 2014**

The meeting of the Stafford County Planning Commission of Wednesday, October 8, 2014, was called to order at 6:32 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, English, Boswell, and Gibbons

MEMBERS ABSENT: Bailey

STAFF PRESENT: Harvey, McClendon, Stinnette, Baker, and Hornung

DECLARATIONS OF DISQUALIFICATION

Mr. Rhodes: Are there any declarations of disqualification on any item this evening? Hearing none, we'll proceed onto Public Presentations. This is an opportunity for any individual to speak on any item except for the two items that will be heard during Public Hearing. During the public hearing there will be an opportunity for public comment there. So, if there's anyone that would wish to speak on any item other than items 1 and 2, they may come forward and do so at this time. Once you do, we'd ask that you state your name and your address. When you do, a green light will come on indicating that there will be 3 minutes. After that, a yellow light will come on indicating 1 minute remaining. And then after that, a red light will come on and we would ask that you work to wrap up your comments when the red light comes on. Please

PUBLIC PRESENTATIONS

Ms. Stevens: I'm Peggy Stevens, I'm the Executive Director of the Northern Virginia Conservation Trust. Today, Northern Virginia Conservation Trust received an opinion from our lawyer that recaps the points and concerns raised by our Board Chairman, Patrick Coady, about two weeks ago before this body during a public hearing. The letter amplifies reference to State Code, and this letter has been distributed to each of the members of the Commission. And then no sooner had we sent the send button when a slight update came through. So that has been given to Mr. Harvey to distribute to you all this evening; a slightly updated version. The letter, not only does it recap the concerns Mr. Coady raised two weeks ago, but it suggests some very specific alternative wording for the TDR amendment that we believe will allow a good economic outcome for property owners in the Crow's Nest Harbour area, as well as showing a clear path to a conservation outcome for the Crow's Nest Harbour area within the TDR sending area. Our most prominent concerns remain... two. We believe that the residual rights for the Crow's Nest Harbour area are incompatible with the vision foretold be spoken in the Comprehensive Plan of Stafford County. Secondly, we believe that it is possible to have... per state code it is possible to have a special sending area within the larger sending area that is scaled for the smaller lots and has more appropriate residual right that lead us towards that conservation outcome that I know we are all in favor of. So thank you for your time this evening and I hope you have a time to read the letter from our lawyer, Tim Lindstrom. Thanks.

Mr. Rhodes: Thank you very much. Is there any other member of the public that would like to speak on any item other than items 1 and 2?

Ms. Kirkman: Good evening members of the Planning Commission. My name is Cecelia Kirkman. I am here tonight again, to speak to you about the item on Transfer of Development Rights. As currently

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written and even with the proposed amendments, the TDR Ordinance does nothing to permanently preserve Crow's Nest. That's because the TDR legislation does not contain a single mechanism to guarantee that land held by the major landowners on the Crow's Nest peninsula will be protected from development. In fact, because of how it is written, the TDR will allow the corporate owners of lots in Crow's Nest Harbour to put only the unbuildable lots into TDR, saving the best lots for development. We continue to believe that when properly implemented, TDRs protect sensitive areas from development while moving development to more appropriate areas with adequate infrastructure. And we continue to believe that properly structured TDR ordinance could both preserve all of Crow's Nest and do so in a financially responsible manner. But to do that there are at least two significant changes that need to take place. The first is that there needs to be a change to include a mechanism to ensure that all of the Crow's Nest lots under corporate ownership are voluntarily placed in the TDR program and incorporated into the existing natural area preserve. And secondly, that the residual uses in the park sending area are limited to public park use. Thank you very much.

Mr. Rhodes: Thank you very much. Is there anyone else who would like to speak? Okay, I will close the public presentations and we will...

Mr. Gibbons: Mr. Chairman, could I speak before the public hearing?

Mr. Rhodes: Please.

Mr. Gibbons: I want to take the opportunity because, this is TV, to make sure everybody knows in the County that we do have Wings and Wheels on October 18<sup>th</sup>. It's a two and a half hour air show, 20,000 people are supposed to show up, so it's a great thing and I wanted to take the opportunity to get the word out. Thank you.

Mr. Rhodes: Very good. Absolutely. Thank you very much Mr. Gibbons. With that we will move on. We've only got a few people here this evening. If you don't mind me breaking protocol a little bit, is your principal interest item number 3 and 4? Okay. And I did check with our counsel; we always try and lock right in on our public hearings first for the benefit of the public so they can benefit from that. But seeing no one here specifically for items number 1 and 2...

Mr. Gibbons: Mr. Chairman I will make a motion to go to 3 and 4 first.

Mr. Rhodes: Okay, a motion to modify the agenda to move up to 3 and 4 first.

Mr. English: Second.

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

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

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Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Very good. Okay, so we will move onto item 3 and 4 combined. Mr. Harvey.

PUBLIC HEARINGS

1. Amendment to Subdivision Ordinance - Proposed Ordinance O14-31 would amend Stafford County Code, Section 22-118, "Water and Sewer," to remove the provision requiring the Board of Supervisors' approval for the use of community sewage disposal systems (community drainfields) for subdivisions. **(Time Limit: December 8, 2014)**

*Discussed after items 3 and 4.*

2. Amendment to Zoning Ordinance - Proposed Ordinance O14-33 would amend Stafford County Code, Section 28-35, Table 3.1, "District uses and standards," to revise the minimum gross tract area for properties in the P-TND, Planned Traditional Neighborhood Development Zoning District from 75 acres to 40 acres. The proposed Ordinance would also amend Section 28-56, "Application for planned developments," to require that all future development within the P-TND Zoning District be in conformance with the Generalized Development Plan (GDP) as approved by the Board of Supervisors at the time of rezoning. **(Time Limit: December 8, 2014)**

*Discussed after items 3 and 4.*

UNFINISHED BUSINESS

3. Amendment to the Stafford County Comprehensive Plan (the Plan) - A proposal to amend the "Stafford County, Virginia, Comprehensive Plan 2010-2030," dated January 17, 2012, to implement a Transfer of Development Rights (TDR) program. The proposed amendment would modify Chapter 3, "The Land Use Plan," to incorporate amendments to the textual document and adopt a new map entitled Figure 3.8, Transfer of Development Rights Sending and Receiving Areas ("Map"). **(Time Limit: October 30, 2014) (History: Deferred on September 24, 2014 to October 8, 2014)**
4. Amendment to the Zoning Ordinance - Proposed Ordinance O14-26 would amend the Zoning Ordinance, Stafford County Code Section 28-35, Table 3.1, "District Uses and Standards," and Table 3.1(a), "Standards for Transfer of Development Rights (TDR);" Section 28-355, "Applicability;" Section 28-356, "Right to transfer development rights; general provisions;" Section 28-357, "Sending properties;" Section 28-358, "Receiving properties;" Section 28-359, "Calculation of development rights;" and Section 28-360, "Transfer of development rights sending property development limitations" to modify the TDR Ordinance. **(Time Limit: October 30, 2014) (History: Deferred on September 24, 2014 to October 8, 2014)**

Mr. Harvey: Thank you Mr. Chairman. Staff, in our report, provided additional information that the Commission had asked for about some of the background on how the Ordinance and plan were developed. It speaks to three different scenarios. If the Commission wants a full-fledged explanation of that and other information, Mrs. Baker on our staff would be glad to update the Commission.

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Mr. Rhodes: Okay. Questions for staff? Okay, get your papers out in front of you, I know I threw the order off. Everybody is still ginning up iPads to switch from 1 and 2 to 3 and 4, sorry. Are there particular questions for staff dealing with items 3 and 4? You have the information that they provided ahead of time; letters that were mentioned and referred to that were provided by staff. Does anybody have a... is there a will of the Commission on this action? We have to act on it by October 30<sup>th</sup>. So we either have to act... as we stand right now we have act tonight or at our next meeting on October 22<sup>nd</sup>.

Mr. English: I've got a question.

Mr. Rhodes: Please, please Mr. English. Thank you Mr. English.

Mr. English: The letter the attorney sent, Mr. Lindstrom, is it... I guess we just got it today and I'd like to know if staff had a chance to look at it, if there was anything that would... if they'd make a recommendation to help with the Board (inaudible)?

Mr. Rhodes: Mrs. Baker, Mr. Harvey and Ms. McClendon, have you had a chance to review this?

Mr. Harvey: Mr. Chairman, I've looked at it in general terms. I think some of these things can be accomplished but it may require a new set of public hearings in order to do so.

Mr. Rhodes: Okay.

Mr. Harvey: I haven't consulted with counsel on her opinion about it, but that may require a different discussion.

Mr. Rhodes: Right. Usually we would go to another room for that. Yes, Mr. Apicella.

Mr. Apicella: Mr. Chairman, I'll again ask the same question that I've asked a couple of times, which is the boundaries that the Board set on what we are able to put forward to them. And again, I thought I asked the question and it was answered, that really we have to take an up or down vote on what was provided to us as a package. If we wanted to provide additional recommendations apart from that, we could do so. I appreciate that others, including the attorney for NVTC, may have a different view but respectfully I'm going to go with our own counsel's view of the world because, again, she works for the Planning staff and for the Board. So, I've made some recommendations, and some of those are in line with what's been proposed by members of the public. I'm just not quite sure how best to proceed forward and if we can, again, have two different classes of sending areas or different protocols for sending areas, depending on the nature of the lot and where it sits geographically within the sending area. So again, I don't know if that's something we need to discuss or can discuss here or we need to go in closed session and talk about it. I just want to clarify what we're able to do...

Mr. Rhodes: Right.

Mr. Apicella: ... with what we have in front of us and any additional recommendations beyond that.

Mr. Rhodes: If I could just confirm, Ms. McClendon or Mr. Harvey, as I understand the referral that is before us, our opportunity with what we have advertised for public hearing and what we've been provided is to take an affirmative or not vote, either this session or next session, on what is as stated referred from the Board. We could also choose to provide other recommendations to include additional recommendations that the Board might consider to refer back to us, possibly to do further additional or

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modified public hearing based on that input and those suggestions. I think that is the circumstance we have at this point?

Ms. McClendon: That's correct Mr. Chairman. In the referring reso, the Board sent down a specific Ordinance and asked for a vote on that Ordinance. But it also gave the Planning Commission the ability to craft its own amendments. And at that time the Planning Commission could hold a public hearing on those amendments. The Planning Commission sent forward the... sent down the proposed Ordinance from the Board directly as is without any amendments. So, at this time, to meet the Board's deadline, any amendments that are proposed... they need to actually go to public hearing... would be outside that deadline. So they could either go back to the Board with a public hearing after the deadline or it can go back to the Board as a recommendation, asking the Board to send it back down.

Mr. Rhodes: Given that timing, it would seem that that would be our course. If we have specific recommendations that we would make that they would consider differently from what is presented here, if that is the will of the majority of the body, I think we've framed those up to send it up with whatever affirmative or not vote we take on their specific resolution that we advertised for public hearing.

Ms. McClendon: That's correct.

Mr. Rhodes: Mr. Coen?

Mr. Coen: Yes, I just was looking... I guess confused, I'll be honest. I thought that at our last meeting there were loads of suggestions, including Mr. Apicella's, that were put forward, as well as some from the public, and the idea was that staff and legal would look at them and see what was feasible and what wasn't feasible and get back to us for our package so that we could have that information. And in fact, I think I chimed in that I wanted it to be in the package so that the public could see it, so if they wanted to comment during our public comment period, they would have the opportunity. And so I guess I either misunderstood that, but I really think that that would be helpful to know. I mean, we threw out a lot of ideas last time and I don't quite honestly know definitively, what the ones that we are saying to the Supervisors that we voted... I mean, to me it's sort of like we vote yes with these things that we wanted to have permission to go back and look at, or we vote no and we tell them it's because of these issues that we want to go back and look at, or we ask them can we have permission to look at these issues which we want to go back and look at. At this point I'm not definitively sure what it is that we're putting on the list to say we think we need to look at them. So, I may have been the only one that had that misunderstanding; if so, I guess I was not really paying too much attention and I apologize.

Mr. Rhodes: Mr. Harvey?

Mr. Harvey: Yes sir.

Mr. Rhodes: What was staff's takeaway from last... I know there were a couple of questions on development rights methodology, but what was your takeaway from the last session regarding those other suggestions?

Mr. Harvey: My understanding was we'd acknowledge them, but we weren't directed to necessarily provide any additional ordinance text or anything to provide an alternative.

Mrs. Baker: If I could just add...

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Mr. Rhodes: Please Mrs. Baker.

Mrs. Baker: You all had thrown out ideas and suggestions and Mr. Rhodes had said if anybody had additional recommendations that you wanted to see in the Ordinance to come back with them at this meeting and then they would all be incorporated into one list. And then that list could go forward. So we were waiting for the additional feedback from the Planning Commission before we put the list together.

Mr. Rhodes: Okay. And we still have that opportunity. If there are specific recommendations that we want to consider... Yes Mr. Gibbons.

Mr. Gibbons: Mr. Chairman, since we have one more meeting that we can defer this to...

Mr. Rhodes: Right.

Mr. Gibbons: ... and we had a lot of good input from the public, and maybe we can draft up an amendment to the Board and pass it on to the Board for them to send it back down. I mean, put our time into drafting something that we feel comfortable with.

Mr. Rhodes: I think, given the group consensus on specific amendments, it might be... I think that would be a good goal for those who want to have a specific amendment or alternative amendment that the Board might refer back to us. But, at minimum, if there are specific items... specific elements and specific items that we think the Board ought to also consider in addition to what they referred to us, getting those identified and thought through and locked down would be, I think at minimum, the important thing to get accomplished by next session. But again we need to just clarify those. We had a bunch of different ideas, but we need to clarify those and target those for the staff and then they can kind of capture those. And then in that captured form we can do a final tweaking and modifying of it at the next session, whatever those specific elements would be.

Mr. Gibbons: I was trying to do an A or B, but I never got to C.

Mr. Rhodes: Oh, I'm sorry.

Mr. Gibbons: That's okay. What I was wondering, if the County Attorney... if it's permissible to go back and ask the Board for thirty days and re-advertise it. Are we allowed to do that or do we have to...?

Ms. McClendon: Yes Mr. Gibbons, that's permissible.

Mr. Rhodes: It doesn't mean they'll give it to us though.

Mr. Gibbons: I understand Mr. Chairman. But sometimes it's always better to go in and ask... we still have another meeting that we can...

Mr. Rhodes: I don't disagree, but I think we would want to be able to articulate and frame what additionally we...

Mr. Gibbons: I'm with you on that.

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Mr. Apicella: Mr. Chairman, I've got a couple of recommendations.

Mr. Rhodes: Please.

Mr. Apicella: I have no objections to what I've seen from NVTC, although some of them I'm not clear what benefit there is or what risk to incorporate those changes or what risks there are if we don't incorporate those changes. For example, they added some words conservation easement as additional language in several sections. And it wasn't clear to me what... I don't have a problem with it, I'm just not sure what that gets us. I also don't have a problem with how they've changed the residual uses, but again I'm still not clear whether we can have two different classes of residual uses depending on what kind of property it is, whether it's parkland versus rural areas. And I agree, I have a concern about the parkland having certain kinds of residual uses that I think might be counterproductive to what we're trying to achieve here. So whether it's there language or what I proposed last time, either works for me if we can do that, if we can have two different standards. Overall, residual uses... allowing residual uses are permissible; it's not a requirement of the State Code. But I'm just not sure if we can have two different standards. I've also heard a couple of times and I'd like to get it on the table whether we can do it or we can't do it. I've heard that, you know, we should be able to force corporate owners to participate in what is, and the word is in the code, voluntary program. I don't see how we can do that but I'd like for staff to take a look at it to see how that might work and it it's allowable. I don't know. But I personally don't think it's allowable. I understand what the objective is, I just... when I read voluntary program in the State Code, that tells me either you can decide to participate in it or you can decide not to participate in it. It doesn't matter whether you are a corporate entity or a private entity, voluntary is voluntary.

Mr. Rhodes: I thought staff had looked at that before and determined that we couldn't make it mandatory. Am I thinking of the wrong item, Ms. McClendon, Mr. Harvey, what Mr. Apicella was just referring to?

Mr. Harvey: Mr. Chairman, I may have replied to that in a previous email discussion. In my opinion, the voluntary nature of it you could not force somebody, but that's not with benefit of legal counsel. I was giving my take on the code.

Mr. Apicella: So if we have two weeks, we can either confirm whether that requested change is permissible or determine that it's not permissible. So we just kind of dispose of it one way or the other, either we can do it or we can't do it. Again, I personally am not clear that we can, given the advice that we already got from the Planning Director.

Mr. Rhodes: We don't have a lot of items, so it's not like we've got a complicated night ahead. Maybe if we just, for clarity sake, if we could hit the each's of these to make sure we are all set in our expectations of what we would like some feedback on, to try and be prepared to, if necessary, come to closure in the next session, I think that would be useful. So could you just restate that? We will just start with that as the first item.

Mr. Apicella: So the first item is, again NVTC has provided a letter that includes many of the changes or changes that are consistent with what I would have recommended if I were able to do pen and ink changes to the Ordinance as it exists now, although it adds some additional words, like conservation easement. And I'm not quite sure what the benefit is of adding those words or what the risk would be if we didn't add those words; it wasn't articulated in the letter. I'm not opposed to it, I'd just like to understand how it impacts the program. So, that's kind of scattered into several provisions in the

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Ordinance. So that's kind of say item number one. The other, the primary concern that they raised was residual uses, particularly in parkland. And their view is and my view is perhaps we ought to have two standards, if allowable, so we have two different types of zoning categories, agricultural and rural, that can participate in the program or parkland. Parkland primarily or exclusively is Crow's Nest Harbour adjacent to Crow's Nest and I kind of think we all have the mutual desire to protect as much of Crow's Nest as possible. So there may be some residual uses that might seem appropriate in agricultural areas or rural areas but might not be appropriate in the area adjacent to Crow's Nest, like structures. I'm trying to remember some of the other ones -- silviculture, certain types of agriculture, or all agriculture. And one item that they added that I hadn't thought about was commercial campgrounds. So I can understand the distinction between a private campground and a commercial campground, I hadn't thought about that. So, I am good with the change that they had recommended and I would suggest that we consider it as a fix to the Ordinance.

Mr. Gibbons: Mr. Chairman, if that's the will of the Commission...

Mr. Apicella: I have one more.

Mr. Gibbons: I'm sorry. That's three, isn't it?

Mr. Apicella: That is the one about... so this would be number 3, I mentioned it last time. I haven't heard it mentioned by other folks, but as it stands right now the Board's asked us to incorporate an additional provision that would give the Crow's Nest Harbour lot owners at least one development right regardless of the circumstances and the conditions of that lot. So I've been out at Crow's Nest, some lots are in a ravine. I'm not sure how somebody can build on those lots and/or they have hydric soils. And either they could build a house on it now, based on requirements, standards what have you or they can't. And my personal view is you shouldn't give somebody a development right, or give them a right that they wouldn't already have. So my view is even though they have asked us to incorporate that into the Ordinance, my suggestion is to go back to them and say we shouldn't do that because, again I don't think they should get an entitlement to something they wouldn't otherwise get. Those are the three things that I would recommend. I think it is consistent with what I heard. The fourth thing is about the different classes of owners, if we can research and deal with it one way or another. So those are the four items that I would ask the staff to look at and get back to us on.

Mr. Rhodes: The fourth being the different class owners and the forced participation?

Mr. Apicella: Right.

Mr. Rhodes: Great, that is what I thought.

Mr. Gibbons: Why do we have to wait two weeks for that? I mean we can give it back to the Board. We've got to give the Board it anyways and I would say you eloquently put it... stated it very good tonight. I would just make that the Commission recommendation back to the Board. That would give the staff at least two or three weeks to get back to the Board on the questions. I don't see holding on to it two more weeks is going to change.

Mr. Apicella: They are going to get back to the Board or they are going to get back to us? Because...wouldn't we want to have an informed view when we go back to them to say these are the things we think you should change? Rather than just going directly to...

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Mr. Rhodes: And I think we do need to get the staff's position on that. What I perceive Mr. Gibbons suggestion as being is concurrent with the staff working to formalize that, leveraging these potential items that staff needs to look at further as a reason to ask to concurrently ask the Board for an extra bit of time while we look into these.

Mr. Apicella: I think that is great, I am sorry I misunderstood what you were saying.

Mr. Rhodes: I think it was just to leverage it even though we don't necessarily even know what staff would say their position would be per se, but we want to explore this before we finalize it. So potentially leverage a request, they don't have to act on it, but leverage a request to them to give us an additional 30 days while we...

Mr. Apicella: And we would try to get that to them at the next Board meeting, which is two weeks from now?

Mr. Rhodes: Yes, to see if they could act because then we would know by the time we met again, whether we had to finish it then and just send up a recommendation to the Board with these other suggestions potentially or if we had some more time before we had to do a final vote on it or whether potentially we advertise. Or at least, even if we don't re-advertise, you can vote on the one that they sent and send a more informed suggestions of other considerations that they might take for the public hearing notice. Okay.

Mr. Coen: Do you need a motion?

Mr. Rhodes: Let me just... are there any other thoughts? He outlines four. Are there any other items? So what I heard was the issue of trying to get a better understanding of the conservations easement application throughout here, I think that is what you said the first was. The second was looking at the deferential consideration of residual uses between the Ag/Rural and the parkland.

Mr. Apicella: I would just extend it to all the recommendations that NVTC has put forward for staff to take a look at it and see what we can do and again what would the benefits be of those changes...

Mr. Rhodes: The execute-ability or the applicability of them and then what the implications would be of those items there. Then the thought there would be to ask staff to look at those for the next session so we can consider those in whatever disposition we take on this action with the timelines we currently have. But concurrently for staff to communicate to the Board a request for an extra 30 days based on these just to be able to explore them and give them a more informed recommendation forward on the potential implications of those as we address the action they referred to us. Is that what I am hearing?

Mr. Apicella: I am just trying to understand what the 30 days... I appreciate what you are asking for Mr. Gibbons. And I am wondering if the 30 days is sufficient, because let's just say the Board gives us 30 days, so it's 30 days from, I don't know what the date of the next meeting is, we would not have enough time to re-advertise. So maybe we need to ask them for more time. I am just not quite sure.

Mr. Gibbons: I never did get to the end of the recommendation.

Mr. Rhodes: Yes Mr. Gibbons.

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Mr. Gibbons: No I want to send it up there and ask them for permission to give enough time to hold another public hearing to consider this. That they amend their original request back so we can re-advertise it and send it back up with the incorporated...

Mr. Apicella: But would we need more than 30 days?

Mr. English: At least 60 days.

Mr. Apicella: I mean if we are going to take another bite of the apple, let's just make sure we don't keep chewing at that apple, right.

Mr. Gibbons: Or just request that we be given the time to hold another public hearing to incorporate what we are asking. Because if we go back up and send it up to them and they agree with us they are going to have to send it back down to re-advertise anyway. That is all I am asking for.

Mr. Apicella: Yes, and I am just trying... I agree, I agree with that you are trying to do, I just... and I think we are on the same page now that 30 day probably would not get us there.

Mr. Gibbons: Okay, alright. That is my motion Mr. Chairman.

Mr. English: How many days...

Mr. Rhodes: Just time to do another public hearing. So I think what the action here is, two part for staff. One is to begin looking at the applicability of what is suggested there and the implications of the applicability for our next session. And then two is to work a communication to the Board to request and extension to our... is there a limitation to what month they could extend there, Ms. McClendon?

Ms. McClendon: No there is not, Mr. Chairman.

Mr. Rhodes: Okay, so an extension on their timeline that they imposed to allow the potential for advertising another public hearing with possible modifications and we would just outline these things that we are looking at.

Mr. Apicella: Again there were four things.

Mr. Rhodes: Right.

Mr. Apicella: There were four things so I just wanted to make sure we are going to ask all four things.

Mr. Rhodes: Conservation easement...

Mr. Apicella: The totally of all of NVTC's recommended changes. Maybe I am down to three.

Mr. Coen: Yes, I think you are down to three.

Mr. Apicella: The issue of the entitlement for lot owner who are in the park designated area.

Mr. Rhodes: Residual uses.

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Mr. Apicella: The one development right regardless of the conditions...

Mr. Rhodes: Okay.

Mr. Apicella: ... of those lots. And then the third on is again the different classes of ownership and mandatory participation.

Mr. Rhodes: Forced participation in a voluntary program. Okay, got it. So this would then entail an motion to defer this item to the 22<sup>nd</sup> at which time the staff would come back with their analysis of those three items, which is what are proposed in the NVTC memorandum, those recommendations, the analysis on the provision for one development right for any lot, and then lastly the forced participation in a voluntary program aspect that has been raised as a potential proposal or modification. And staff would come back with the... looking at the applicability and implications of those and... potential applicability and implications of those A, and in the interim work a communication to the Board to ask for an extension to allow, based on the review of these items, to potentially allow for, should we find it necessary to re-advertise for a public hearing with the modified language. That's what the motion is?

Mr. Apicella: I'll second that.

Mr. Rhodes: I think the motion was Mr. Coen, seconded by Mr. Apicella... no, Mr. Gibbons, that's right, it's Mr. Gibbons.

Mr. Gibbons: Thank you.

Mr. Rhodes: And second by Mr. Apicella. Okay, is that okay Mr. Harvey? Clear? What we rambled about?

Mr. Harvey: Yes Mr. Chairman, I understand.

Mr. Rhodes: Okay, very good; you're a good man. Further comment Mr. Gibbons?

Mr. Gibbons: No sir.

Mr. Rhodes: Further comment Mr. Apicella? Any other member? All those in favor of the motion as stated signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Rhodes: Aye. Any opposed? None. So we will do this again on the 22<sup>nd</sup>. Thank you all very much. That's item 3 and 4. We'll now back... I think we moved 3 and 4 ahead of 1, so we're now back to

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public hearing item number 1, Amendment to Subdivision Ordinance, Proposed Ordinance O14-31, Mr. Harvey.

*1. Amendment to Subdivision Ordinance*

Mr. Harvey: Thank you, Mr. Chairman, please recognize Mrs. Hornung for the presentation.

Mrs. Hornung: Good evening, Mr. Chairman, members of the Commission, the first ordinance that you have for public hearing is Ordinance O14-31. That's the Subdivision Ordinance Amendment regarding community drainfields. In section 22-118, water and sewer, it requires the Board of Supervisors to give approval for community drainfields, community sewage disposal systems, but in your packet you also have supporting documentation from the state code that also states that the Board of Supervisors would have to approve the application for a community drainfield for a site anyway, so we're just cleaning up the language in this section of the Ordinance to remove the requirement for Board of Supervisor approval, because it's automatically to be approved anyway. So the Resolution 14-201 was recommended on August 19, 2014 for you to review this ordinance and give recommendation to the Board of Supervisors.

Mr. Rhodes: Okay, questions for staff? Okay, no questions for staff then I'll open the public comment. Is there any member of the public who would like to speak on this item? I now close the public comment portion, bring it back to in to the Planning Commission.

Mr. Gibbons: Mr. Chairman, I move for RC1400142...I got the wrong one.

Mr. Rhodes: So you're recommending approval of O14-31?

Mr. Gibbons: Proposed Ordinance O14-31.

Mr. Rhodes: Okay, motion by Mr. Gibbons. Second by Mr. English. Further comment, Mr. Gibbons? Mr. English? Any other member? All those in favor of the motion which is to recommend approval of the proposed Ordinance O14-31 signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Rhodes: Aye. Any opposed? None opposed? Passes 6-0.

Mrs. Hornung: Thank you.

*2. Amendment to Zoning Ordinance*

Mr. Rhodes: Mr. Harvey, number 2. We're on a roll.

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Mr. Harvey: Thank you, Mr. Chairman. Again, Mrs. Hornung will be giving this presentation.

Mr. Rhodes: Let's see how you do with this one.

Mrs. Hornung: The second ordinance is for the Planned Traditional Neighborhood Development Zoning District, P-TND. That resolution 14-203 was sent to you also August 19, 2014 to review proposed Ordinance O14-33 and the changes that are recommended for that ordinance is that the traditional neighborhood development acreage for a project be reduced from 75 acres to 40 acres, and the other section of that ordinance...this is section 28-35 in the Table of Uses and Standards of the Zoning Ordinance. Also in 28-56 of the Zoning Ordinance there is an added statement that all future development within the P-TND shall be in conformance with the applicable generalized development plan that was previously approved by the Board of Supervisors at the time of rezoning. That way any future development in the P-TND would reflect that which was approved on the GDP from the rezoning application, and this is recommended for your consideration.

Mr. Rhodes: Okay, questions for staff? Yes, Mr. Coen.

Mr. Coen: Just one quick one for clarity. I believe it was asked last time, but I think it bears witness, so if we vote to approve this, somebody who does this is committing that the GDP, that they give us the generalized development plan is it. It's not oh this is what it is in concept, but later on we'll fix it, and change it, and tweak it, and put in way more than we thought we were getting. I mean it solidifies something that we've been talking about that we want, is that what they give us in these big maps will be it.

Mrs. Hornung: That is correct.

Mr. Coen: Hot diggity dog. Thank you.

Mr. Rhodes: Hot diggity dog. Okay.

Mrs. Hornung: And if they choose to change the GDP, they would have to come back to the...

Mr. Rhodes: Okay. Now open to the public. Is there any member of the public that would like to comment on this item? Seeing no one coming forward and no one even here, we will close the public comment portion of the public hearing and move it back to the Planning Commission.

Mr. Gibbons: Sir, I'll second hot diggity dog's motion.

Mr. Rhodes: Okay, very good. Is there a motion, Mr. Coen? Did your hot diggity dog mean it was a motion to recommend approval of proposed Ordinance O14-33? And then seconded by Mr. Gibbons. Further comment, Mr. Coen?

Mr. Coen: No, Sir.

Mr. Rhodes: Further comment, Mr. Gibbons? Any other member?

Mr. Apicella: I think it should be 41, personally, but I can live with 40.

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Mr. Rhodes: 40? You'll accept it? Compromise your standards? Very good. Okay. All those in favor of the motion to recommend approval of proposed Ordinance O14-33 signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Rhodes: Aye. Any opposed? None opposed? Passes 6-0. Thank you very much, ma'am. Appreciate it. Item number 5. Along this line, about 17 times today, I sent a draft memorandum and finally got to the right version. I did get some edits and now we're obviously presenting it for sunshine purposes, tonight is here and available. Are there any further comments, if none we'll go ahead and get that forwarded, this was the draft memo on the UDA recommendations and TGA and so forth, to try and get some guidance back. Okay good, then we will move forward on sending that to the Board. Is there anything else on item 5, Mr. Harvey?

5. 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) (Discussed at June 21, 2014 Retreat) (Staff coordinating with Chairman)**

Mr. Harvey: No, Sir.

NEW BUSINESS

Mr. Rhodes: Very good. So we are...no new business. We're at the Planning Director's Report. Sir.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you, Mr. Chairman. First, I want to bring to the Planning Commission's attention was, last night the Board of Supervisors referred a proposed amendment to the Floodplain Regulations in the Zoning Ordinance to the Commission. Staff has been working with representatives of FEMA as well as the state. We've recently received revised flood zone maps for the County. That requires us to readopt our floodplain zoning ordinance regulations. We're required to do so by February 18<sup>th</sup> in order to maintain our flood insurance program for the county. With revisions to the maps there was only one property that was affected. It had previously been in the floodplain, removed from the floodplain, and now it's put back in, based on the mapping. Also the new mapping identifies a different flood zone than we've had in the previous one, and that's a costal flood zone which reflects some wave action flooding that occurs on shore lines.

Mr. Rhodes: So, to confirm, the new maps that are provided we have to readopt, we have to take this action to readopt, which is accepting the new map. It has an effect one property that has gone in and out and it's going back in, and then it's also got the one other category?

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Mr. Harvey: Yes, and there is also significant revisions overall to the flood zone regulations to meet the requirements the state and federal government have identified for us. This has been through review by the state agencies and they concur with our ordinance.

Mr. Rhodes: Jeff, who was the property that was in and out?

Mr. Harvey: I don't recall the specifics. I can get that information for the Commission.

Mr. Rhodes: And this will hit us next session?

Mr. Harvey: Yes, next session staff would anticipate asking for...

Mr. Rhodes: Public hearing?

Mr. Harvey: Schedule a public hearing, yes.

Mr. Rhodes: Very good. Okay.

Mr. Gibbons: Mr. Chair, I'll move for that.

Mr. Rhodes: Can we move that now?

Mr. Harvey: Don't know why not.

Mr. Rhodes: Okay. Very good. Motion by Mr. Gibbons to move this to public hearing.

Mr. Apicella: I'll second.

Mr. Rhodes: Wait. I can't keep up with all the seconds. Who hasn't had a second tonight?

Mr. English: Steven.

Mr. Rhodes: Mr. Apicella seconded. Moved by Mr. Gibbons, seconded by Mr. Apicella. Further comment, Mr. Gibbons? Mr. Apicella? Any other member? All those in favor of the motion to move this to public hearing, signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Rhodes: Aye. Any opposed? Six-0, very good.

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Mr. Harvey: Mr. Chairman, the other part of my Director's Report deals with the Planning Commission's preferred legislative items that you all had made recommendations to the Board of Supervisors. The Commission had five recommendations forwarded to the Board for their consideration of the legislative agenda. I received direction from the administrator's office that our consultant that helps us with legislative affairs has indicated that it's likely that we'll need to pare down the total list of items from all the various county agencies that are asking for legislative changes, so therefore I'd ask the Commission to consider prioritizing the five that we have on the list and I can forward that to the Administrator's office.

Mr. Rhodes: Thank you for that email. That was helpful, so we could look these over. Okay, what's the vote for number 1?

Mr. Apicella: Mr. Chairman, if I may offer a rationale which is to look at these in the context of what is most likely to get passed and what is the least likely to get passed. It's all good to present something to our esteemed state legislature, but sometimes they don't act on the things that go forward and I'm concerned that we may pick one that is the one we should pick, but it's just not going to...that dog won't hunt, so the speak.

Mr. Rhodes: Okay. Please, Mr. Coen.

Mr. Coen: Yes, just a quick question to Mr. Harvey. Do we know if any of the bodies have looked...are bringing the same sort of issue up? I mean if, for example, just for an example, if, say, the school system's saying basically number 4 and Utilities is saying number 4, and other entities are saying a particular one, there might be merit in saying gravitas. So, I think, you were kind enough to mention something about that the other meetings they were pushing certain topics. If I remember correctly you went to a meeting for all the counties. Didn't mean to make you get up, but I mean, if you there was something that you know that they are really pushing for, again, that was sort of the things I mentioned way back when was, if numerous counties are saying "we think X is an issue" that might have more salience with the legislature.

Mrs. Hornung: The legislative body for the American Planning Association Virginia Chapter has not met yet to look at any of that. I know the APA Virginia Board just adopted their budget, so I can make contact and see what items they're looking into on their legislative agenda for 2015.

Mr. Apicella: If I can kind of springboard off of what you just said, in looking at it strategically though, if you got 20 people who are going to mention, say, items 1, 2, and 3, for example. And they're already going to do that, then maybe we should pick something else. So it's kind of ensuring the broadest number of items can get in front of the legislature so it's kind of taking the opportunity to...and I think regardless, whatever doesn't move forward, we think those things are important and I think we should recommend all of them to the...

Mr. Gibbons: Mr. Chairman, I think number 3 is probably going to be one of the highest in our recommendation that we just passed to the Board might have to take a state code change to make it work on the TDRs.

Mr. Rhodes: Okay, so recommendation TDR should be number 1. Any strong objection?

Mr. Apicella: If that's number 1, I think that probably promises to get the most likely positive response in my view is number 5, because it doesn't really change anything other than giving us more time.

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Mr. Gibbons: I'm in favor of that.

Mr. Apicella: Again, from a Planning Commissioner's parochial perspective, I've said this umpteen times over the years that I've been on here that I feel like, with respect to rezonings, we just don't have enough time. But we're not expanding the calendar, we're just giving ourselves a little more time, maybe taking a little bit away from the Board of Supervisors, but I think we're not being onerous in asking for an additional 30 days.

Mr. Rhodes: So number 5 and then number 3? Is there a suggestion for the order of the others?

Mr. Gibbons: I didn't want to... since 5 was my pet rock I didn't want to...

Mr. English: I think monetary proffers number 3.

Mr. Apicella: And I would agree, number 1, well it is kind of a... something that sticks in in my craw. I think having just passes this, the legislature is least likely to make changes at this point in time.

Mr. Rhodes: Mr. Harvey, I hear number 5 is first, number 3 is second, number 4 is third, number 2 is fourth and number 1 is fifth. Five, three, four, two, one is the consensus.

Mr. Harvey: Thank you Mr. Chairman.

Mr. Rhodes: Yes, thank you Mr. Harvey.

Mr. Harvey: That concludes my report.

Mr. Rhodes: Okay, very good. Awesome. County Attorney's Report.

COUNTY ATTORNEY'S REPORT

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

Mr. Rhodes: Very good. Thank you. Committee reports.

COMMITTEE REPORTS

Mr. Apicella: Mr. Chairman the Airport Committee met last week and if we were 95% of the way prior to that meeting we are probably 99% of the way there as a result of our last meeting. I think we've got a few minor tweaks that we have asked staff to take a look at. I know I said I thought we would get there at the last meeting, but I really feel we are going to get there at the next meeting which is scheduled on October 16<sup>th</sup>. And the goal would be to come to consensus and arrive at a product that we could solicit public review and input on. So that is my objective at the October 16<sup>th</sup> meeting.

CHAIRMAN'S REPORT

Mr. Rhodes: Okay. Very good. Move to the Chairman's Report. I just would remind, I think there is just a meeting... Mr. English you're having a meeting tomorrow night?

Mr. English: Yes, with George Washington Village.

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Mr. Rhodes: And we went ahead and advertised it just in case more than two Planning Commission members end up attending. I think there was a general interest.

Mr. Gibbons: What is the meeting again?

Mr. English: It's about the George Washington Village; tomorrow night at 6:30, correct Jeff?

Mr. Harvey: Yes Mr. English, 6:30 in the ABC Conference Room in this building. Again, it is not an official meeting of the Planning Commission. It is a requested meeting with Mr. English by the developers of that project.

Mr. Rhodes: But because there was some other indicated interest we went ahead and noticed it just in case more than two would show up. So just to remind. Also Mr. Harvey was kind enough to reprint and hand out or the staff was, the tentative public hearing schedule. As you can see business is building which mean our business will be building. So I just wanted to make sure everybody stays cognizant of that. We need to make sure we come prepared and target our efforts because the agenda will be growing with is hopefully a good thing for the county. I just wanted to reinforce awareness of that. I would like to thank staff for all the efforts to disseminate information. It has been very helpful in keeping a broader context. The Board of Supervisors monthly report, the DRM meeting schedules, the public hearing schedules, the other things, very helpful to keep the broader context together. So we greatly appreciate that. And then we are on to Other Business, TRC, those got handed out. You got your time?

OTHER BUSINESS

6. TRC Information - October 22, 2014

Mr. English: Yes.

Mr. Rhodes: Same bat time, same bat channel? Good okay. We have the September 10<sup>th</sup> minutes. I don't know if there are comments on it or if not.

APPROVAL OF MINUTES

September 10, 2014

Mr. Gibbons: I will move Mr. Chairman.

Mr. Rhodes: Motion for approval by Mr. Gibbons. Is there a second?

Mr. Boswell: Second.

Mr. Rhodes: Second by Mr. Boswell. Any further comment by Mr. Gibbons or Mr. Boswell? Any other member? All those in favor for approval of the minutes for September 10<sup>th</sup> signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. English: Aye.

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Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None opposed? Passes 6-0. Anything else Mr. Harvey?

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

Mr. Rhodes: Never done one in under an hour, I don't think. I don't know if that is good or bad, but we are going to call it.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 7:23 p.m.