

BOARD OF SUPERVISORS

STAFFORD, VIRGINIA

MINUTES

Regular Meeting

December 16, 2014

Call to Order A regular meeting of the Stafford County Board of Supervisors was called to order by Jack R. Cavalier, Chairman, at 3:01 p.m., on Tuesday, December 16, 2014, in the Board Chambers, at the George L. Gordon, Jr., Government Center.

Roll Call The following members were present: Jack R. Cavalier, Chairman; Gary F. Snellings, Vice Chairman; Meg Bohmke; Paul V. Milde, III; Laura A. Sellers; Cord A. Sterling; and Robert “Bob” Thomas, Jr.

Also in attendance were: Anthony J. Romanello, County Administrator; Charles L. Shumate, County Attorney; Marcia Hollenberger, Chief Deputy Clerk; Pamela Timmons, Deputy Clerk; associated staff, and other interested parties.

Presentation of Stafford County Sheriff’s Awards Colonel W. Steven Flaherty presented three awards to Sheriff Jett. The first award was for the highest seat belt “Click it or Ticket it” usage in Virginia in 2014. The second award was for a 1<sup>st</sup> place finish in the Virginia Association of Chiefs of Police Law Enforcement Challenge, and the third award was presented for a 3<sup>rd</sup> place in the International Association of Chiefs of Police National Law Enforcement Challenge. In addition to Sheriff Jett, on hand to accept the awards were Lieutenant Pittman, Lieutenant Peters, Master Deputy Powell, Senior Deputy Forman, Deputy First Class O’Neal, and Deputy First Class Johnson.

Recognition of the 350<sup>th</sup> Anniversary Committee Volunteers Dr. Harry Crisp addressed the Board and detailed events that have taken place in Stafford County commemorating the County’s 350<sup>th</sup> anniversary. Special recognition was given to the 350<sup>th</sup> Blue Ribbon Committee, members of the Central Rappahannock Regional Library, the George Washington Foundation, the North Stafford Rotary Club, the Trail to Freedom, and the NAACP. Included in Dr. Crisp’s presentation was a video/slide presentation of scenes from the many 350<sup>th</sup> activities. Dr. Crisp announced that the \$1 million goal was exceeded and a total of \$1,001,064.50 was raised by 350<sup>th</sup> fund raising efforts. Special mention was given to General Ron Christmas for his outstanding leadership of the 350<sup>th</sup> fund raising team. Dr. Crisp also thanked staff, citizens, and members of the business community for their support and participation in the County’s 350<sup>th</sup> events.

Government Finance Officers Distinguished Budget Presentation Award Mr. Cavalier presented the GFOA award to Maria Perrotte, Chief Financial Officer; Nancy Collins, Budget Division Director; Kim Herman, Budget Manager; and Donna Olsen, Budget and Management Analyst. Mr. Cavalier noted that it was the 27<sup>th</sup> year in a row that the Budget Division received the award. To be recognized for the GFOA, the County had to satisfy nationally recognized guidelines for effective budget presentation. The guidelines were designed to assess how well the County's budget served as a policy document, a financial plan, an operations guide, and a communications device.

Presentation of a Proclamation to Alan Smith, Deputy County Attorney Mr. Cavalier presented the proclamation to Mr. Smith saying that Mr. Smith dedicated his legal career to the service of local governments in Virginia, both as a local government employee and in private practice. Mr. Smith served in the Stafford County Attorney's Office for the past six years, first as an Assistant County Attorney, and later as the Deputy County Attorney. Mr. Cavalier and the Board wished Mr. Smith well in his new venture.

Presentation to the Quantico Potomac Chapter of the AFCEA Mr. Cavalier presented a proclamation to Mr. Steve Gaudreau, Ms. Wendy Maurer, and Mr. George Earlbacher on behalf of the Armed Forces Communication and Electronics Association – Quantico/Potomac. The AFCEA-QP donated more than \$150,000 to education, scholarships, and to the STEM Program in Stafford County and other localities.

Report by the County's External Auditors Mr. Lou Cannon with the firm of McGladrey, LLP, addressed the Board and provided an update on the recently complete external audit. A thorough presentation was given earlier to the Board's Finance, Audit, and Budget Committee. Mr. Cannon said that there were three audit adjustments including two relating to Other Post-Employment Benefits (OPEB), and one grant receivable. Last year's audit reported six deficiencies. However, this year's audit contained only one deficiency. Mr. Cannon said that he was confident that next year's audit would contain "zero" deficiencies. He thanked staff for being helpful and accommodating to the auditors, saying that in other locations, the auditor's efforts were not always met with such a spirit of cooperation. Mr. Snellings thanked Mr. Cannon on behalf of the Board.

Presentation by Dr. Bruce Benson, Superintendent Dr. Benson addressed the Board and gave a PowerPoint presentation regarding the 2014 teacher compensation review. He talked about recruitment and teacher retention saying that from July 1, 2013 through June 30, 2014, 67 teachers left for higher paying jobs, and nine left due to military relocations. Dr. Benson also talked about the shrinking applicant pool, showing a chart that demonstrated a 50% decline in 2011 – 2014.

Ms. Bohmke asked for clarification that the applicant pool included not only Virginia graduates but those from surrounding states. Dr. Benson confirmed that the applicant pool was from all states. He noted that a reduction in recruiting resources was also a factor in the diminished applicant pool.

Mr. Thomas asked about Graph A, the salary and years of comparisons chart, saying that it would take multiple years to fix the deficiencies noted on the chart. He added that he did not think that the chart was an adequate representation of what Stafford Schools had to offer teachers, and that the variances were hard to figure out. Dr. Benson said that there were not enough similarities to compare apples to apples. Mr. Thomas made reference to “squishy” numbers. Dr. Benson said they were not “squishy,” that the numbers were based on published scales.

Mr. Sterling said that it did not appear to be a complete chart because it did not include VRS and the Master’s Degree supplement. He said that to complete the chart, those two numbers should be included. Dr. Benson said that it was a comparison of base salaries. Mr. Sterling said that he wanted to see the complete picture; that his concern was that the information was being disseminated without the full picture, which was demoralizing and inaccurate. Dr. Benson said that he understood the Board’s concerns; that the School Division was moving in the right direction, and that he would work to tighten the comparisons. Mr. Thomas noted that if the input was wrong, the output was also wrong. He also said that Spotsylvania County missed seven STEP increases whereas Stafford did STEP increases every other year.

Mr. Milde asked if the compensation/benefits package was included for consideration as a selling point to recruit teachers (including the Master’s supplement). Mr. Milde asked Dr. Benson if he read the book, DRIVE, by Daniel Pink. Dr. Benson said that he had read the book. Mr. Milde said that there is a perception that teachers in Stafford are being “ripped off,” and asked what Dr. Benson was doing to correct that misperception. Dr. Benson disagreed with the statement that teachers felt as though they were being “ripped off.” He added that the Schools’ Division was not where he wanted it to be but that they were trying and working on it.

Ms. Sellers said that some teachers that she knew, specifically one at Shirley Heim Middle School, were planning to leave Stafford but were now happy and hopeful that the new Superintendent was taking things in the right direction. Ms. Sellers thanked Dr. Benson for his hard work. Mr. Snellings thanked Dr. Benson for doing a great job, adding that he hoped that Dr. Benson would remain in Stafford County for a long time.

Mr. Sterling talked about teacher contract days. Dr. Benson said that most localities went with a 200-day contract, not that teachers are necessarily in the classroom for 200 days; it took into account work done outside the classroom. A discussion ensued about teacher starting salaries and comparisons to like-localities. Mr. Milde asked what Dr. Benson could do with \$8 million. He added that he was opposed to building Shirley Heim Middle School, and was opposed to tearing down Stafford High School, both of which would have saved a total of \$105 million dollars (combined). He said that those decisions cost teacher pay increases, and that the County had to get ahead of its frivolous spending. Ms. Bohmke said that she wished to go on record as disagreeing with Mr. Milde's statement.

Mr. Cavalier said that there was seven superintendents in the past eleven years, and echoed Mr. Snellings comment that he hoped that Dr. Benson would remain in Stafford. He also thanked Dr. Benson for his presentation.

VDOT Quarterly Update Mr. Robert Poutier, Assistant Residency Administrator, addressed the Board, providing an update on transportation projects in the County.

Ms. Bohmke asked about Butler Road at the intersection of Route 1 and Route 17. She said there were many potholes, one particularly large one in the left-turn lane onto southbound Route 1. She requested that they be taken care of before a bad snow storm caused further deterioration.

Mr. Snellings reiterated Ms. Bohmke's concerns regarding potholes. He said that as you drive down Route 17 to the intersection, the pavement was in bad shape as well. He said that "third world countries had better roads."

Mr. Thomas asked if the intersection could be milled, which would help to flatten the road making the potholes shallower. Mr. Poutier explained that milling would hasten the deterioration of the road due to the freeze/thaw cycle in the winter months. He added that VDOT did not want to repave now since the intersection was due to be paved in the spring. He said that VDOT would continue to monitor the intersection.

Mr. Snellings said that he did not think that it would be too costly to put down "just enough" pavement for the winter months, to improve the bad conditions that motorists had to endure on a daily basis.

Mr. Cavalier asked about Boswell's Corner. Mr. Poutier said that the water line was finished, and there was on-going drainage and paving work. He said that the project should be finished in spring, 2015.

Presentations by the Public The following members of the public desired to speak:

Jeff Adams - Inquired about the possibility of holding a Farmer's Market at the Government Center parking lot. Mr. Sterling suggested the new commuter lot off Garrisonville Road at Stafford Marketplace. Mr. Romanello said that staff would explore those possibilities. Mr. Adams said staying at the hospital was his first choice.

Paul Waldowski- Referred to Resolution R82-341; no Planning Commissioners on the Board of Zoning Appeals (conflict of interest); May 3, 2014 was his mother's 80<sup>th</sup> birthday; \$20,000 stipend and only one Board meeting in November and December; Empty Sheriff vehicles; \$350,000 County donation to the 350<sup>th</sup> anniversary efforts...socialism.

Melvin Allen - Resident of the Garrisonville District; FOIA confusion in the County; Sheriff refused to release records relative to racial profiling; asked was the Sheriff hiding something; waited one hour at the public safety building but no one came to talk with him regarding his FOIA request; asked for guidance on FOIA procedures; Ms. Sellers offered to speak with Mr. Allen about his FOIA concerns.

Presentations by Members of the Board Board members spoke on the topics as identified:

Ms. Bohmke - Ribbon cutting at Human Touch at Quantico Corporate Center; Attended Stafford, An American Story movie premiere; thanked Fire & Rescue for coat drive; thanked volunteers that serve on boards, authorities, committees, and commissions; new 911 system information available in the new year at the Board's winter retreat; financial crime in the County up 96%, cautioned citizens to be vigilant and extra careful.

Mr. Cavalier - Thanked staff and fellow Board members for his time serving as Chairman of the Board; shared the following:

2014 Stafford Highlights: Approved FY15 budget that decreased real estate tax bills by 14%; maintained lowest general government costs among peer localities and non-public safety staffing at less than ten years ago; passed FY15-FY24 CIP, fully leveraging state revenue sharing funds, \$10 million annually; refinanced lease revenue bonds resulting in \$200,000 savings; 27 commercial projects under construction (416,000 s.f.); completed 19 capital projects; 28 capital project are in the pipeline; accepted 14 streets into the State Secondary System, 16 more in process for a total of 30 streets to be accepted into the State system for FY14, a total of 9.86 miles; implemented retails strategy to bring high-end retail opportunities; met with 70 retailers and welcomed Chipotle, Verizon Smart Store, Dunkin Donuts, Sonic, WaWa, Walgreens and others; increased local transfer for schools operating by more than \$3.1 million, equating to a

3.5% increase from last year; provided 70% of new revenues to the schools in FY15; increased the number of jobs in Stafford by 42% over the past decade.

2014 Stafford Accomplishments: Celebrated Stafford's 350<sup>th</sup> anniversary with several major signature events and a movie premiere; completed construction of the Lake Mooney Dam and Reservoir, which will hold approximately 5.3 Billion gallons of water; received GFOA certificates of excellence in financial reporting for the CAFR (32 consecutive years) and distinguished budget presentation for 27 consecutive years; received Heart Safe Community Award from the International Association of Fire Chiefs for creative approaches in managing and treating acute coronary syndrome and sudden cardiac arrest; designated Stafford County as Virginia's first Heart Safe Community by the Virginia Office of Emergency Medical Services and the Rappahannock Emergency Medical Services Council; funded full CIP request by the School Board, accelerated expansion of Colonial Forge, Brooke Point, and Mountain View high schools; implemented a joint audit contract with the Schools; established network connectivity between the County and Schools, providing the Sheriff's Office access to cameras installed in County schools in the event of an emergency incident; renovated Curtis Park Pool, reopened in summer, 2014; won best restored beach award for Aquia Landing from the American Shore and Beach Preservation Association; completed Joint Land Use Study with neighboring localities and MCB Quantico – established guidance to encourage compatible community growth around the Base and improve the quality of life in surrounding communities; opened Chichester Park, featuring five diamond fields, four of which are baseball and softball fields; recognized Stafford Training School for its historical significance in the desegregation of Stafford schools, which led to the subsequent integration of schools in the greater Fredericksburg area, with a historical highway marker by the Virginia Dept. of Historical Resources; opened new park and ride lot at Staffordboro, adding an additional 1000 space for a total of 1,865 parking spaces; established a "regeneration station" to help dark fiber extension from Ashburn to Richmond, representing a potential cyber and broadband highway for the 21<sup>st</sup> century, and helps Stafford to better serve its businesses; announced the first Data Center site in Stafford, reducing both time and risk for any business selecting a site; saved \$2 million in CY13 with volunteers from Citizen's Assistance, Fire and Rescue, and the Sheriff's Office; and assisted in opening the I-95 Express Lanes from Garrisonville Road to the I-495 Beltway.

Exciting things for 2015: studying joint services opportunities with schools; designing Section 4 of the Belmont-Ferry Farm Trail, the part of the Trail running Pratt Park, along the Rappahannock River towards Ferry Farm; broke ground on the Jeff Rouse Swim and Sport Center at Embrey Mill; and numerous transportation projects that are underway with expected completion in 2015-2016.

Mr. Milde- Attended VRE meeting; FAMPO; Pump and Haul Committee meeting; R-Board; University of Mary Washington/Chamber of Commerce Pancakes and Politics; Secretary Jackson at Quantico Corporate Center; Sea Scouts, etc.

Ms. Sellers- Worked on CPMT goals and objectives with Donna Krauss and Stephanie Beamer; Joint Schools Working Committee meeting (will meet again after the Shared Services Study is complete); thanked Mr. Wade for his service on the Parks and Recreation Commission; thanked County Admin staff and all County employees for smooth transition in her first year as a member of the Board.

Mr. Snellings- Wished everyone a Happy Hanukah or Merry Christmas.

Mr. Sterling- Overview of the Finance, Audit, and Budget Committee meeting; sick leave policy and compensation philosophy; proffer guidelines; general government update.

Mr. Thomas- Attended Military Affairs Council (MAC) Board of Directors meeting; keeping a cadre of people engaged and ready if BRAC returns; membership down on the MAC; CRRL Board of Trustees meeting including budget adoption, no new funding or raises for CRRL staff; Rappahannock River Basin Commission; gingerbread House contest at Ferry Farm; ribbon cutting at Colonial Cupcakes.

Report of the County Attorney Mr. Shumate deferred his report.

Report of the County Administrator Mr. Romanello asked Board members to begin thinking about a date for its annual winter planning meeting. Ms. Jamie Porter, Director of Parks, Recreation, and Community Facilities, gave a Parks update. Water bottles containing the first water purified (that morning) from Lake Mooney were given to Board members. Mr. Romanello announced that at the applicant's request, public hearing (Item #23) was deleted from the agenda.

Additions/Deletions to the Regular Agenda Mr. Sterling motioned, seconded by Ms. Sellers, to delete from the agenda, Item 23 – Planning and Zoning; Consider a Conditional Use Permit to Allow a Drive-Through Facility within the HC, Highway Corridor Overlay Zoning District on 5.22 Acres Zoned B-2.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas

Nay: (0)

Legislative; Consent Agenda Mr. Milde motioned, seconded by Mr. Snellings, to adopt the Consent Agenda, which consisted of Items 4 through 18, omitting Item 12 at the request of Mr. Thomas.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas  
Nay: (0)

Item 4. Legislative; Approve Minutes of the November 13, 2014 Board Meeting

Item 5. Finance and Budget; Approve Expenditure Listing

Resolution R14-293 reads as follows:

A RESOLUTION TO APPROVE EXPENDITURE LISTING (EL)  
DATED NOVEMBER 14, 2014 THROUGH DECEMBER 15, 2014

WHEREAS, the Board appropriated funds to be expended for the purchase of goods and services in accordance with an approved budget; and

WHEREAS, the payments appearing on the above-referenced Listing of Expenditures represent payment of \$100,000 and greater for the purchase of goods and/or services which are within the appropriated amounts;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014 that the above-mentioned EL be and hereby is approved.

Item 6. Utilities; Authorize the County Administrator to Execute a Contract for Purchase of Two Vehicles

Resolution R14-292 reads as follows:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A CONTRACT WITH ARIES INDUSTRIES, INC., FOR A REPLACEMENT CLOSED CIRCUIT TELEVISION VAN; AND A CONTRACT WITH K. NEAL INTERNATIONAL TRUCKS, INC., FOR A TANDEM-AXLE DUMP TRUCK

WHEREAS, the Utilities Department's existing closed-circuit television inspection van (CCTV), and one of its dump trucks, are beyond their useful lives; and

WHEREAS, their replacement is required to provide continuing services in support of new and existing water and wastewater customers within Stafford County; and

WHEREAS, the County obtained competitive bid pricing for the CCTV van through the Houston-Galveston Area Council (H-GAC) Buy Program, which provides competitive contract pricing, and meets the County's procurement standards; and

WHEREAS, the County obtained a bid-contract price for the tandem-axle dump truck through a Metropolitan Washington Area Council of Governments (MWACG) municipality contract; and

WHEREAS, staff determined that prices provided by Aires Industries, Inc., for the CCTV van, and K. Neal International Trucks, Inc., for the replacement tandem-axle dump truck, are reasonable for the necessary equipment; and

WHEREAS, funds are available in the FY2015 budget for the purchase of the CCTV van and the tandem-axle dump truck;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the County Administrator be and hereby is authorized to execute a contract with Aires Industries, Inc., for the purchase of a replacement closed circuit television van, in an amount not to exceed One Hundred Twenty-nine Thousand Six Hundred Eighty Dollars (\$129,680); and execute a contract with K. Neal International Trucks, Inc., for the purchase of a tandem-axle dump truck, in an amount not to exceed One Hundred Sixty-two Thousand Four Hundred Seven Dollars (\$162,407), unless amended by a duly-executed contract amendment.

Item 7. Utilities; Authorize the County Administrator to Execute a Contract for Construction of the Old Route 3 Pump Station Replacement

Resolution R14-273 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR  
TO EXECUTE A CONTRACT WITH SOUTHWOOD BUILDING  
SYSTEMS, INC., FOR CONSTRUCTION OF THE OLD ROUTE 3  
SEWAGE PUMP STATION PROJECT

WHEREAS, the Board included funds in the Utilities Department's FY2015 Capital Improvements Projects budget, and appropriated the funds, for a project to replace the existing Old Route 3 sewage pump station; and

WHEREAS, the design and improvements were completed, and the County solicited bids for the project; and

WHEREAS, four bids were received, and staff determined that the bid submitted by Southwood Building Systems, Inc., in the amount of \$1,173,000, is the lowest responsive and responsible bid; and

WHEREAS, staff determined that the Southwood Building Systems, Inc., bid is reasonable for the scope of services proposed;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the County Administrator be and he hereby is authorized to execute a contract with Southwood Building Systems, Inc., in an amount not to exceed One Million One Hundred Seventy-three Thousand Dollars (\$1,173,000) for construction of the old Route 3 sewage pump station project, unless modified by a duly-authorized change order.

Item 8. Parks, Recreation and Community Facilities; Authorize the County Administrator to Execute a Contract for Custodial Services at Various County Facilities

Resolution R14-291 reads as follows:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A CONTRACT WITH ROCK SOLID JANITORIAL, INC., FOR CUSTODIAL SERVICES AT VARIOUS COUNTY FACILITIES

WHEREAS, professional custodial services are needed at various County facilities; and

WHEREAS, staff determined that Rock Solid Janitorial, Inc., is the best-qualified to provide these services, and that the proposal is reasonable for the proposed services; and

WHEREAS, funds for these services are available in the FY15 budget;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16th day of December, 2014, that the County Administrator be and he hereby is authorized to execute a contract with Rock Solid Janitorial, Inc., for custodial services at various County facilities, in an amount not to exceed Three Hundred Nine Thousand Four Hundred Ninety Eight Dollars (\$309,498), unless modified by a duly-authorized contract amendment; and

BE IT FURTHER RESOLVED that subject to the appropriation of funds each year for this purpose, and if mutually agreed upon, the contract with Rock Solid Janitorial, Inc. may include an option to renew for up to four additional one-year terms.

Item 9. Public Works; Budget and Appropriate Funds to VDOT for the Brent Point Road Project (CSX Crossing)

Resolution R14-294 reads as follows:

A RESOLUTION TO APPROVE FUNDING FOR THE PRELIMINARY ENGINEERING PHASE OF THE BRENT POINT ROAD PROJECT, AND AUTHORIZE PAYMENT TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION

WHEREAS, the Board identified improvements to Brent Point Road (SR-658) as a priority; and

WHEREAS, the Board requested FY2015 Revenue Sharing funding, which requires a 50/50 County match; and

WHEREAS, the Virginia Department of Transportation (VDOT) is prepared to begin improvements to Brent Point Road; and

WHEREAS, the estimated cost of the initial phase of the planned improvements is \$200,000, and requires a County match payment of \$100,000; and

WHEREAS, sufficient funding for the County match is available in the Transportation Fund;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the County Administrator be and he hereby is authorized to make payment of One Hundred Thousand Dollars (\$100,000) from the Transportation Fund to VDOT for the Brent Point Road improvement project; and

BE IT FURTHER RESOLVED that the County Administrator or his designee is authorized to execute any documentation that is necessary or appropriate to begin the Brent Point Road improvement project.

Item 10. Public Works; Petition VDOT to Include Celebrate Virginia Parkway into the Secondary System of State Highways

Resolution R14-296 reads as follows:

A RESOLUTION TO PETITION THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO INCLUDE CELEBRATE VIRGINIA PARKWAY WITHIN CELEBRATE VIRGINIA NORTH, PART 2, INTO THE SECONDARY SYSTEM OF STATE HIGHWAYS

WHEREAS, pursuant to Virginia Code § 33.2-705, the Board desires to include Celebrate Virginia Parkway, within Celebrate Virginia North, Part 2, located on the southwest side of Warrenton Road (US-17), approximately .37 miles southwest of Warrenton Road (US-17), into the Secondary System of State Highways; and

WHEREAS, the Virginia Department of Transportation (VDOT) inspected Celebrate Virginia Parkway and found it satisfactory to be accepted into the Secondary System of State Highways;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that VDOT be and it hereby is petitioned to include the following street within Celebrate Virginia North, Part 2, into the Secondary System of State Highways:

Street Name/ Route Number	Station	Length
Celebrate Virginia Parkway (SR-1968)	From: Intersection of Banks Ford Parkway (SR-654) To: The lane drop on Celebrate Virginia Parkway (SR-1968)	0.19 mi. ROW Variable
Celebrate Virginia Parkway (SR-1968)	From: The lane drop on Celebrate Virginia Parkway (SR-1968) To: Intersection of Scotts Ford Lane	2.44 mi. ROW Variable

An unrestricted right-of-way, as indicated above, for these streets with necessary easements for cuts, fills, and drainage is guaranteed, as evidenced by Plat of Record entitled, Celebrate Virginia Parkway, recorded as PM070000005 with Instrument Number LR070000071 on January 16, 2007; and Celebrate Virginia Parkway, recorded as PM070000177 with Instrument Number LR070023642 on October 02, 2007; and Celebrate Virginia Parkway, recorded as PM140000082 with Instrument Number LR140007108 on May 19, 2014; and

BE IT FURTHER RESOLVED that the County Administrator or his designee shall forward a copy of this resolution to the developer, and to the VDOT Transportation and Land Use Director, Fredericksburg District.

Item 11. Public Works; Petition VDOT to Install Watch for Children Signs in the Woodstream Subdivision

Resolution R14-298 reads as follows:

A RESOLUTION AUTHORIZING THE INSTALLATION OF WATCH FOR CHILDREN SIGNS ON WOODSTREAM BOULEVARD (SR-2277) AND STAFFORDBORO BOULEVARD (SR-684) IN THE WOODSTREAM SUBDIVISION

WHEREAS, the Board is concerned with transportation safety on residential streets; and

WHEREAS, on February 19, 2008, the Board adopted the Residential Traffic Management Plan (RTMP), which provides County citizens with various programs to address their traffic-related concerns; and

WHEREAS, installation of Watch for Children signs is authorized by Virginia Code § 33.1-210.2; and

WHEREAS, residents of Woodstream Subdivision requested the installation of two Watch for Children signs; and

WHEREAS, the Virginia Department of Transportation's (VDOT) policy permits the installation of these signs on Woodstream Boulevard and Staffordboro Boulevard; and

WHEREAS, the proposed locations of the signs meets the essential criteria for installation, based on the current RTMP, Watch for Children Sign Program; and

WHEREAS, the Board finds that installing these signs promotes the health, safety, and welfare of the County and its citizens;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the Board be and it hereby does approve the installation of one Watch for Children sign on Woodstream Boulevard (SR-2277) and one Watch for Children sign on Staffordboro Boulevard (SR-684) with specific locations to be determined by VDOT; and

BE IT FURTHER RESOLVED that the County Administrator or his designee is authorized to execute any other documentation that is necessary or appropriate regarding installation of the signs; and

BE IT STILL FURTHER RESOLVED that the County Administrator or his designee provides a copy of this resolution to the VDOT Residency Administrator.

Item 13. County Administration; Approve Appointment of Laura Sellers as Alternate to the Fredericksburg Area Metropolitan Planning Organization (FAMPO)

Item 14. County Administration; Approve Appointment of Laura Sellers to Replace Cord Sterling on the George Washington Regional Commission (GWRC)

Item 15. County Administration; Authorize the County Administrator to Advertise a Public Hearing to Consider Dedication of a Conservation Easement at the Rappahannock Regional Landfill

Resolution R14-301 reads as follows:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO ADVERTISE A PUBLIC HEARING TO CONSIDER THE DEDICATION OF RAPPAHANNOCK REGIONAL LANDFILL (LANDFILL) PROPERTY FOR THE PURPOSE OF ESTABLISHING A CONSERVATION EASEMENT AS MITIGATION FOR LANDFILL CELL CONSTRUCTION ACTIVITIES

WHEREAS, construction of future Landfill cells will result in impacts to existing streams for which mitigation is required; and

WHEREAS, dedication of a 43.4 acre conservation easement at the northeast boundary of the Landfill will satisfy the requirement for the approximately 5,036 linear feet of stream impacts; and

WHEREAS, dedication of this easement can be completed expeditiously, saving approximately \$3 million in projects costs for the construction of Cell F2; and

WHEREAS, this area can be dedicated as a conservation easement without affecting future Landfill operations or the Civil War Park; and

WHEREAS, the Board and the Fredericksburg City Council must authorize the dedication of this conservation easement; and

WHEREAS, pursuant to Virginia Code § 15.2-1800(B), the Board is required to hold a public hearing prior to conveying an interest in County-owned property;

NOW, THEREFORE BE IT RESOLVED, by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the County Administrator is authorized to advertise a public hearing regarding the dedication of a conservation easement for a 43.4 acre area at the northeast boundary of the Landfill, as shown on the plat titled, “A Variable Width Conservation Easement Across Parcels ID 39-22 and 39-23 Stafford County, Virginia”, dated October 1, 2014, as mitigation for stream impacts necessary for the construction of future Landfill cells.

Item 16. Public Information; Recognize the Quantico Potomac Chapter of AFCEA-QP for its Contributions to Education, Scholarships, and the STEM Program in Stafford County Schools

Proclamation P14-26 reads as follows:

A PROCLAMATION TO RECOGNIZE AND COMMEND THE QUANTICO POTOMAC CHAPTER OF THE ARMED FORCES COMMUNICATIONS AND ELECTRONICS ASSOCIATION FOR ITS CONTRIBUTIONS TO EDUCATION, SCHOLARSHIPS AND THE STEM PROGRAM IN STAFFORD COUNTY

WHEREAS, the Armed Forces Communications and Electronics Association (AFCEA) International is a non-profit membership association serving the military, government, industry and academia as an ethical forum for advancing professional knowledge and relationships in the fields of communications, information technology, intelligence and global security; and

WHEREAS, the Quantico Potomac Chapter (QP) is located outside the Quantico Marine Corps Base and meets regularly to offer an opportunity for networking and an exchange of information and ideas in an open, ethical environment that fosters close cooperation and understanding among the military, civil service and industry; and

WHEREAS, the AFCEA-QP donates over \$100,000 a year to support Science, Technology, Engineering, and Mathematics (STEM) education in such localities as Prince William County, Stafford County, Spotsylvania County, Marine Corps Base Quantico, the cities of Manassas and Manassas Park, and the City of Fredericksburg; and

WHEREAS, support is in the form of cash scholarships to high school seniors, science teaching tools/scholarships for middle school instructors, and sponsoring events such as science fairs and robotics programs; and

WHEREAS, since 2011, the AFCEA-QP donated over \$150,000 in support of STEM education in Stafford County and other localities;

NOW, THEREFORE, BE IT PROCLAIMED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that it be and hereby does recognize and commend the Quantico Potomac Chapter of the Armed Forces Communications and Electronics Association for its contributions to education, scholarships and the STEM program in Stafford County.

Item 17. Public Information; Recognize and Commend Alan Smith for Outstanding Service as Deputy County Attorney

Proclamation P14-27 reads as follows:

A PROCLAMATION TO RECOGNIZE AND COMMEND ALAN F. SMITH, ESQ., FOR HIS OUTSTANDING SERVICE AS DEPUTY COUNTY ATTORNEY

WHEREAS, Alan F. Smith has dedicated his legal career to serving Virginia local governments, both as a local government employee and in private practice; and

WHEREAS, Alan F. Smith served in the Stafford County Attorney's Office for six years, first as an Assistant County Attorney and later as the Deputy County Attorney; and

WHEREAS, Alan F. Smith provided exemplary service and support to the Board of Supervisors, Constitutional Officers, staff, and the citizens of Stafford County; and

WHEREAS, Alan F. Smith is recognized for his assistance in the acquisition of land to support the County's vision for Quantico Corporate Center, and the Stafford Technology and Research Center at Quantico; and

WHEREAS, Alan F. Smith is noted for providing exceptional legal counsel in the establishment of Transportation Impact Fees, Lake Mooney, and the Embrey Mill Community Development Authority (CDA), helping the County address critical infrastructure needs as the community continues to grow and develop; and

WHEREAS, Alan F. Smith is recognized for his draftsmanship of substantial amendments to Stafford County Code Chapter 15, "Law-Enforcement Requested Towing" and "Towing of Trespassing Motor Vehicles from Private Property," and Chapter 5, "Animals;" and

WHEREAS, Alan F. Smith is commended for providing integral legal support, guidance, and advice to the Stafford County 350<sup>th</sup> Anniversary Committee, allowing for a successful year of celebration for the community; and

WHEREAS, Alan F. Smith is actively involved as a member of the Local Government Attorneys of Virginia, serving as a member of its Employment Law Group and has been reappointed for a two-year term to its Amicus Committee; and

WHEREAS, Alan F. Smith is admitted to practice before the Supreme Court of Virginia, United States Bankruptcy Court Eastern District of Virginia, United States Court of Appeals for the Fourth Circuit, and United States District Courts for the Eastern and Western Districts of Virginia; and

WHEREAS, the Board desires to bring to the attention of citizens everywhere the selfless dedication with which Alan F. Smith has served Stafford County, and to commend him for his distinguished public service;

NOW, THEREFORE, BE IT PROCLAIMED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that it be and hereby does recognize and commend Alan F. Smith, Esq. for his outstanding service to Stafford County as Deputy County Attorney.

Item 18. Public Information; Recognize Hope Springs Marina for its Support and Service to Stafford County

Proclamation P14-28 reads as follows:

A PROCLAMATION TO RECOGNIZE HOPE SPRINGS MARINA FOR ITS SERVICE TO STAFFORD COUNTY CITIZENS

WHEREAS, Hope Springs Marina has operated as a business in Stafford County for 21 years, and has helped to meet the recreational boating needs of Stafford and the residents in the surrounding localities; and

WHEREAS, Stafford County appreciates Hope Springs Marina's support in allowing the Department of Fire and Rescue to use their boat ramp for training; and

WHEREAS, Hope Springs Marina is active within the Stafford community, hosting civic organization events, school groups, and boating safety courses; and

WHEREAS, Hope Springs Marina is a supporter of Stafford's rich history, providing free dock space and supporting the Institute of Maritime History while they mapped wrecks of World War I cargo ships and Civil War ships; and

WHEREAS, Hope Springs Marina is a certified Virginia Clean Marina, with environmentally friendly practices that help keep Stafford's waterways clean; and

WHEREAS, Jimmy Franklin and Hope Springs Marina were strong advocates for the marina and boating industry in Stafford, and spearheaded a successful public relations effort to eliminate the boat tax;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that it be and hereby does recognize the Hope Springs Marina for being an outstanding business citizen in Stafford County and for its service to Stafford's citizens.

Item 12. Planning and Zoning: Approve Deed of Easement for Purchase of Development Rights at 449 Kellogg Mill Road Mr. Thomas inquired about the timing of state funding and the County’s local match. Ms. Kathy Baker, Assistant Director of Planning and Zoning, said that an award letter was received, and the funding would follow.

Mr. Snellings motioned, seconded by Mr. Thomas, to adopt proposed Resolution R14-295.

Resolution R14-295 reads as follows:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A DEED OF EASEMENT FOR THE PURCHASE OF DEVELOPMENT RIGHTS ON ASSESSOR’S PARCEL 36-60 (ADAMS PROPERTY) WITHIN THE HARTWOOD ELECTION DISTRICT

WHEREAS, in 2007, the Board adopted County Code Chapter 22A, Purchase of Development Rights (PDR), to enable the County to acquire conservation easements voluntarily offered by property owners as one means of protecting the County’s open space, agricultural and forest lands, and natural and cultural resources; and

WHEREAS, the Board established a PDR Administrator to administer and implement the PDR program; and

WHEREAS, the Board established a PDR Committee to promote the PDR program in cooperation with and under the guidance of the PDR Administrator; and

WHEREAS, a new PDR application round was initiated in January, 2013; and

WHEREAS, the PDR Administrator and PDR Committee reviewed applications, including the Adams’ application submitted under the PDR program and ranked the applications in accordance with the requirements and criteria established in County Code Chapter 22A; and

WHEREAS, the PDR Administrator and PDR Committee recommended that the Board acquire certain development rights on Assessor’s Parcel 36-60; and

WHEREAS, the Board carefully considered the recommendations of the PDR Administrator, the PDR Committee, and County staff, and determined that certain development rights on Assessor’s Parcel 36-60 (Adams Property) should be purchased; and

WHEREAS, the Board finds that this purchase conforms to the Comprehensive Plan and preserves and provides open space land;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the Board be and it hereby does authorize the County Administrator or his designee to execute a deed of easement, pursuant to the County's PDR program, on Assessor's Parcel 36-60 (Adams Property) and to purchase development rights for an amount not to exceed Two Hundred Seventy-five Thousand Dollars (\$275,000), with no less than One Hundred Thirty-eight Thousand Five Hundred Four Dollars (\$138,504) reimbursable by the Commonwealth of Virginia; and

BE IT FURTHER RESOLVED that the County Administrator is authorized to budget and appropriate \$138,504 in state PDR grant funds and to release payment to the Adams or another appropriate party at or upon settlement.

Planning and Zoning; Consider the Relocation of Chesapeake Bay Regulations from the County's Subdivision and Zoning Ordinances to a Stand-Alone Chapter of the County Code Mr. Jeff Harvey, Director of Planning and Zoning, addressed the Board offering clarification of questions and concerns expressed by the Board, Tri City-County Soil and Water Conservation Board, and citizens, when the item was first presented. Mr. Harvey said that all previous issues were worked out and those outside agencies involved were okay with staff's request.

Mr. Thomas motioned, seconded by Mr. Sterling, to adopt proposed Ordinance O14-10.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas  
Nay: (0)

Ordinance O14-10 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE, SEC. 28-25, "DEFINITIONS OF SPECIFIC TERMS;" SEC. 28-33, "DISTRICTS GENERALLY;" SEC. 28-34, "PURPOSE OF DISTRICTS;" SEC. 28-38(k), "SETBACKS FROM CRITICAL RESOURCE PROTECTION AREA (RPA);" SEC. 28-62, "CHESAPEAKE BAY PRESERVATION AREA OVERLAY DISTRICT;" AND SEC. 28-314(e), "CIVIL VIOLATIONS OF CHESAPEAKE BAY PRESERVATION AREA OVERLAY DISTRICT"

WHEREAS, effective August 1, 1991, the Board adopted Ordinance O90-91, establishing the Chesapeake Bay Preservation Area Overlay District; and

WHEREAS, on December 2, 2003, the Board adopted Ordinance O03-07, which amended Stafford County Code Chapter 28 and Chapter 22, to incorporate revised Chesapeake Bay Preservation Act requirements and regulations; and

WHEREAS, the Board desires to amend the County Code to create a new chapter, proposed Chapter 27B, to implement the Virginia Chesapeake Bay Preservation Act; and

WHEREAS, the Board finds that the requirements of Virginia's Chesapeake Bay Preservation Act can be more effectively enforced in a stand-alone County Code chapter; and

WHEREAS, with the creation of a new stand-alone chapter, Stafford County Code, Chapter 28 must be amended to remove the Chesapeake Bay Preservation Area Overlay District; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission, County staff, and Virginia Department of Environmental Quality staff, and the testimony, if any, at the public hearing; and

WHEREAS, the Board finds that the public necessity, convenience, general welfare, and good zoning practices require adoption of this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the Stafford County Code be and it hereby is amended and reordained as follows, all other portions remaining unchanged:

**Sec. 28-25. Definitions of specific terms.**

*Chesapeake Bay Preservation Area (CBPA).* ~~Refer to county code chapter 27B—All appropriate land in Stafford County pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01, and Code of Virginia, § 10.1-2107. A Chesapeake Bay Preservation Area consists of a critical resource protection area and a land/resource management area.~~

*Critical resource protection area (CRPA).* ~~That component of the Chesapeake Bay Preservation Area comprised of lands adjacent to waterbodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.~~

*Intensely developed areas (IDAs).* ~~A portion of a critical resource protection area for a land/resource management area designated by the county where development is concentrated and little of the natural environment remains.~~

*Land/resource management area (LRMA).* ~~A component of the Chesapeake Bay Preservation Area outside the CRPA that includes land where specific environmental resources are located. This land, if improperly used or developed, has the potential for causing significant water quality degradation or for diminishing the functional value of the CRPA.~~

*Sign, critical resource protection area (CRPA).* ~~A sign identifying the landward limits of the critical resource protection area (CRPA).~~

~~*Water dependent facility.* A development of land that cannot exist outside of the critical resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to:~~

- ~~(1) Ports;~~
- ~~(2) The intake and outfall structures of power plants, water treatment plants, wastewater treatment plants, and storm sewers;~~
- ~~(3) Marinas and other boat docking structures;~~
- ~~(4) Beaches and other public water oriented recreation areas; and~~
- ~~(5) Fisheries or other marine resource facilities.~~

~~*Wetlands.* Include tidal and non-tidal wetlands, as defined herein above. Those tidal and nontidal wetlands defined by the Chesapeake Bay Preservation Area Designation and Management Regulations, VR173-02-01, or any succeeding provisions.~~

### **Sec. 28-33. Districts generally.**

Land may also be classified in the following special overlay districts:

~~CB Chesapeake Bay Preservation Overlay~~

### **Sec. 28-34. Purpose of districts.**

~~*CB Chesapeake Bay Preservation Area.* The purpose of the CB district is to provide an overlay zone to protect the valuable resources of and related to the Chesapeake Bay, in accordance with the Virginia Code and adopted plans.~~

### **Sec. 28-38. Performance regulations.**

- ~~(k) *Setbacks from critical resource protection area (CRPA).* Refer to county code chapter 27B. Setbacks shall be required for the building containing the principle use from the outermost point of the building to the nearest point of any RPA buffer line. Where the RPA buffer is located in the rear yard, the setback shall be twenty five (25) feet. Where the RPA buffer is located in the front or side yard, the setback shall be twelve (12) feet.~~

~~This provision shall only apply to single-family homes, townhouses, and duplexes. In addition, this provision shall only apply to new development projects submitted after June 3, 2008.~~

### **Sec. 28-62. Chesapeake Bay Preservation Area Overlay District.**

~~(a) *Purpose and intent.*~~

- ~~(1) This section is enacted to implement the requirements of Code of Virginia §§ 15.2-2283 and 10.1-2100 et seq., the Chesapeake Bay Preservation Act. The purpose and intent of this section is to:~~

- ~~a. — Protect existing high quality state waters;~~
- ~~b. — Restore state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of aquatic life, including game fish, which might reasonably be expected to inhabit them;~~
- ~~c. — Safeguard the clean waters of the commonwealth from pollution;~~
- ~~d. — Prevent increases in pollution;~~
- ~~e. — Reduce existing pollution;~~
- ~~f. — Protect and enhance the wise use of environmental resources through management of development;~~
- ~~g. — Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of Stafford County;~~
- ~~h. — Prevent a net increase in nonpoint source pollution from new development;~~
- ~~i. — Achieve a ten percent reduction in nonpoint source pollution from redevelopment;~~
- ~~j. — Achieve a forty percent reduction in nonpoint source pollution from agricultural uses.~~

~~(2) The Chesapeake Bay Preservation Area Overlay District shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the district shall also lie in one or more of the other zoning districts provided for by this chapter.~~

~~(b) *Areas of applicability (district boundaries).* The Chesapeake Bay Preservation Area Overlay District shall apply to all appropriate land in Stafford County. The CRPA maps show the general location of CRPAs and shall be consulted by persons contemplating activities in the county prior to engaging in a regulated activity. The CRPA maps, as amended, together with all explanatory matter thereon, are hereby adopted by reference and declared to be part of this chapter.~~

~~(1) *Critical resource protection area (CRPA).*~~

- ~~a. — The CRPA shall include:
 
  - ~~1. — Tidal wetlands.~~
  - ~~2. — Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;~~
  - ~~3. — Tidal shores;~~
  - ~~4. — A one hundred foot vegetated buffer area located adjacent to and landward of the components listed in subsections 1. through 3. above, and along both sides of any water bodies with perennial flow.~~~~
- ~~b. — Delineation by the applicant. The site-specific boundaries of the CRPA shall be delineated by the applicant through the performance of an environmental site assessment that satisfies the requirements of subsection 28-62(h)(2) of this Code. The county CRPA maps may be used as a guide to the general location of CRPAs, however this does not relieve the applicant of the~~

~~requirement of the site specific delineation of the CRPA. In addition, the administrative authority shall require that an applicant provide a site-specific determination of whether water bodies with perennial flow occur onsite. This determination shall ordinarily be completed by the applicant. The administrator may waive this requirement if during the review process it is determined that the determination is not necessary. The determination of perennial flow may be accomplished by the use of an approved scientifically valid method using field indicators of perennial flow. The applicant shall provide the information used for the determination to the administrator for review.~~

~~e. Delineation by the administrative authority. The administrator may perform a delineation when requested by an applicant wishing to construct a single-family residence. The administrator may use an approved site specific method or the administrator may waive the requirement and complete the delineation based on all available local information. In addition, the administrator may waive the requirement for a site specific delineation if no evidence of possible CRPA features are identified through the evaluation of all available local information. This information includes topographic maps, soil surveys, and any other applicable mapping.~~

~~d. Where conflict arises over delineation. Where the applicant has provided a site specific delineation of the CRPA, the administrative authority will verify the accuracy of the boundary delineation. In determining the site-specific CRPA boundary, the administrative authority may render adjustments to the applicant's boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek an exception or variance, in accordance with the provisions of this chapter.~~

~~(2) Land/resource management area (LRMA). The land/resource management area (LRMA) shall include all areas of the county not designated as a critical resource protection area (CRPA).~~

~~(e) Use regulations. Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.~~

~~(d) Lot size. Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient buildable area outside the CRPA to accommodate an intended development, when such development is not otherwise allowed in the CRPA.~~

~~(e) Conflict with other regulations. In any case where the requirements of this overlay district conflict with any other provision of this chapter or the Stafford County Code, whichever imposes the more stringent restrictions shall apply.~~

~~(f) Development conditions.~~

~~(1) Land development in critical resource protection areas may be allowed only when permitted by the administrator and if it is:~~

- ~~(a) Water dependent and satisfies the conditions of subdivision 1 of this subsection;~~
- ~~1. A new or expanded water dependent facility may be allowed provided that the following criteria are met:
 
  - ~~a. It does not conflict with the comprehensive plan;~~
  - ~~b. It complies with the performance criteria set forth in section (g) of this article;~~
  - ~~c. Any non water dependent component is located outside of the CRPA; and~~
  - ~~d. Access to the water dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.~~~~
- ~~(b) Constitutes redevelopment and satisfies the conditions of subdivision 1 of this subsection;
 
  - ~~1. Redevelopment on isolated redevelopment sites shall be permitted only if there is no increase in the amount of impervious cover and no further encroachment within the CRPA and it shall conform to chapter 11 (Erosion and Sediment Control) of this Code, and chapter 21.5 (Stormwater Management) of this Code.~~~~
- ~~(c) A new use subject to the provisions of section 28-62(g)(2) of this article;~~
- ~~(d) A road or driveway crossing satisfying the conditions set forth in subdivision 1 of this subsection;
 
  - ~~1. Roads and driveways not exempt under subsection 28-62(j) and which, therefore, must comply with the provisions of this article, may be constructed in or across CRPAs if each of the following conditions are met:
 
    - ~~a. The administrator makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the CRPA;~~
    - ~~b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the CRPA and minimize adverse effects on water quality.~~
    - ~~c. The design and construction of the road or driveway satisfy all applicable criteria of this article;~~
    - ~~d. The administrator reviews the plan for the road or driveway proposed in or across the CRPA in coordination with the plan of development requirements as required under subsection 28-62(h) or in accordance with the subdivision ordinance.~~~~~~
- ~~(e) A flood control or stormwater management facility satisfying the conditions set forth in subdivision 1 of this subsection.~~

1. ~~Flood control or stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of the watershed may be allowed in the CRPA provided that:
 
  - (a) ~~The local government has conclusively established that the proposed location of the facility is the optimum location;~~
  - (b) ~~The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment both;~~
  - (c) ~~The facility must be identified in U.S. Army Corps of Engineers permit number 97 1212 45 or be consistent with a stormwater management program that has been approved by the Chesapeake Bay local assistance board as a phase one modification;~~
  - (d) ~~All applicable permits for construction in state or federal waters must be obtained from the appropriate state and federal agencies such as the U.S. Army Corps of Engineers, the Virginia Marine Resources Commission, and the Virginia Department of Environmental Quality;~~
  - (e) ~~Approval must be received from the local government prior to construction; and~~
  - (f) ~~Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.~~~~
2. ~~It is not the intent of this subsection to allow a best management practice that collects and treats runoff from only an individual lot or some portion of the lot to be located in the CRPA.~~
3. ~~Stormwater management facilities that do not meet all of the above criteria shall not be allowed in the CRPA unless a variance has been granted in accordance with the requirements of subsection 28-62(1).~~
  - (f) ~~A water quality impact assessment as outlined in this chapter shall be required for any proposed land disturbance, development, or redevelopment within the CRPA.~~
  - (g) ~~General performance criteria.~~
    - (1) ~~General performance criteria for development in Chesapeake Bay Preservation Areas (CBPAs).~~
      - a. ~~Land disturbance shall be limited to the area necessary to provide for the proposed use or development.~~
        1. ~~The limits of land disturbance, including limits of clearing or grading shall be strictly defined by the approved site plan, construction plan or individual site location plan for a parcel. The limits shall be clearly shown on all plans submitted and land disturbance shall not occur within five (5) feet of the dripline of any strand [stand] of trees to be preserved. The construction footprint shall not exceed the limits for such as designated by the zoning district of the lot or parcel.~~

2. ~~Ingress and egress during construction shall be limited to approved access points.~~
- b. ~~Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use or development.~~
1. ~~Existing trees over two (2) inches diameter at breast height (DBH) outside the limits of land disturbance shall be preserved in accordance with the approved site plan, construction plan or individual site location plan for a parcel. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed.~~
  2. ~~Site clearing for construction activities shall be allowed as approved by the administrator through the plan of development review process outlined under subsection 28-62(h) of this article. Prior to clearing and grading, suitable protective barriers, like safety fencing, shall be erected 5 feet outside the dripline of any tree or around any stand of trees to be preserved. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.~~
- e. ~~Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development.~~
1. ~~Parking areas proposed in the CRPA, the floodway district, the flood-fringe district or the floodplain district shall, to the greatest extent practical, use pervious materials, such as gravel or porous pavement.~~
  2. ~~(Reserved.)~~
- d. ~~Notwithstanding any other provisions of this chapter or waivers or exemptions thereto, any land disturbing activity exceeding two thousand five hundred (2,500) square feet, including construction of all single-family houses, septic tanks, and drainfields, shall comply with the requirements of chapter 11 of this Code.~~
- e. ~~All development and redevelopment in a CBPA exceeding two thousand five hundred (2,500) square feet of land disturbance shall be subject to a plan of development process, including the approval of a site plan in accordance with the provisions of this chapter, or a subdivision plan in accordance with the subdivision ordinance, or an erosion and sedimentation (E&S) plan in accordance with the E&S control ordinance.~~
- f. ~~All on-site sewage disposal systems not requiring a Virginia Pollution Discharge Elimination System (VPDES) permit shall be pumped out at least once every five (5) years, in accordance with the provisions of the state health code.~~
- g. ~~A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided, in accordance with the state health code. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989. If a parcel was platted on or before August 1, 1991, the parcel shall be required to provide the reserve sewage disposal site~~

~~the greatest extent practical, as determined by the local health department. Building or construction of impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the appropriate state agency, until the structure is served by public sewer.~~

- ~~h.—An approved plan of development and all federal and state wetlands permits are required prior to initiating clearing, grading, or other on-site activities on any portion of a lot or parcel. Evidence of above stated permits must be provided to the administrator upon request.~~
- ~~i.—Land upon which agricultural activities are being conducted shall undergo a soil and water quality conservation assessment. Such assessment shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this article.~~
- ~~j.—For any use or development, stormwater runoff shall be controlled by the use of water quality best management practices consistent with the water quality criteria of chapter 21.5 (Stormwater Management) of this Code.~~

~~(2) CRPA buffer area requirements.~~

- ~~a.—To minimize the adverse effects of human activities on the other components of CRPAs, state waters, and aquatic life, a minimum one-hundred foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist for development.~~
- ~~b.—Agricultural buffer areas shall be established on or before the fall 1992 growing season.~~
- ~~c.—When replanting is required to establish a buffer, a combination of trees, groundcover, and shrubs with a demonstrated ability to improve water quality shall meet the intent of the buffer area.~~
- ~~d.—The buffer area shall be located adjacent to and landward of other CRPA components and along both sides of any water body with perennial flow. The full buffer shall be designated as the landward component of the CRPA, in accordance with subsections 62(b) and (h).~~
- ~~e.—The one hundred foot forested buffer area shall be deemed to achieve a seventy five (75) percent reduction of sediments and a forty percent reduction of nutrients.~~
- ~~f.—The CRPA buffer area shall be maintained pursuant to the following performance standards:
 
  - ~~1.—Indigenous vegetation may be removed subject to approval by the administrator, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices including~~~~

~~those that prevent upland erosion and concentrated flows of stormwater, as follows:~~

- ~~(a) Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.~~
  - ~~(b) Any pathways shall be designed and constructed so as to effectively control erosion.~~
  - ~~(c) Dead, diseased, or dying trees or shrubbery may be removed subject to approval by the administrator and pursuant to approved horticultural practices.~~
  - ~~(d) For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.~~
- ~~2. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the administrator may, through an administrative process permit encroachments into the buffer area after consideration of subsections 28-62(h) and (i), and in accordance with the following criteria:~~
- ~~(a) Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities; and~~
  - ~~(b) Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel.~~
  - ~~(c) The encroachment shall not extend into the seaward fifty (50) feet of the buffer area.~~
- ~~3. When the application of the buffer area would result in the loss of buildable area on a lot or parcel recorded between October 1, 1989, and December 2, 2003, encroachments into the buffer area may be allowed through an administrative process in accordance with the following criteria:~~
- ~~a. The lot or parcel was created as a result of a legal process conducted in conformity with the local government's subdivision regulations;~~
  - ~~b. Conditions or mitigation measures imposed through a previously accepted exception shall be met;~~
  - ~~c. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to~~

~~function effectively and, if necessary, the BMP shall be re-established or repaired and maintained as required; and~~

~~d. The criteria in subdivision (2) of this section must be met.~~

~~4. On agricultural lands, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:~~

~~(a) Agricultural activities may encroach into the landward fifty (50) feet of the one hundred foot wide buffer area when at least one agricultural best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land—erosion control or nutrient management—is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the one hundred foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the Virginia Nutrient Training and Certification Requirements administered by the Virginia Department of Conservation and Recreation.~~

~~(b) Agricultural activities may encroach within the landward seventy-five (75) feet of the one hundred foot wide buffer when agricultural best management practices which address erosion control, nutrient management, and pest chemical control are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in the National Soil Survey Handbook of November, 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Training and Certification Requirements administered by the VA DCR. In conjunction with the remaining buffer area, this collection of BMPs shall be presumed to achieve water quality protection at least the equivalent of that provided by the one hundred foot buffer area.~~

~~(c) The buffer area is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices in accordance with a conservation plan approved by the local soil and water conservation district.~~

~~(5) Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot buffer shall be reestablished. In reestablishing the buffer, management measures~~

~~shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this chapter.~~

- ~~(6) Subsequent to the issuance of a building permit and prior to the issuance of an occupancy permit for the construction of a new single family dwelling, duplex or townhouse on any residential lot or parcel, a sign shall be installed by the owner, builder or developer identifying the landward limits of the CRPA (critical resource protection area). Such signs shall conform to the Critical Resource Protection Area (CRPA) Signage Policy and shall be installed at the expense of the owner, builder or developer in accordance with the Critical Resource Protection Area (CRPA) Signage Policy.~~

~~(h) *Plan of development process.*~~

- ~~(1) *Required information.* In addition to the requirements specified in Chapters 11 and 22 of the Stafford County Code, the plan of development process for CBPAs shall consist of the plans and studies identified below. These required plans and studies may be coordinated or combined, as deemed appropriate by the administrative authority. The administrative authority may determine that some of the following information is unnecessary due to the location, scope, or nature of the proposed development.~~

~~The following plans or studies shall be submitted, unless otherwise provided for:~~

- ~~a. A plan of development in accordance with the provisions of this chapter or chapter 22 of this Code;~~
  - ~~b. An environmental site assessment;~~
  - ~~c. A landscaping element;~~
  - ~~d. A stormwater management plan in accordance with chapter 21.5 of this Code;~~
  - ~~e. An erosion and sediment control plan in accordance with the provisions of chapter 11 of this Code;~~
  - ~~f. Individual CRPA site location plan.~~
- ~~(2) *Environmental site assessment.* An environmental site assessment shall be submitted in conjunction with any plan of development. The administrator may waive the requirement for an environmental site assessment, in accordance with subsection 28-62(b)(1)(c).~~
- ~~a. The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
 
    - ~~1. Tidal wetlands;~~
    - ~~2. Tidal shores;~~
    - ~~3. Non tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;~~
    - ~~4. Water bodies with perennial flow;~~~~

- ~~5. A one hundred foot buffer area located adjacent to and landward of the components listed in paragraphs 1. through 4. above.~~
  - ~~b. Wetlands delineations shall be performed consistent with the procedures specified by the U.S. Army Corps of Engineers.~~
  - ~~c. The environmental site assessment shall delineate the site specific geographic extent of the CRPA.~~
  - ~~d. The environmental site assessment shall be drawn at the same scale as the plan of development, and shall be certified as complete and accurate by professionals practicing in their field of competence.~~
- ~~(3) Landscaping element. A landscaping element shall be included in conjunction with site plan approval. No clearing or grading of any lot or parcel shall be permitted without approved plans.~~

~~Plans depicting landscaping elements shall be prepared or certified by design professionals practicing within their areas of competence.~~

- ~~a. Contents of the landscaping element.
 
  - ~~1. The landscaping element shall be drawn to scale and generally show the location and description of existing and proposed plant material. Where there are groups of trees, stands may be outlined instead. Trees to be removed within the limits of clearing and grading shall be clearly delineated.~~
  - ~~2. Any required buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this chapter, shall be shown.~~
  - ~~3. Within the buffer area, vegetation to be removed for sight lines, vistas, access paths, and best management practices, as provided for in this chapter, shall be shown. Vegetation required by this chapter to replace any existing vegetation within the buffer area shall also be shown.~~
  - ~~4. Vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this chapter shall be shown.~~
  - ~~5. The landscaping element shall depict grade changes or other work adjacent to trees which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.~~
  - ~~6. The landscaping element shall include specifications for the protection of existing trees during clearing, grading, and all phases of construction.~~~~
- ~~b. Plant specifications.
 
  - ~~1. All plant materials necessary to supplement the buffer area shall be installed according to standard planting practices and procedures.~~
  - ~~2. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of~~~~

~~the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.~~

- ~~3. Where areas to be preserved within the CRPAs and mitigation areas, as designated on an approved site plan or individual site location plan for a parcel, are encroached, replacement of existing trees over six (6) inches DBH will be achieved at a ratio of three (3) planted trees to one removed. Replacement trees shall be a minimum three and one-half (3.5) inches DBH at the time of planting.~~

~~e. Maintenance.~~

- ~~1. The property owner shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this chapter.~~
- ~~2. In buffer and/or mitigation areas, required by a site plan or individual site location plan, plant material shall be tended and maintained healthy growing condition and free from refuse and debris. Diseased plant materials shall be replaced during the next planting season, as required by the provisions of this chapter.~~

~~(4) Stormwater management plan. A stormwater management plan shall be submitted as part of the plan of development process required by this chapter and in conjunction with plan approval. The contents of the plan shall be in accordance with the requirements of chapter 21.5 of this Code.~~

~~(5) CRPA individual site location plan. A CRPA individual site location plan shall be required for all land disturbing activities located in the CRPA. This plan shall be submitted in conjunction with an application for a single-family residential building permit, grading permit or plan submitted in compliance with chapter 11 of this Code. This requirement shall not apply to those lots associated with an approved site plan or subdivision plan that meets the requirements of this chapter. The CRPA individual site location plan shall clearly delineate the CRPA and any proposed mitigation measures. The administrative authority shall review the CRPA individual site location plan and determine whether the encroachment is warranted. The administrative authority may approve, modify or deny the plan.~~

~~(6) Final plans of development. Final plans of development for all lands within CBPAs shall include the following additional information:~~

- ~~a. The site-specific delineation of the critical resource protection area boundary;~~
- ~~b. The site-specific delineation of required buffer areas of the CRPA;~~
- ~~c. All wetlands permits required by law;~~
- ~~d. A BMP maintenance agreement in accordance with chapter 21.5 of this Code.~~
- ~~e. The following statements shall be included when applicable:~~

- ~~1. Under Stafford County Code, section 28-62, Chesapeake Bay Preservation Area Overlay District Ordinance, the lots shown hereon are subject to having sewage disposal systems pumped out every five (5) years. The primary and the one hundred (100) percent reserve sewage disposal sites cannot be altered by construction or excavation.~~
- ~~2. The one hundred foot wide vegetated CRPA buffer shall remain undisturbed in accordance with Stafford County Code, section 28-62. Only water dependent facilities or redevelopment are permissible in CRPA and the one hundred foot wide buffer area.~~

~~(7) Installation and security requirements.~~

- ~~a. Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.~~
- ~~b. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the administrative authority security in a form and amount which is in accordance with the Stafford County Security Policy.~~

~~(i) Water quality impact assessment.~~

- ~~(1) Purpose and intent. The purpose of the water quality impact assessment is to: (i) identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands within CBPAs; (ii) provide for administrative relief from the terms of this chapter when warranted and in accordance with the requirements contained herein; and (iii) specify mitigation which will address water quality protection.~~
- ~~(2) When required. A water quality impact assessment is required for:~~
  - ~~a. Any proposed land disturbance, development, or redevelopment within a CRPA, including any buffer area encroachment;~~
  - ~~b. Any land disturbance, development, or redevelopment in an LRMA as deemed necessary by the administrative authority due to the unique characteristics of the site or intensity of the proposed development. The administrative authority when requested by the applicant proposing to construct a single family residence in the CRPA shall perform a water quality impact assessment.~~
  - ~~c. The water quality impact assessment shall not be required prior to submission of a site plan or application for a single family residence building permit.~~
  - ~~d. There shall be two (2) levels of water quality impact assessments: A minor assessment and a major assessment.~~
- ~~(3) Minor water quality impact assessment. A minor water quality impact assessment pertains only to land disturbance, development, or redevelopment~~

~~within CRPAs which causes no more than five thousand (5,000) square feet of land disturbance and requires any encroachment into the landward fifty (50) feet of the one hundred foot buffer area. A minor assessment must demonstrate through acceptable calculations that the remaining buffer and necessary best management practices will result in removal of no less than seventy five (75) percent of sediments and forty (40) percent of nutrients from post-development stormwater runoff. A minor assessment shall include a site drawing to scale which shows the following:~~

- ~~a. Location of the components of the CRPA, including the one hundred foot buffer area;~~
- ~~b. Location and nature of the proposed encroachment into the buffer area, including: Type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites.~~
- ~~c. Type and location of proposed best management practices to mitigate the proposed encroachment.~~
- ~~d. Location of existing vegetation onsite, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification.~~
- ~~e. A revegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion, and runoff control.~~

~~(4) Major water quality impact assessment. A major water quality impact assessment shall be required for any land disturbance, development, or redevelopment which exceeds five thousand (5,000) square feet of land disturbance within CRPAs and requires any encroachment into the landward fifty (50) feet of the one hundred foot buffer area, or disturbs any portion of the seaward fifty (50) feet of the one hundred foot buffer area or any other components of an CRPA, or is located in an LRMA and is deemed necessary by the administrative authority. The information required in this section shall be considered a minimum, unless the administrative authority determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.~~

~~A water quality impact assessment shall not be required for commercial or industrial uses that disturb less than twenty thousand (20,000) square feet of land or individual single family lots, located within the LRMA and outside the CRPA. The following elements shall be included in the preparation and submission of a major water quality assessment:~~

- ~~a. All of the information required in a minor water quality impact statement, as specified in section 28-62(i)(3);~~
- ~~b. A hydrogeological element which shall:
 
  - ~~1. Describe the existing topography, soils, hydrology and geology of the site and adjacent lands.~~~~

- ~~2. Describe the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands.~~
- ~~3. Indicate the following:~~
  - ~~(a) Disturbance or destruction of wetlands in CRPAs and justification for such action;~~
  - ~~(b) Disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;~~
  - ~~(c) Disruptions to existing hydrology including wetland and stream circulation patterns;~~
  - ~~(d) Description of proposed fill material;~~
  - ~~(e) Location of dredge material and location of dumping area for such material;~~
  - ~~(f) Estimation of pre and post development pollutant loads in runoff;~~
  - ~~(g) Estimation of pre and post development pollutant loads in runoff;~~
  - ~~(h) Estimation of percent increase in impervious surface on site and types of surfacing materials used;~~
  - ~~(i) Percent of site to be cleared for project;~~
  - ~~(j) Anticipated duration and phasing schedule of construction project;~~
  - ~~(k) Listing of all requisite permits from all applicable agencies necessary to develop project.~~
  - ~~(l) Descriptions of the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures may include, but are not limited to:~~
    - ~~i. Proposed erosion and sediment control concepts. Concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection;~~
    - ~~ii. Proposed stormwater management system; and~~
    - ~~iii. Minimizing excavation and fill.~~
- ~~e. A landscape element for areas within CBPAs that:~~
  - ~~1. Identifies the general location of all significant plant material on site. Where there are groups of trees, stands may be outlined.~~
  - ~~2. Describes the impacts the development or use will have on the existing vegetation. Information should include:~~
    - ~~(a) General limits of clearing, based on all anticipated improvements, including buildings, drives, and utilities;~~
    - ~~(b) Clear delineation of all trees which will be removed;~~
    - ~~(c) General description of plant material to be disturbed or removed.~~

3. ~~Describes the potential measures for mitigation. Possible mitigation measures which may include, but are not limited to:
 
  - (a) ~~Replanting schedule for vegetation removed for construction, including a list of possible planting materials to be used;~~
  - (b) ~~Demonstration that the design of the plan will preserve to the greatest extent possible any significant vegetation on the site;~~
  - (c) ~~Demonstration that indigenous plants are to be used to the greatest extent possible.~~~~
- d. ~~A wastewater element, where applicable, that:
 
  1. ~~Includes calculations and locations of anticipated drainfield or wastewater irrigation areas;~~
  2. ~~Provides justification for sewer line locations in CBPAs, where applicable, and describes construction techniques and standards;~~
  3. ~~Discusses any proposed on-site collection and treatment systems, their treatment levels, and impacts on receiving watercourses;~~
  4. ~~Describes the potential impacts of the proposed wastewater systems, including the proposed mitigative measures for these impacts.~~~~
- e. ~~Identification of the existing characteristics and conditions of sensitive lands included as components of CRPAs, as defined in this chapter.~~
- f. ~~A general identification of the natural processes and ecological relationships inherent in the site, and an assessment of the impact of the proposed use and development of land on these processes and relationships.~~

~~(5) Submission and review requirements.~~

- a. ~~Five (5) copies of all site drawings and other applicable information as required by subsections (c) and (d) above shall be submitted to the administrative authority for review.~~
- b. ~~All information required in this section shall be certified as complete and accurate by a professional practicing in his field of competence.~~
- c. ~~A major or minor water quality impact assessment shall be prepared and submitted to and reviewed by the administrative authority in conjunction with plan submission.~~
- d. ~~As part of any major water quality impact assessment submittal, the administrative authority may require review by the Chesapeake Bay Local Assistance Department (CBLAD). Upon receipt of a major water quality impact assessment, the administrative authority will determine if such review is warranted and may request CBLAD to review the assessment and respond with written comments. Comments by CBLAD will be incorporated into the final review by the administrative authority, provided that such comments are provided by CBLAD within ninety (90) days of the request.~~

~~(6) Evaluation procedure.~~

- a. ~~Upon the completed review of a minor water quality impact assessment, the administrative authority will determine if any proposed modification or reduction to the buffer area is consistent with the provisions of this chapter and make a finding based upon the following criteria:~~
  1. ~~The justification for the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;~~
  2. ~~Minimization of impervious surface;~~
  3. ~~The extent to which proposed best management practices achieve the requisite reductions in pollutant loadings;~~
  4. ~~The extent which the development proposal meets the purpose and intent of this chapter;~~
  5. ~~The cumulative impacts (degradation) on water quality of the proposed development, when considered in relation to other existing and proposed development in the vicinity.~~
- b. ~~Upon the completed review of a major water quality impact assessment, the administrative authority will determine if the proposed development is consistent with the purpose and intent of this chapter and make a finding based upon the following criteria:~~
  1. ~~Within any CRPA, the proposed development is water dependent;~~
  2. ~~The disturbance of any wetlands in CRPAs will be minimized;~~
  3. ~~The development will not result in significant disruption of the hydrology of the site;~~
  4. ~~The development will not result in significant degradation to aquatic vegetation or life;~~
  5. ~~The development will not result in unnecessary destruction of plant materials on site;~~
  6. ~~Proposed erosion and sediment control concepts are adequate to achieve the reductions in erosion and prevent off site sedimentation;~~
  7. ~~Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve water quality control in accordance with chapter 21.5 of this Code;~~
  8. ~~Proposed revegetation of disturbed areas will provide adequate erosion and sediment control benefits;~~
  9. ~~The design and location of any proposed drainfield will be in accordance with the requirements of this chapter;~~
  10. ~~The development, as proposed, is consistent with the purpose and intent of this chapter;~~
  11. ~~The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.~~

- ~~c. The administrative authority shall require additional information where it is determined potential impacts have not been adequately addressed and may require additional mitigation measures based on the criteria listed above in subsections b.(1) and b.(2).~~
- ~~d. The administrative authority shall find the proposal to be inconsistent with the purpose and intent of this chapter when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the administrative authority based on the criteria listed above in subsections a. and b.~~

~~(j) *Nonconforming uses and noncomplying structures.*~~

- ~~(1) The administrator may permit the continued use, but not necessarily the expansion, of any structure in existence on May 21, 1991, the date of local program adoption. The administrator may waive or modify the criteria of this part through an administrative review process for structures on legal nonconforming lots or parcels provided that:~~

- ~~(a) There will be no net increase in nonpoint source pollution load; and~~
- ~~(b) Any development or land disturbance exceeding an area of two thousand five hundred (2,500) square feet complies with all erosion and sediment control requirements.~~
- ~~(c) An application for a nonconforming use and/or waiver shall be made to and upon forms furnished by the administrator and shall include for the purpose of proper enforcement of this section, the following information:
 
  - ~~(1) Name and address of applicant and property owner;~~
  - ~~(2) Legal description of property and type of proposed use and development;~~
  - ~~(3) A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the CRPA;~~
  - ~~(4) Location and description of any existing private water supply or sewage system.~~~~
- ~~(d) A nonconforming use and development waiver shall become null and void twelve (12) months from the date issued if no substantial work has commenced.~~
- ~~(e) An application for the expansion of a legal principal nonconforming structure may be approved by the administrator through an administrative review process provided the following findings are made:
 
  - ~~(1) The request for the waiver is the minimum necessary to afford relief;~~
  - ~~(2) Granting the waiver will not confer upon the applicant any specific privileges that are denied by this article to other property owners in similar situation;~~
  - ~~(3) The waiver is in harmony with the purpose and intent of this article and does not result in water quality degradation;~~~~

- ~~(4) The waiver is not based on conditions or circumstances that are self-created or self-imposed;~~
  - ~~(5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;~~
  - ~~(6) Other findings as appropriate and required by the county are met; and~~
  - ~~(7) In no case shall this provision apply to accessory structures.~~
- ~~(2) This chapter shall not be construed to prevent the reconstruction of preexisting structures within CBPA areas occurring as a result of casualty loss unless otherwise restricted by other ordinances.~~

~~(k) Exemptions:~~

- ~~(1) Construction, installation, operation, and maintenance of electric, natural gas, fiber optic, telephone transmission lines, railroads and public roads and their appurtenant structures in accordance with (a) regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia), and the Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia), (b) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (c) local water quality protection criteria at least as stringent as the above state requirements will be deemed to constitute compliance with this chapter. The exemption of public roads is further conditioned by the following:
 
  - ~~(a) Optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize:
 
    - ~~(1) Encroachment into the critical resource protection area; and~~
    - ~~(2) Adverse effects on water quality.~~~~
  - ~~(b) All public roads shall be exempt from the requirements of this chapter as long as it is determined that there is no other reasonable alternative to locating the road in or through the CRPA and they meet the criteria listed above.~~~~
- ~~(2) Exemptions for local utilities and other service lines. Construction, installation, and maintenance of water, sewer, and local natural gas lines, underground telecommunications lines, and cable television lines owned or permitted by a local government or regional service authority shall be exempt from these overlay district requirements provided that:
 
  - ~~a. To the degree possible, the location of such utilities and facilities shall be outside CRPAs;~~
  - ~~b. No more land shall be disturbed than is necessary to provide for the proposed utility or facility installation;~~
  - ~~c. All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and~~~~

- d. ~~Any land disturbance exceeding an area of two thousand five hundred (2,500) square feet complies with all county erosion and sediment control requirements.~~
- (3) ~~*Exemptions for silviculture activities.* Silviculture activities are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Virginia Forestry Best Management Practices for Water Quality". The department of forestry will oversee and document installation of best management practices and will monitor in stream impacts of forestry operations in Chesapeake Bay preservation areas.~~
- (4) ~~*Exemptions in critical resource protection areas.* The following land disturbances in CRPAs shall be exempted from these overlay district requirements;~~
- a. ~~Water wells;~~
- b. ~~Passive recreation facilities such as boardwalks, trails, and pathways; and~~
- e. ~~Historic preservation and archaeological activities, provided that it is demonstrated that:~~
1. ~~Any required permits, except those to which this exemption specifically applies, have been issued;~~
  2. ~~The applicant submits sufficient and reasonable evidence to the administrative authority showing that the intended use will not deteriorate water quality;~~
  3. ~~The intended use does not conflict with nearby planned or approved uses; and~~
  4. ~~Any land disturbance exceeding an area of two thousand five hundred (2,500) square feet shall comply with all county erosion and sediment control requirements.~~
- (5) ~~*Exemptions for usual and customary activities in CBPAs.* The following activities shall be exempted from these overlay district requirements:~~
- a. ~~Lawn maintenance, including grass cutting;~~
- b. ~~Home gardening;~~
- c. ~~General woodlot management;~~
- d. ~~Maintenance of lawfully permitted bulkheads, piers, riprap, and other shoreline stabilization structures;~~
- e. ~~Maintenance of drives, walks, and other access ways; and~~
- f. ~~Other similar activities.~~
- (1) ~~*Variances.*~~
- (1) ~~A request for a variance to the requirements of subsections 28-62(f) and (g)(2) shall be made in writing to the board of zoning appeals. It shall identify the impacts of the proposed exception on water quality and on lands within the~~

~~critical resource protection area through the performance of a water quality impact assessment which complies with the provisions of subsection 28-62(i).~~

- ~~(2) The county shall notify the affected public of any such variance requests and shall consider these requests in a public hearing in accordance with Code of Virginia, § 15.2-2204, except that only one hearing shall be required.~~
- ~~(3) The board of zoning appeals shall review the request for a variance and the water quality impact assessment and may grant the variance with such conditions and safeguards as deemed necessary to further the purpose and intent of this article if the board of zoning appeals finds:~~
- ~~a. Granting the variance will not confer upon the application any special privileges denied by this article to other property owners in the overlay district;~~
  - ~~b. The variance request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;~~
  - ~~c. The variance request is the minimum necessary to afford relief;~~
  - ~~d. The variance request will be in harmony with the purpose and intent of the overlay district, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and~~
  - ~~e. Reasonable and appropriate conditions are imposed which will prevent the variance request from causing a degradation of water quality.~~
- ~~(4) If the board of zoning appeals cannot make the required findings or denies the variance, the board of zoning appeals shall return the request for a variance together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.~~
- ~~(5) A request for a variance to the requirements of provisions of this article other than subsections 28-62(f) and (g)(2) shall be made in writing to the administrator. The administrator may grant these variances provided that:~~
- ~~a. Variances of the requirements are the minimum necessary to afford relief; and~~
  - ~~b. Reasonable and appropriate conditions are placed upon any variance that is granted, as necessary, so that the purpose and intent of this article is preserved.~~
  - ~~c. Variances to the provisions of subsection 28-62(g)(1) may be granted provided that the findings noted under subsections 28-62(1)(3)a-e. are made.~~

~~(m) *Penalties.* In addition to the penalties identified in article XVII of this chapter, for any land disturbing activity in a CRPA that occurs without an approved county plan or in violation of an approved county plan, the violator shall be subject to mitigation. Such mitigation shall be by replacement of all vegetation removed at a rate of two (2)~~

~~plantings for every plant removed, unless the administrative authority determines that fewer plantings are required to meet the same pollutant removal levels that existed prior to the violation. All vegetation to be used for mitigation shall be approved by the administrative authority.~~

**Sec. 28-314. Civil penalties.**

~~(e) *Civil violations of Chesapeake Bay Preservation Area Overlay District.*~~

- ~~(1) Any person who violates the provisions of section 28-62 of this chapter, violates or fails, neglects or refuses to obey any final notice, order, rule, regulation, or variance or permit condition shall upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00) for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid to the county into a fund dedicated to the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas, in such a manner as the court may direct by order, except that where the violator is the county itself, or its agent, the court shall direct the penalty be paid into the state treasury.~~
- ~~(2) With the consent of any person who violates any provision of section 28-62 of this chapter related to protection of water quality in a designated Chesapeake Bay Preservation Area, or violates or fails, neglects, or refuses to obey any local governmental body's or official's notice, order, rule, regulation, or variance or permit condition authorized under such ordinance, the local government may provide for an issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed ten thousand dollars (\$10,000.00) for each violation. Such civil charge shall be paid into the treasury of the county for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas except where the violator is the county, or its agent, the civil charges shall be paid to the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subsection (1) as specified above. Civil charges may be in addition to any cost of restoration required or ordered by county.~~

; and

BE IT FURTHER ORDAINED that this ordinance shall become effective upon adoption.

Mr. Sterling motioned, seconded by Ms. Sellers, to adopt proposed Ordinance O14-11.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas  
Nay: (0)

Ordinance O14-11 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN THE STAFFORD COUNTY CODE TO CREATE CHAPTER 27B, “CHESAPEAKE BAY PRESERVATION AREA”

WHEREAS, the Chesapeake Bay Preservation Act, Virginia Code § 62.1-44.15:67 *et seq.*, requires the Board to designate Chesapeake Bay Preservation Areas; and

WHEREAS, effective August 1, 1991, the Board adopted Ordinance O90-91, establishing the Chesapeake Bay Preservation Area Overlay District; and

WHEREAS, on December 2, 2003, the Board adopted Ordinance O03-07, which amended Stafford County Code Chapter 28 and Chapter 22, to incorporate revised Chesapeake Bay Preservation Act requirements and regulations; and

WHEREAS, the Board desires to amend the County Code to create a new chapter, Chapter 27B, to more effectively implement the Virginia Chesapeake Bay Preservation Act and related regulations; and

WHEREAS, the Board finds that the requirements of the Virginia Chesapeake Bay Preservation Act can be more effectively enforced in a stand-alone chapter; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission, County staff, and the Virginia Department of Environmental Quality staff, and the testimony, if any, at the public hearing; and

WHEREAS, the Board finds that such an ordinance secures and promotes the health, safety, and general welfare of the County and its citizens;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the Stafford County Code be and it hereby is amended and reordained as follows, all other portions remaining unchanged:

### **Chapter 27B - CHESAPEAKE BAY PRESERVATION AREA**

#### **Sec. 27B-1. Purpose and intent.**

This section is enacted to implement the requirements of Virginia Code § 62.1-44.15:67 et seq., the Chesapeake Bay Preservation Act. The purpose and intent of this chapter is to:

- (a) Protect existing high-quality state waters;
- (b) Restore state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of aquatic life, including game fish, which might reasonably be expected to inhabit them;
- (c) Safeguard the clean waters of the Commonwealth from pollution;

- (d) Prevent increases in pollution;
- (e) Reduce existing pollution;
- (f) Protect and enhance the wise use of environmental resources through management of development;
- (g) Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of Stafford County;
- (h) Prevent a net increase in nonpoint source pollution from new development;
- (i) Achieve a 10% reduction in nonpoint source pollution from redevelopment; and
- (j) Achieve a reduction in nonpoint source pollution from agricultural uses.

**Sec. 27B-2. Definitions.**

The following words and terms used in this chapter have the following meanings, unless the context clearly indicates otherwise. Words and terms not defined in this chapter, but defined in the Zoning Ordinance or Subdivision Ordinance, shall be given the meanings set forth therein.

Act means the Chesapeake Bay Preservation Act, Article 2.5 Virginia Code § (62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Virginia Code

Administrator means the county administrator or his designee.

Agricultural lands means those lands used for the planting, growing, and harvesting of crops of any kind in the open; pastures; horticulture; dairying; floriculture; or raising of poultry and/or livestock. Buildings and structures are not included in this definition.

Applicant means any property owner submitting any application required or permitted pursuant to any provision of this chapter, and shall include his successors and assigns.

Best management practice(s) (BMP(s)) means a practice, or a combination of practices, that is determined by a state, local, or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Board means the Chesapeake Bay Board.

Buffer area means an area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

Chesapeake Bay Preservation Area (CBPA) means any land designated by Stafford County pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC25-830-70 et seq., and Virginia Code §§ 62.1-44.15:72 and 62.1-44.15:74. A Chesapeake Bay Preservation Area shall consist of a Critical Resource Protection Area and a Land Resource Management Area.

Critical resource protection area (CRPA) means a component of the CBPA comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts, which may result in significant degradation to the quality of state waters.

Construction footprint means the area of all impervious surface including, but not limited to, buildings, roads and drives, parking areas, and sidewalks and the area necessary for construction of such improvements.

Development means the construction, installation, or alteration of any improvement upon a parcel of land, any land disturbance, or any disturbance of vegetation.

Diameter at breast height (DBH) means the diameter of a tree measured outside the bark at a point 4.5-feet above ground.

Dripline means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

Floodplain means all lands that would be inundated by flood water as a result of a storm event of a 100-year return interval.

Highly erodible soils means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula  $RKLS/T$ , where R is the rainfall and runoff; K is the soil susceptibility to water erosion in the surface layer; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils means soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soils Survey Handbook", November, 1996, in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service.

Hydric soils means soils that are saturated, flooded, or ponded long enough during the growing season to support wetland vegetation.

Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, and compacted gravel surface.

Improvement means a valuable addition made to property (usually real estate) or amelioration in its condition, amounting to more than mere repairs or replacement of waste, costing labor or capital, and intended to enhance its value, beauty, or utility or to adapt it for new or further purposes.

Intensely developed areas (IDAs) means those areas designated by the County pursuant to 9VAC25-830-100.

Land disturbance means any activity upon land which causes, contributes to, or results in the removal or covering of the vegetation upon such land, including, but not limited to, clearing, dredging, filling, grading or excavating. The term shall not include minor activities such as home gardening, planting of trees and shrubs, and home maintenance.

Land/resource management area (LRMA) means a component of the CBPA outside the CRPA that includes land where specific environmental resources are located. This land, if improperly used or developed, has the potential for causing significant water quality degradation or for diminishing the functional value of the CRPA.

Nonpoint source pollution means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

Nontidal wetlands means those wetlands other than tidal wetlands that are "inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions," as defined by the U.S. Environmental Protection Agency, pursuant to Section 404 of the federal Clean Water Act, 33 C.F.R. 328.3b.

Noxious weeds means weeds that are difficult to control effectively, such as Johnson Grass, Kudzu, and multiflora rose. A complete list is contained in the Virginia Department of Conservation and Recreation, Division of Natural Heritage, publication entitled Invasive Plant Species of Virginia.

Plan of development means site plans, subdivision plans, or other plans submitted pursuant to section 27B-8 of this chapter to ensure compliance with this chapter and Virginia Code § 62.1-44.15:74.

Public road means a publicly-owned road designed and constructed in accordance with water quality protection criteria at least as stringent as the requirements applicable to the Virginia Department of Transportation (VDOT), including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (Virginia Code § 62.1-44.15:51 *et seq.*), and (ii) the Virginia Stormwater Management Act (Virginia Code § 62.1-44.15:24 *et seq.*). This definition includes those roads where VDOT exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by the County in accordance with the standards of the County. For purposes of this chapter, public roads do not include roads that are designed and/or constructed by a private developer using VDOT standards.

Redevelopment means the process of developing land that is or has been previously developed.

Shore see tidal shore.

Sightline means a line extending from a fixed point to a viewed object or area through an opening or passageway.

Sign, critical resource protection area (CRPA) means a sign identifying the landward limits of the CRPA.

*Silvicultural activities* means forest management activities, including, but not limited to, the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to Virginia Code § 10.1-1105 and are located on property defined as real estate devoted to forest use under Virginia Code § 58.1-3230.

*Substantial alteration* means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the LRMA only.

*Tidal shore* means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

*Tidal wetlands* means vegetated and non-vegetated wetlands as defined in Virginia Code § 28.2-1300.

*Use* means an activity on the land, other than development, including, but not limited to, agriculture, horticulture, and silviculture.

*Water body with perennial flow* means a body of water that flows in a natural or manmade channel year-round during a year of normal precipitation. This includes, but is not limited to: streams, estuaries, and tidal embayments, and may include drainage ditches or channels constructed in wetlands or from former natural drainage ways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. The methodology to determine perennial flow shall be in accordance with subsection 27B-3(a) of this chapter.

*Water-dependent facility* means development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to: (1) ports; (2) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (3) marinas and other boat-docking structures; (4) beaches and other public water-oriented recreation areas; and (5) fisheries or other marine resources facilities.

*Wetlands* means tidal and non-tidal wetlands, as defined in this section.

### **Sec. 27B-3. Areas of applicability (district boundaries).**

The CBPA shall apply to all appropriate land in Stafford County. The geographic information system (GIS) maps show the general location of CRPAs and shall be consulted by persons contemplating activities in the County prior to engaging in a regulated activity. The CRPA maps, as amended, together with all explanatory matter thereon, are adopted by reference and declared to be part of this chapter.

(a) CRPA.

(1) The CRPA shall include:

- a. Tidal wetlands;
  - b. Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
  - c. Tidal shores; and
  - d. A 100-foot vegetated buffer area located adjacent to and landward of the components listed in subsections (a) through (c) of this section, and along both sides of any water bodies with perennial flow.
- (2) Delineation by the applicant. The site-specific boundaries of the CRPA shall be delineated by the applicant through the performance of an environmental site assessment that satisfies the requirements of subsection 27B-9(b) of this chapter. The CRPA maps may be used as a guide to the general location of CRPAs; however, this does not relieve the applicant of the requirement that they perform site-specific delineation of the CRPA. In addition, the administrator shall require that an applicant provide a site-specific determination of whether water bodies with perennial flow are present onsite. This perennial flow determination report shall be completed by the applicant, unless the administrator waives this requirement, in writing, if he determines during the review process that the determination report is not necessary. The determination of perennial flow may be accomplished by the use of an approved scientifically valid method using field indicators of perennial flow. The applicant shall provide one paper copy and one digital copy of the report to the administrator for review.
- (3) Delineation by the administrator. The administrator may perform delineation when requested by an applicant wishing to construct a single-family residence. The administrator may use an approved site-specific method or the administrator may waive the requirement and complete the delineation based on all available county information. In addition, the administrator may waive the requirement for a site-specific delineation if no evidence of possible CRPA features are identified through the evaluation of all available county information. This information includes topographic maps, soil surveys, and any other applicable mapping.
- (4) Where conflict arises over delineation. Where the applicant provides a site-specific delineation of the CRPA, the administrator shall verify the accuracy of the boundary delineation. In determining the site-specific CRPA boundary, the administrator may render adjustments to the applicant's boundary delineation. If the applicant desires to contest the adjusted boundary delineation, the applicant may seek an exception, in accordance with the provisions of this chapter.

(b) LRMA. The LRMA shall include all areas of the county that are not designated as a CRPA.

**Sec. 27B-4. Use regulations.**

Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by county code chapter 28, unless specifically modified by the requirements set forth in this chapter.

**Sec. 27B-5. Lot size.**

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient buildable area outside of the CRPA to accommodate an intended development, when such development is not otherwise allowed in the CRPA.

**Sec. 27B-6. Conflict with other regulations.**

In any case where the requirements of this chapter conflict with any other provision(s) of the county code, whichever imposes the more stringent restrictions shall apply.

**Sec. 27B-7. Development conditions.**

Land development in the CRPAs may be allowed only when permitted by the administrator and if the following criteria are met:

- (a) A new or expanded water dependent facility may be allowed provided that:
  - (1) It does not conflict with the comprehensive plan;
  - (2) It complies with the performance criteria set forth in section 27B-8 of this chapter;
  - (3) Any non-water-dependent component is located outside of the CRPA; and
  - (4) Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
- (b) Redevelopment on isolated redevelopment sites shall be permitted only if there is no increase in the amount of impervious cover and no further encroachment within the CRPA and it shall conform to county code chapters 11 and 21.5
- (c) A new use subject to the provisions of sub-section 27B-8(b) of this chapter.
- (d) Roads and driveways that are not exempt under section 27B-11 of this chapter and which, therefore, must comply with the provisions of this chapter, may be constructed in or across CRPAs if each of the following conditions are met:
  - (1) The administrator makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the CRPA;
  - (2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the CRPA and minimize adverse effects on water quality;
  - (3) The design and construction of the road or driveway satisfy all applicable criteria of this chapter; and

- (4) The administrator reviews the plan for the road or driveway proposed in or across the CRPA in coordination with the plan of development requirements as required under section 27B-9 of this chapter or in accordance with the subdivision ordinance.
- (e) A flood control or stormwater management facility satisfying the conditions set forth in this section:
- (1) Flood control or stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of the watershed may be allowed in the CRPA provided that:
    - a. The County has conclusively established that the proposed location of the facility is the optimum location;
    - b. The size of the facility is the minimum necessary to provide all necessary flood control, stormwater treatment, or both;
    - c. The facility must be identified in U.S. Army Corps of Engineers Permit Number 97-1212-45 or be consistent with a stormwater management program that has been approved as a phase one modification;
    - d. All applicable permits for construction in state or federal waters must be obtained from the appropriate state and federal agency;
    - e. Approval must be received from the County prior to construction; and
    - f. Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.
  - (2) It is not the intent of this subsection to allow a BMP that collects and treats runoff from only an individual lot or some portion of the lot to be located in the CRPA.
  - (3) Stormwater management facilities that do not meet all of the above criteria shall not be allowed in the CRPA unless a special exception has been granted in accordance with the requirements of section 27B-14 of this chapter.
- (f) A water quality impact assessment as outlined in this chapter shall be required for any proposed land disturbance, development, or redevelopment within the CRPA.

**Sec. 27B-8. General performance criteria.**

- (a) General performance criteria for development in CBPAs.
- (1) Land disturbance shall be limited to the minimum area necessary to provide for the proposed use or development.
    - a. The limits of land disturbance, including limits of clearing or grading shall be strictly defined by the approved site plan, construction plan, or

- individual site location plan for a parcel. These limits shall be clearly shown on submitted plans and physically marked on the development site in accordance with subsection (2) (a) and (b) of this section. The construction footprint shall not exceed the limits for such as designated by the zoning district of the lot or parcel.
- b. Ingress and egress during construction shall be limited to the approved access point(s).
- (2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use or development.
- a. Existing trees over two inches DBH outside the limits of land disturbance shall be preserved in accordance with the approved site plan, construction plan or individual site location plan for a parcel. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed.
- b. Site clearing for construction activities shall be allowed as approved by the administrator through the plan of development review process under section 27B-9 of this chapter. Land disturbance shall not occur within ten feet of the drip line of any stand of trees to be preserved (refer to Design and Construction Standards for Landscaping Section 140(d), (e), and (f)). Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- (3) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development.
- (4) Notwithstanding any other provisions of this chapter or waivers or exemptions to it, any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks, and drain fields, shall comply with the requirements of county code chapter 11.
- (5) All development and redevelopment in a CBPA exceeding 2,500 square feet of land disturbance shall be subject to a plan of development process, including the approval of a site plan in accordance with this chapter, a subdivision plan in accordance with the subdivision ordinance, or an erosion and sedimentation (E&S) plan in accordance with county code chapter 11.
- (6) Any Chesapeake Bay land-disturbing activity as defined in Virginia Code § 62.1-44.15:24 shall comply with the requirements of the Virginia Stormwater Management Program (VSMP) Regulations found in 9VAC25-870-51 and 9VAC25-870-103 and chapter 21.5 of this code.
- (7) All on-site sewage disposal systems not requiring a Virginia Pollution

Discharge Elimination System (VPDES) permit shall be pumped out at least once every five years.

- (8) A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989. If a parcel was platted on or before August 1, 1991, the parcel shall be required to provide the reserve sewage disposal site to the greatest extent practical, as determined by the local health department. Building or construction of impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the appropriate state agency, until the structure is served by public sewer.
- (9) An approved plan of development and all federal and state wetlands permits are required prior to initiating clearing, grading, or other on-site activities on any portion of a lot or parcel. Evidence of all federal and state permits must be promptly provided to the administrator upon request.
- (10) Land upon which agricultural activities are being conducted shall undergo a soil and water quality conservation assessment. Such assessment shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and the management of pesticides, and where necessary, result in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this chapter.
- (11) For any use or development, stormwater runoff shall be controlled by the use of water quality BMPs consistent with the water quality criteria of county code chapter 21.5.

(b) CRPA buffer area requirements.

- (1) To minimize the adverse effects of human activities on the other components of CRPAs, state waters, and aquatic life, a minimum 100 foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist for development.
- (2) When replanting is required to establish a buffer, a combination of trees, groundcover, and shrubs with a demonstrated ability to improve water quality shall meet the intent of the buffer area. Replanting shall be consistent with the tables in Appendix A of the Riparian Buffers Modification and Mitigation Manual, dated September 2003.
- (3) The buffer area shall be located adjacent to and landward of other CRPA components and along both sides of any water body with perennial flow. The full buffer shall be designated as the landward component of the CRPA, in accordance with sections 27B-3 and 27B-9 of this chapter.

- (4) The 100 foot forested buffer area shall be deemed to achieve a 75% percent reduction of sediments and a 40% reduction of nutrients.
- (5) The CRPA buffer area shall be maintained pursuant to the following performance standards.
- a. Indigenous vegetation may be removed subject to approval by the administrator, only to provide for reasonable sight lines, access paths, general woodlot management, and BMPs, including those that prevent upland erosion and concentrated flows of stormwater, as follows.
1. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that, where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
  2. Any pathways shall be designed and constructed so as to effectively control erosion.
  3. Dead, diseased, or dying trees or shrubbery may be removed subject to approval by the administrator and pursuant to approved horticultural practices.
  4. For shoreline erosion control projects approved by the Wetlands Board under the requirements of county code chapter 27, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
- b. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the administrator may, through an administrative process, permit encroachments into the buffer area after consideration of sections 27B-9 and 27B-10 of this chapter, and in accordance with the following criteria:
1. Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and any necessary utilities;
  2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and

3. The encroachment shall not extend into the seaward 50 feet of the buffer area.
- c. When the application of the buffer area would result in the loss of buildable area on a lot or parcel recorded between October 1, 1989, and December 2, 2003, the administrator may, through an administrative process, permit encroachments into the buffer area in accordance with the following criteria:
    1. The lot or parcel was created as a result of a legal process conducted in conformity with the County's subdivision ordinance;
    2. Conditions or mitigation measures imposed through a previously accepted exception shall be met;
    3. If the use of a BMP was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be re-established or repaired and maintained as required; and
    4. The criteria in subsection (5)b. of this section are met.
  - d. On agricultural lands, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:
    1. Agricultural activities may encroach into the landward 50 feet of the 100-foot-wide buffer area when at least one agricultural BMP which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land—erosion control or nutrient management—is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the Virginia Nutrient Training and Certification Requirements administered by the Virginia Department of Conservation and Recreation (DCR).
    2. Agricultural activities may encroach within the landward 75 feet of the 100-foot-wide buffer when agricultural BMPs which address erosion control, nutrient management, and pest chemical control are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil

loss tolerance level, referred to as "T," as defined in the National Soil Survey Handbook of November, 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the Virginia Nutrient Management Training and Certification Requirements administered by DCR. In conjunction with the remaining buffer area, this collection of BMPs shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.

3. The buffer area is not required for agricultural drainage ditches if the adjacent agricultural land has in place BMPs in accordance with a conservation plan approved by the local soil and water conservation district.
- e. If specific problems are identified pertaining to agricultural activities that are causing pollution of the nearby water body with perennial flow or violate performance standards pertaining to the vegetated buffer area, the county, in cooperation with soil and water conservation district, shall recommend a compliance schedule to the landowner and shall require the problems to be corrected consistent with that schedule. This schedule shall expedite environmental protection while taking into account the seasons and other temporal considerations so that the probability for successfully implementing the corrective measures is greatest.
- f. Where the landowner or his agent or operator refuses assistance from the local soil and water conservation district in complying with or documenting compliance with the agricultural requirements of this chapter, the district shall report the noncompliance to the County. The County shall require the landowner to correct the problems within a specified period of time not to exceed 18 months from the date of initial County notification of the deficiencies to the landowner. A compliance schedule shall be recommended to the landowner. This schedule shall expedite environmental protection while taking into account the seasons and other temporal considerations so that the probability for successfully implementing the corrective measures is greatest.
- g. Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100-foot buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this chapter.
- h. Subsequent to the issuance of a building permit and prior to the issuance of an occupancy permit for the construction of a new

single-family dwelling, duplex, or townhouse on any residential lot or parcel, a sign shall be installed by the owner, builder, or developer identifying the landward limits of the CRPA. Such signs shall conform to the CRPA Signage Policy and shall be installed at the expense of the owner, builder, or developer in accordance with the Signage Policy.

- i. Setbacks from the CRPA shall be required for the building containing the principle use from the outermost point of the building to the nearest point of any RPA buffer line. Where the RPA buffer is located in the rear yard, the setback shall be 25 feet. Where the RPA buffer is located in the front or side yard, the setback shall be 12 feet. This provision shall only apply to single-family dwellings, townhouses, and duplexes. In addition, this provision shall only apply to new development projects submitted after June 3, 2008.

### **Sec 27B-9. Plan of development process.**

(a) Required information. In addition to the requirements specified in county code chapters 11, 22, and 28, the plan of development process for CBPAs shall consist of the plans and studies identified below. These required plans and studies may be coordinated or combined, as deemed appropriate by the administrator. The administrator may determine that some of the following information is unnecessary due to the location, scope, or nature of the proposed development. The following plans or studies shall be submitted, unless otherwise provided for:

- (1) A plan of development in accordance with this chapter or county code chapters 22 and 28;
- (2) An environmental site assessment;
- (3) A landscaping element;
- (4) A stormwater management plan in accordance with county code, chapter 21.5;
- (5) An erosion and sediment control plan in accordance with county codeChapter 11; and
- (6) Individual CRPA site location plan.

(b) Environmental site assessment. An environmental site assessment shall be submitted in conjunction with any plan of development. The administrator may waive the requirement for an environmental site assessment, in accordance with sub-section 27B-3(a)(3) of this chapter.

- (1) The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
  - a. Tidal wetlands;

- b. Tidal shores;
  - c. Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
  - d. Water bodies with perennial flow; and
  - e. A 100-foot buffer area located adjacent to and landward of the components listed in a. through d. of this subsection.
- (2) Wetlands delineations shall be performed consistent with the procedures specified by the U.S. Army Corps of Engineers.
  - (3) The environmental site assessment shall delineate the site-specific geographic extent of the CRPA.
  - (4) The environmental site assessment shall be drawn at the same scale as the plan of development, and shall be certified as complete and accurate by professionals practicing in their field of competence.
- (c) Landscaping element. A landscaping element shall be included in conjunction with site plan approval. No clearing or grading of any lot or parcel shall be permitted without approved plans. Plans depicting landscaping elements shall be prepared or certified by design professionals practicing within their areas of competence.
- (1) Contents of the landscaping element.
    - a. The landscaping element shall be drawn to scale and generally show the location and description of existing and proposed plant material. Where there are groups of trees, stands may be outlined instead. Trees to be removed within the limits of clearing and grading shall be clearly delineated.
    - b. Any required buffer area shall be clearly delineated. Any plant material to be added to establish or supplement the buffer area, as required by this chapter, shall be shown.
    - c. Within the buffer area, vegetation that will be removed for sight lines, vistas, access paths, and BMPs, as provided for in this chapter, shall be shown. Vegetation required by this chapter to replace any existing vegetation within the buffer area shall also be shown.
    - d. Vegetation that will be removed for shoreline stabilization projects and any replacement vegetation required by this chapter shall be shown.
    - e. The landscaping element shall depict grade changes or other work adjacent to trees which would adversely affect them. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.

f. The landscaping element shall include specifications for the protection of existing trees during clearing, grading, and all phases of construction.

(2) Plant specifications.

a. All plant materials necessary to supplement the buffer area shall be installed according to standard planting practices and procedures.

b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.

c. Where areas to be preserved within the CRPAs and mitigation areas, as designated on an approved site plan or individual site location plan for a parcel, are encroached, replacement of existing trees over six inches DBH will be achieved at a ratio of three planted trees to one removed. Replacement trees shall be a minimum three and one-half inches DBH at the time of planting, or a restoration plan consistent with the tables in Appendix D of the Riparian Buffers Modification and Mitigation Manual, dated September 2003, may be submitted to the Administrator for review and approval.

(3) Maintenance.

a. The property owner shall be responsible for the maintenance and replacement of all vegetation required by this chapter.

b. In buffer and/or mitigation areas required by a site plan or individual site location plan, plant material shall be tended and maintained in healthy growing condition and free from refuse and debris. Diseased plant materials shall be replaced during the next planting season, required by this chapter.

(d) Stormwater management plan. A stormwater management plan shall be submitted as part of the plan of development process required by this chapter and in conjunction with plan approval. The contents of the plan shall be in accordance with county code chapter 21.5.

(e) CRPA individual site location plan. A CRPA individual site location plan shall be required for all land disturbing activities located in the CRPA. This plan shall be submitted in conjunction with an application for a single-family residential building permit, grading permit, or plan submitted in compliance with county code chapter 11. This requirement shall not apply to those lots associated with an approved site plan or subdivision plan that meets the requirements of this chapter. The CRPA individual site location plan shall clearly delineate the CRPA and any proposed mitigation measures. The administrator shall review the CRPA individual site location plan and determine whether the encroachment is warranted. The administrator may approve, modify, or deny the plan.

(f) Final plans of development. Final plans of development for all lands within CBPAs shall include the following additional information:

- (1) The site-specific delineation of hydrologic features, including wetlands and streams as approved by the U. S. Army Corps of Engineers;
- (2) The site-specific delineation of the CRPA boundary;
- (3) The site-specific delineation of required buffer areas of the CRPA;
- (4) All wetlands permits required by law; and
- (5) A BMP maintenance agreement in accordance with county code chapter 21.5.
- (6) The following statements shall be included when applicable:
  - a. Under this chapter, the lots shown hereon are subject to having sewage disposal systems pumped out every five years. The primary and the 100 percent reserve sewage disposal sites cannot be altered by construction or excavation.
  - b. The 100-foot-wide vegetated CRPA buffer shall remain undisturbed in accordance with this chapter. Only water dependent facilities or redevelopment are permissible in CRPA and the 100-foot-wide buffer area.

(g) Installation and security requirements.

- (1) Where buffer areas, landscaping, stormwater management facilities, or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.
- (2) When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides the administrator with a security in a form and amount which is in accordance with the County Security Policy.

**Sec. 27B-10. Water quality impact assessment.**

(a) Purpose and intent. The purpose of the water quality impact assessment is to:

- (1) Identify the impacts of proposed land disturbance, development, or redevelopment on water quality and lands within the County;
- (2) Provide for administrative relief from the terms of this chapter when warranted and in accordance with the requirements contained herein; and
- (3) Specify mitigation which will address water quality protection.

(b) When required. A water quality impact assessment is required for:

- (1) Any proposed land disturbance, development, or redevelopment within a CRPA, including any buffer area encroachment;
  - (2) Any land disturbance, development, or redevelopment in a LRMA as deemed necessary by the administrator due to the unique characteristics of the site or intensity of the proposed development. When requested by the applicant proposing to construct a single-family residence in the CRPA, the administrator shall perform a water quality impact assessment;
  - (3) The water quality impact assessment shall not be required prior to submission of a site plan or application for a single-family residence building permit; and
  - (4) There shall be two levels of water quality impact assessments: a minor assessment and a major assessment.
- (c) Minor water quality impact assessment. A minor water quality impact assessment pertains only to land disturbance, development, or redevelopment within CRPAs which causes no more than 5,000 square feet of land disturbance and requires any encroachment into the landward 50 feet of the 100-foot buffer area. A minor assessment must demonstrate through acceptable calculations that the remaining buffer and necessary BMPs will result in removal of no less than 75% of sediments and 40% of nutrients from post development stormwater runoff. A minor assessment shall include a site drawing to scale which shows the following:
- (1) Location of the components of the CRPA, including the 100-foot buffer area;
  - (2) Location and nature of the proposed encroachment into the buffer area, including: type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drain field sites;
  - (3) Type and location of proposed BMPs to mitigate the proposed encroachment;
  - (4) Location of existing onsite vegetation, including the number and type of trees and other vegetation to be removed in the buffer area to accommodate the encroachment or modification; and
  - (5) A re-vegetation plan that supplements the existing buffer area vegetation in a manner that provides for pollutant removal, erosion, and runoff control.
- (d) Major water quality impact assessment. A major water quality impact assessment shall be required for any land disturbance, development, or redevelopment which exceeds 5,000 square feet of land disturbance within CRPAs and requires any encroachment into the landward 50 feet of the 100-foot buffer area, or disturbs any portion of the seaward 50 feet of the 100-foot buffer area or any other components of an CRPA, or is located in an LRMA and is deemed necessary by the administrator. The information required in this section shall be considered a minimum, unless the administrator determines that some of the

elements are unnecessary due to the scope and nature of the proposed use and development of land.

A water quality impact assessment shall not be required for commercial or industrial uses that disturb less than 20,000 square feet of land or individual single-family lots, located within the LRMA and outside the CRPA. The following elements shall be included in the preparation and submission of a major water quality assessment:

- (1) All of the information required in a minor water quality impact statement, as specified in section 27B-10(c) of this chapter;
- (2) A hydrogeological element which shall:
  - a. Describe the existing topography, soils, hydrology, and geology of the site and adjacent lands;
  - b. Describe the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands; and
  - c. Indicate the following:
    1. Disturbance or destruction of wetlands in CRPAs and justification for such action;
    2. Disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers, or other water bodies;
    3. Disruptions to existing hydrology, including wetland and stream circulation patterns;
    4. Description of proposed fill material;
    5. Location of dredge material and location of dumping area for such material;
    6. Estimation of pre-development and post-development pollutant loads in runoff;
    7. Estimation of pre-development and post-development pollutant loads in runoff;
    8. Estimation of percent increase in impervious surface on site and types of surfacing materials used;
    9. Percent of the site to be cleared for the project;
    10. Anticipated duration and phasing schedule of construction project;
    11. List of all requisite permits from all applicable agencies necessary to develop project; and

12. Descriptions of the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures may include, but are not limited to:
- (i) Proposed erosion and sediment control concepts. Concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, and schedule and personnel for site inspection;
  - (ii) Proposed stormwater management system; and
  - (iii) Minimizing excavation and fill.
- (3) A landscape element for areas within CBPAs that:
- a. Identifies the general location of all significant onsite plant material. Where there are groups of trees, stands may be outlined;
  - b. Describes the impacts the development or use will have on the existing vegetation. Information shall include:
    - 1. General limits of any clearing, based on all anticipated improvements including buildings, drives, and utilities;
    - 2. Clear delineation of all trees which will be removed; and
    - 3. General description of any plant material to be disturbed or removed.
  - c. Describes the potential measures for mitigation. Possible mitigation measures may include, but are not limited to:
    - 1. Replanting schedule for vegetation removed for construction, including a list of possible planting materials to be used;
    - 2. Demonstration that the design of the plan will preserve any significant vegetation on the site to the greatest extent possible; and
    - 3. Demonstration that indigenous plants are to be used to the greatest extent possible.
- (4) A wastewater element, where applicable, that:
- a. Includes calculations and locations of anticipated drainfield or wastewater irrigation areas;
  - b. Provides justification for sewer line locations in CBPAs, where applicable, and describes construction techniques and standards;
  - c. Addresses any proposed on-site collection and treatment systems, their treatment levels, and impacts on receiving watercourses; and

d. Describes the potential impacts of the proposed wastewater systems, including the proposed mitigation measures for these impacts.

(5) Identification of the existing characteristics and conditions of sensitive lands included as components of CRPAs, as defined in this chapter.

(6) A general identification of the natural processes and ecological relationships inherent in the site, and an assessment of the impact of the proposed use and development of land on these processes and relationships.

(e) *Submission and review requirements.*

(1) One paper copy and one digital copy of all site drawings and other applicable information as required by subsections (c) and (d) of this section shall be submitted to the administrative authority for review.

(2) All information required in this section shall be certified as complete and accurate by a professional practicing in his field of competence.

(3) A major or minor water quality impact assessment shall be prepared and submitted to and reviewed by the administrative authority in conjunction with plan submission.

(4) As part of any major water quality impact assessment submittal, the administrator may require review by DEQ Water Division-Office of Local Government Programs staff. Upon receipt of a major water quality impact assessment, the administrator will determine if such review is warranted and may request DEQ staff to review the assessment and respond with written comments. Comments by DEQ staff will be incorporated into the final review by the administrator, provided that such comments are provided by DEQ staff within 90 days of the date of the administrator's request.

(f) *Evaluation procedure.*

(1) Upon the completed review of a minor water quality impact assessment, the administrator will determine if any proposed modification or reduction to the buffer area is consistent with the provisions of this chapter and make a finding based upon the following criteria:

a. The justification for the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;

b. Minimization of impervious surface;

c. The extent to which proposed BMPs achieve the requisite reductions in pollutant loadings;

d. The extent which the development proposal meets the purpose and intent of this chapter; and

e. The cumulative impacts (degradation) on water quality of the proposed

development, when considered in relation to other existing and proposed development in the vicinity.

- (2) Upon the completed review of a major water quality impact assessment, the administrator will determine if the proposed development is consistent with the purpose and intent of this chapter and make a finding based upon the following criteria:
- a. Within any CRPA, the proposed development is water-dependent;
  - b. The disturbance of any wetlands in CRPAs will be minimized;
  - c. The development will not result in significant disruption of the hydrology of the site;
  - d. The development will not result in significant degradation to aquatic vegetation or life;
  - e. The development will not result in unnecessary destruction of plant materials on site;
  - f. Proposed erosion and sediment control concepts are adequate to achieve the reductions in erosion and prevent off-site sedimentation;
  - g. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve water quality control in accordance with county code chapter 21.5;
  - h. Proposed revegetation of disturbed areas will provide adequate erosion and sediment control benefits;
  - i. The design and location of any proposed drainfield will be in accordance of this chapter;
  - j. The development, as proposed, is consistent with the purpose and intent of this chapter; and
  - k. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
- (3) The administrator shall require additional information where it is determined that potential impacts have not been adequately addressed. The administrator may require additional mitigation measures based on the criteria listed in subsections (f)(2)(a) and (f)(2)(b) of this section.
- (4) The administrator shall find the proposal to be inconsistent with the purpose and intent of this chapter when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the administrator based on the criteria listed in subsections (f)(1) and (f)(2) of this section.

**Sec. 27B-11. Nonconforming uses and noncomplying structures.**

- (a) The administrator may permit the continued use, but not the expansion, of any structure in existence on May 21, 1991. The administrator may waive or modify the criteria of this part through an administrative review process for structures on legal nonconforming lots or parcels provided that:
- (1) There will be no net increase in nonpoint source pollution load;
  - (2) Any development or land disturbance exceeding an area of 2,500 square feet complies with all county code erosion and sediment control requirements;
  - (3) An application for a nonconforming use and/or waiver shall be made to and upon forms furnished by the administrator. The application shall include the following information:
    - a. Name and address of applicant(s) and property owner(s);
    - b. Legal description of property, and type of proposed use and development;
    - c. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the CRPA; and
    - d. Location and description of any existing private water supply or sewage system.
  - (4) A nonconforming use and development waiver shall become null and void 12 months from the date issued if no substantial work has commenced; and
  - (5) An application for the expansion of a legal principal nonconforming structure may be approved by the administrator through an administrative review process provided the following findings are made:
    - a. The request for the waiver is the minimum necessary to afford relief;
    - b. Granting the waiver will not confer upon the applicant any specific privileges that are denied by this chapter to other property owners in similar situation;
    - c. The waiver is in harmony with the purpose and intent of this chapter and does not result in water-quality degradation;
    - d. The waiver is not based on conditions or circumstances that are self-created or self-imposed;
    - e. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;
    - f. Other findings as appropriate and required by the county code are met; and
    - g. In no case shall this provision apply to accessory structures.

- (b) This chapter shall not be construed to prevent the reconstruction of preexisting structures within the CBPA areas occurring as a result of casualty loss unless otherwise restricted by the Virginia Code, State regulation, or other provision(s) of the county code or county ordinance(s).

**Sec. 27B-12. Exemptions.**

- (a) Exemptions for private utilities, railroads and public roads. The construction, installation, operation, and maintenance of electric, natural gas, fiber optic, telephone transmission lines, railroads and public roads and their appurtenant structures shall be exempt from the requirements of this chapter provided that the activity:
- (1) Is in compliance with regulations promulgated pursuant to (i) Erosion and Sediment Control Law (Virginia Code § 62.1-44.15:51 *et seq.*), and (ii) the Virginia Stormwater Management Act (Virginia Code § 62.1-44.15:24 *et seq.*); and
  - (2) Has an erosion and sediment control plan and a stormwater management plan approved by DEQ; or
  - (3) Meets local water quality protection criteria at least as stringent as the state requirements in subsection (a) of this section which will be deemed to constitute compliance with this chapter. The exemption of public roads is further conditioned by the following:
    - a. Optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize:
      1. Encroachment into the CRPA; and
      2. Adverse effects on water quality; and
    - b. It is determined by the administrator that there is no other reasonable alternative to locating the road in or through the CRPA.
- (b) Exemptions for local utilities and other service lines. Construction, installation, and maintenance of water, sewer, and local natural gas lines, underground telecommunications lines, and cable television lines owned or permitted by the County or a regional service authority shall be exempt from the requirements of this chapter provided that:
- (1) To the extent feasible, the location of such utilities and facilities shall be outside CRPAs;
  - (2) No more land shall be disturbed than is necessary to provide for the proposed utility or facility installation;
  - (3) All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits, and designed and conducted in a manner that protects water quality; and

- (4) Any land disturbance exceeding an area of 2,500 square feet complies with all County erosion and sediment control requirements.
- (c) Exemptions for silviculture activities. Silviculture activities are exempt from the requirements of this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the most recent edition of "Virginia Forestry Best Management Practices for Water Quality." The Department of Forestry will oversee and document installation of BMPS and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas.
- (d) Exemptions in CRPAs. The following land disturbances in CRPAs shall be exempted from the regulations of this chapter:
- (1) Water wells;
  - (2) Passive recreation facilities such as boardwalks, trails, and pathways; and
  - (3) Historic preservation and archaeological activities provided that it is demonstrated that:
    - a. Any required permits, except those to which this exemption specifically applies, have been issued;
    - b. The applicant submits sufficient and reasonable evidence to the administrator showing that the intended use will not cause the deterioration of water quality;
    - c. The intended use does not conflict with nearby planned or approved uses; and
    - d. Any land disturbance exceeding an area of 2,500 square feet shall comply with all County erosion and sediment control requirements.
- (e) Exemptions for usual and customary activities in CBPAs. The following activities shall be exempt from the requirements of this chapter:
- (1) Lawn maintenance, including grass cutting;
  - (2) Home gardening;
  - (3) General woodlot management;
  - (4) Maintenance of lawfully-permitted bulkheads, piers, riprap, and other shoreline stabilization structures;
  - (5) Maintenance of drives, walks, and other access ways; and
  - (6) Other similar activities.

**Sec. 27B-13. Application for special exceptions or administrative exceptions.**

Applications for administrative exceptions shall be made in writing to the administrator and applications for special exceptions shall be made in writing to the Board as defined in section 27B-1 and 27B-4 of this chapter, and each shall include the following:

- (a) Name and address of applicant(s) and property owner(s);
- (b) Legal description of the property, and type of proposed use and development;
- (c) A plan showing the dimensions of the lot or parcel, location of all buildings and proposed additions relative to the lot lines, the CRPA, and all wetlands;
- (d) Location and description of any existing private water supply or sewage system; and
- (e) A water quality impact assessment as required by section 27B-10 of this chapter.

**Sec. 27B-14. Special Exceptions.**

- (a) The Board shall be comprised of all of the members of the County’s Wetlands Board.
- b) A request for a special exception to the requirements of sections 27B-7 and 27B-8(b) of this chapter shall be made in writing to the Board. The request shall identify the impacts of the proposed exception on water quality and on lands within the CRPA through the performance of a water quality impact assessment which complies with the provisions of section 27B-10 of this chapter.
- (c) No later than 60 days after receipt of a complete special exception request, the Board shall hold a public hearing on the request. The Board shall hold a public hearing in accordance with Virginia Code § 15.2-2204, except that only one hearing shall be required. The Board shall cause notice of the hearing to be published at least once a week for two weeks prior to such hearing in a newspaper of general circulation in this county. When giving any notice to the owner(s), their agent(s), or the occupant(s) of abutting property and property immediately across the street or road from the property affected, the notice shall be given by first-class mail to the last known address as shown on the current real estate tax assessment book or records. The Board shall mail these notices not less than 20 days prior to the date set for the hearing.
- (d) The Board shall review the request for a special exception and the water quality impact assessment. The Board may grant the special exception, with such conditions and safeguards as deemed necessary to further the purpose and intent of this chapter, if the Board finds:
  - (1) Granting the special exception will not confer upon the applicant(s) any special privileges denied by this chapter to other property owners who are subject to its provisions and who are similarly situated;
  - (2) The special exception request is not based on any conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;
  - (3) The special exception request is the minimum necessary to afford relief;

- (4) The special exception request will be consistent with the purpose and intent of this chapter, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
- (5) Reasonable and appropriate conditions are imposed which will prevent the special exception request from causing a degradation of water quality.
- (e) The Board shall make its determination within 30 days of the public hearing. If the Board fails to act within that time, the application shall be deemed approved.
- (f) If the Board denies the special exception, the Board shall provide the applicant(s) with the Board’s written decision, including its rationale.

#### **Sec. 27B-15. Administrative Exceptions.**

A request for an administrative exception to the requirements of provisions of this chapter other than section 27B-7 and subsection 27B-8(b) of this chapter, shall be made in writing to the administrator. The administrator may grant these administrative exceptions provided that:

- (a) Administrative exceptions of the requirements are the minimum necessary to afford relief;
- (b) Reasonable and appropriate conditions are placed upon any administrative exception that is granted, as necessary, so that the purpose and intent of this chapter is preserved; and
- (c) Administrative exceptions to the requirements of subsections 27B-8(a) of this chapter may be granted only after the findings under subsections 27B-14(d)(1)-(5) of this chapter are made.

#### **Sec. 27B-16. Penalties.**

- (a) For any land disturbing activity in a CRPA that occurs without an approved county plan or in violation of an approved County plan, the violator shall be subject to mitigation. Such mitigation shall be consistent with the tables in Appendix A of the *Riparian Buffers Modification and Mitigation Manual*, dated September 2003, unless the administrator determines that fewer plantings are required to meet the same pollutant removal levels that existed prior to the violation. All vegetation to be used for mitigation shall be approved by the administrator.
- (b) Civil violations:
  - (1) Any person who violates the provisions of this chapter, violates or fails, neglects, or refuses to obey any final notice, order, rule, regulation, variance, or permit condition shall, upon such finding by the circuit court, be assessed a civil penalty not to exceed \$5,000.00 for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid to the County into a fund dedicated

to the purpose of abating environmental damage to or restoring CBPAs, in such a manner as the court may direct by order, except that where the violator is the county itself, or its agent, the court shall direct the penalty be paid into the state treasury.

- (2) With the consent of any person who violates any provision of this chapter related to protection of water quality in a designated CBPA, or violates or fails, neglects, or refuses to obey any County or Board notice, order, rule, regulation, variance, or permit condition authorized under the County Code or Virginia law, the County may provide for an issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000.00 for each violation. Such civil charge shall be paid into the County treasury for the purpose of abating environmental damage to or restoring CBPAs, except where the violator is the County, or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subsection (b)(1) of this section. Civil charges may be in addition to any cost of restoration required or ordered by the County.

#### **Sec. 27B-17. Appeals.**

- (a) An administrative or Board decision, order, requirement, or inaction under this chapter shall become final unless appealed by the applicant. The applicant may appeal by submitting a written application for review to the board of supervisors no later than 30 days from the date of such decision, order, requirement, or deadline. The board shall hear the appeal as soon as practical after receipt of the appeal.
- (b) The appellant, the Board, the zoning administrator, the planning director, and any person or agency expressing an interest in the matter shall be notified by the board of supervisors not less than ten days prior to the date of the meeting. The agenda for the board of supervisors' meeting shall state that an appeal from a decision under this chapter will be considered.
- (c) The board of supervisors may grant an appeal, with or without modifications or conditions, upon finding that doing so meets the requirements in this chapter. If the board finds that the appeal does not meet the requirements of this chapter, the board of supervisors shall deny the appeal.

#### **Sec. 27B-18. Application of chapter.**

The requirements of this chapter shall apply to all development. Any development approved prior to the effective date of this chapter or any amendment to it shall comply with the requirements of this chapter to the greatest extent possible.

; and

BE IT FURTHER ORDAINED that this ordinance shall become effective upon adoption.

Mr. Sterling motioned, seconded by Ms. Sellers, to adopt Ordinance O14-12.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas  
 Nay: (0)

Ordinance O14-12 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE, SEC. 22-90, "PLAN OF DEVELOPMENT PROCESS"

WHEREAS, effective August 1, 1991, the Board adopted Ordinance O91-91, establishing the Chesapeake Bay Preservation Area Overlay District; and

WHEREAS, on December 2, 2003, the Board adopted Ordinance O03-07, which amended Stafford County Code Chapter 28 and Chapter 22, to incorporate revised Chesapeake Bay Preservation Act requirements and regulations; and

WHEREAS, the Board desires to amend the County Code to create a new chapter, Chapter 27B, to more effectively implement the Virginia Chesapeake Bay Preservation Act and related regulations; and

WHEREAS, the Board desires to update references to the Chesapeake Bay Preservation Act and related regulations in the Stafford County Code; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission, County staff, and Virginia Department of Environmental Quality staff, and the testimony, if any, at the public hearing; and

WHEREAS, the Board finds that adoption of such an ordinance is consistent with good planning practices;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the Stafford County Code be and it hereby is amended and reordained, as follows:

**Sec. 22-90. Plan of development process.**

- (a) *Required information.* Any plan of development submitted for any proposed activity within the Chesapeake Bay preservation area must satisfy all of the requirements listed in ~~section 28-62~~ chapter 27B of this Code.
- (b) *Plan approval.* The stormwater management plan shall be in accordance with the stormwater management requirements listed in ~~section 28-62~~ chapter 27B and chapter 21.5 of this Code.

; and

BE IT FURTHER ORDAINED that this ordinance shall become effective upon adoption.

Stafford Regional Airport Mr. Sterling said that the airport item was brought back to the Board following the tragic loss of life, on the plane and on the ground, as a result of the crash at an airport in Maryland. He motioned for the adoption of proposed Resolution R14-223. Ms. Sellers said that she would second the motion for the purpose of discussion. She said that Mr. Sterling's proposed Resolution, while well intentioned, needed additional input and expertise. She suggested forming a committee (or task force) to review safety standards in and around the Stafford Airport. Mr. Sterling said he was okay with that so long as it came back to the Board for action in January. He was not okay with it if the committee had the option of killing the proposed Resolution. Ms. Sellers offered to serve on the committee (or task force).

Mr. Milde said that January was not enough time to study the Airport safety issues. He said that things concerning the Airport got ugly with anonymous flyers regarding campaign contributions and anti-airport sentiment, and misrepresenting the Board's position on airport expansion. He said that the tactics were wrong and questioned if Mr. Sterling's objection to airport expansion was due to the proximity to his house. Mr. Milde added that the idea that it was unsafe crossing over Colonial Forge High School, when the current flight path crossed over Stafford High School, was ridiculous. He said that there was an enormous investment in Stafford Regional Airport, that the Airport was a huge economic generator for the County, and that Mr. Sterling was out of line on the issue. Mr. Milde said that he was a pilot and was concerned about the future viability of the airport, and asked Mr. Sterling to stop the personal attacks.

Mr. Thomas said that it was clearly an area outside of the Board's expertise and that outside advice was necessary before a vote could be taken on proposed Resolution R14-223. He added that state and federal funds paid for 90% of the investment in the Airport and that future funding would be highly competitive. Therefore, the Board had to be very careful about any message it sent.

Ms. Bohmke said that the Planning Commission was doing a land-use compatibility study and suggested that rather than having the discussion at that time, she was in favor of considering it after the Planning Commission completed its study.

Ms. Sellers made a substitute motion, seconded by Mr. Thomas, to table the Airport discussion until the Planning Commission's land-use compatibility study was complete.

The Voting Board tally was:

Yea: (6) Bohmke, Cavalier, Milde, Sellers, Snellings, Thomas  
Nay: (1) Sterling

Finance and Budget; CIP Debt Capacity Update Budget Division Director, Ms. Nancy Collins gave a presentation to the Board, which included information on debt capacity policies. Following the audit, the County’s debt capacity was lowered to \$327 Million, a reduction from the adopted CIP (\$349 Million), and the earlier projected \$341 Million. Ms. Collins also talked about fuels tax estimates, saying that updated fuels tax projections would be used in formulating the proposed CIP.

Finance and Budget; State Budget Reduction Update Ms. Collins gave a presentation to the Board, which included information on State budget reductions; that the State reduced its aid to localities by \$30 Million per year for FY15 and FY16 to help address its projected revenue shortfall. The County can elect to reduce revenue for state-funded programs or send a payment to the State. In previous years, the County chose the revenue reduction program and savings were found in other programs to absorb reductions.

The County Administrator must certify the County choice by January 1, 2015. If the County chose to reimburse the State, the payment must be received by December 31, 2014 (and would require Board action to budget and appropriate funds). Ms. Collins said that staff recommended the reduced revenue option as it would accurately reflect reduced levels of state support. Mr. Thomas agreed that to “write a check” was not a great option. Mr. Romanello said that it would be looked at in the full context of the budget.

Legislative; Closed Meeting. At 5:24 p.m., Mr. Thomas motioned, seconded by Ms. Bohmke, to adopt proposed Resolution CM14-22.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas  
Nay: (0)

Resolution CM14-22 reads as follows:

**A RESOLUTION TO AUTHORIZE CLOSED MEETING**

WHEREAS, the Board desires to hold a Closed Meeting for (1) consultation with legal counsel regarding *Metts v. Board of Supervisors*, Case Nos. CL 13-259, 13-261, 13-262, 13-263 and 13-264; (2) discussion of the award of a contract for the operation of the Jeff Rouse Swim and Sport Center, involving the expenditure of County funds, where discussion in open session would adversely affect the County’s bargaining and/or negotiating strategy; (3) discussion concerning a prospective business and the expansion of an existing business where no previous announcement has been made of the business’ interest in locating or expanding its facilities in the County; (4) discussion of a prospective business where no previous announcement has been made of the business’ interest in locating its facility in the County; (5) discussion and consideration of confidential proprietary records, voluntarily provided by a private business pursuant to a promise of confidentiality from the County, used by the County for business, trade, and

tourism development and retention, and County-prepared records related to a business that is considering locating in the County, where competition is involved and where, if such records are made public, the County's financial interest would be adversely affected; and (6) discussion and consideration of the employment of a Public Works Department Director; and

WHEREAS, pursuant to Virginia Code §§ 2.2-3705.6(3), -3711(A)(1), (A)(5), (A)(7), (A)(29), and (A)(40), such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Stafford County Board of Supervisors on this the 16th day of December, 2014, does hereby authorize discussion of the above matters in Closed Meeting.

Call to Order At 7:00 p.m., the Chairman called the meeting back to order.

Legislative; Closed Meeting Certification Mr. Thomas motioned, seconded by Mr. Sterling, to adopt proposed Resolution CM14-22(a).

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas  
Nay: (0)

Resolution CM14-22(a) reads as follows:

A RESOLUTION TO CERTIFY THE ACTIONS OF THE STAFFORD COUNTY BOARD OF SUPERVISORS IN A CLOSED MEETING ON DECEMBER 16, 2014

WHEREAS, the Board has, on this the 16th day of December, 2014, adjourned into a Closed Meeting in accordance with a formal vote of the Board and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Virginia Freedom of Information Act, as it became effective July 1, 1989, provides for certification that such Closed Meeting was conducted in conformity with law;

NOW, THEREFORE, BE IT RESOLVED that the Stafford County Board of Supervisors does hereby certify, on this the 16th day of December, 2014, that to the best of each member's knowledge: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were discussed in the Closed Meeting to which this certification applies; and (2) only such public business matters as were identified in the Motion by which the said Closed Meeting was convened were heard, discussed, or considered by the Board.

Invocation Ms. Sellers gave the invocation.

Pledge of Allegiance Boy Scout John South, a member of Troop 1425, led the recitation of the Pledge of Allegiance.

Presentations by the Public - The following members of the public desired to speak:

Paul Waldowski - Transportation, \$6 Million parking lot; Mountain View Road straightening; pot holes; squishy numbers; school model attacked as having bad data; R82-341; water/sewer bills; Farmer's Market

Planning and Zoning; Consider a Conditional Use Permit to Allow a Drive-Through Facility within the HC, Highway Corridor Overlay Zoning District on 5.22 Acres Zoned B-2 This item was deleted from the agenda at the request of the applicant.

Planning and Zoning; Consider Reclassification of Tax Map Parcel 29-17 from A-1 to R-2 (Liberty Knolls II) Ms. Kathy Baker, Assistant Director of Planning and Zoning, gave a presentation and answered Board members questions. Mr. Charlie Payne, for the applicant, also addressed the Board.

Mr. Sterling expressed concern about the 50' width of the buffer between residences and Courthouse Road, and asked if the buffer width took into consideration the widening of Courthouse Road. Mr. Payne assured Mr. Sterling that it did take the Courthouse Road widening project into account when it planned the buffer width.

Mr. Snellings expressed concern about a lack of transportation proffers being offered by the developer. Ms. Sellers asked for a definition of a "tree save." Ms. Baker said that it was a forested area from which no trees could be cut down or removed. Mr. Snellings asked why two members of the Planning Commission voted against the proposed project. Ms. Baker said that it had to do with transportation proffer concerns.

Mr. Payne said that the proffers offered for Liberty Knolls II was the highest offered to the County in (maybe) ten years. The proposed cost per home was \$450,000; there was 38% open space provided for in the proffers; the total proffered amount was \$1,725,000. Mr. Snellings asked who was responsible if trees (or shrubs) in the buffer died. Mr. Payne said that the home owner's association would be responsible for maintenance, repair, or replacement of trees (or shrubs) in all common areas including the proposed buffer. Mr. Snellings said that evergreens do not do well as buffers, that traffic pollution killed evergreens.

Mr. Sterling asked how it was different from Liberty Knolls I, saying that "similar" was a judgment call. Mr. Payne said that it was very similar including architectural renderings, layout, etc. Mr. Thomas said that the architectural renderings were of a front-view only.

He asked about siding and windows on the sides of the houses, and having no blank side-to-sides. Mr. Payne briefly conferred with the applicant (from the dais) and said that windows would be included on side-to-side views. Mr. Thomas said that the proffered placement of a tree did not cover the placement of windows.

Ms. Bohmke said that she liked the proposed proffers, the open space, and the tree save but she was concerned about the right-in/right-out issue and having traffic from 52 new residences on Courthouse Road. She asked if, following completion of the widening of Courthouse Road, if another ingress/egress would be available to residents. Mr. Payne said that the right-in/right-out was “forever” and not just until full build-out. He added that VDOT would not approve a full intersection at that location. The main entrance for Liberty Knolls I was a signalized intersection.

Ms. Sellers asked if some of the proffer money could be shifted from libraries and parks & recreation into transportation. Mr. Payne said that the applicant was happy to shift proffer funds. Mr. Thomas asked when the project would be at complete build-out. Mr. Payne said that construction would not begin until late 2016 or early 2017. Mr. Sterling asked if the applicant would consider a 100’ buffer rather than the proposed 50’ buffer. Mr. Payne said that 100’ was impossible due to the Courthouse Road widening. Ms. Bohmke asked why, in the architectural renderings, three designs had front porches and one did not. Mr. Payne said it was to give various options and to allow for personal preference since not everyone wanted a front porch. He added that no “spec” houses would be built. Each home would be constructed as it was purchased.

The Chairman opened the public hearing.

The following persons desired to speak:

Paul Waldowski

The Chairman closed the public hearing.

Ms. Sellers motioned, seconded by Mr. Mr. Sterling, to defer this item until transportation options/proffers could be explored (no return date was specified). Mr. Milde said that he was going to vote against the project now and when it came back to the Board due to the lack of open space and his not liking that type of development.

The Voting Board tally was:

Yea: (5) Cavalier, Sellers, Snellings, Sterling, Thomas

Nay: (2) Bohmke, Milde

Utilities; Amend and Reordain Stafford County Code Sec. 25-27, “Water Availability Charges;” Sec. 25-28, “Wastewater Disposal Availability Charges;” and Sec. 25-199, “Prohibitive Discharges” Mr. Mike Smith, Director of Utilities gave a presentation and answered Board members questions.

The Chairman opened the public hearing.

The following persons desired to speak:

Paul Waldowski

The Chairman closed the public hearing.

Mr. Thomas motioned, seconded by Mr. Milde, to approve proposed Ordinance O14-40.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas

Nay: (0)

Ordinance O14-40 reads as follows:

AN ORDINANCE TO AMEND AND REORDAIN STAFFORD COUNTY CODE SEC. 25-27, “WATER AVAILABILITY CHARGES,” SEC. 25-28, “WASTEWATER DISPOSAL AVAILABILITY CHARGES,” AND SEC. 25-199, “PROHIBITED DISCHARGE STANDARDS”

WHEREAS, the Board desires to amend Stafford County Code Chapter 25, “Water, Sewers and Sewage Disposal,” to allow the repurchase of water and sewer availability contracts and to amend the maximum pH prohibition; and

WHEREAS, in 2001, the Board adopted Resolution R01-302, allowing for the repurchase of water and sewer availability contracts; and

WHEREAS, the County Code does not currently permit the repurchasing of availability contracts; and

WHEREAS, it is not in the County’s best interest to reserve capacity in the public water and wastewater system for a customer with no immediate plans to connect to the public system; and

WHEREAS, refunding the amount originally paid by the customer, minus any charges due, allows the reserved capacity to be used where immediately needed; and

WHEREAS, the Virginia Administrative Code, 9VAC25-31-770, defines a prohibited pH discharge as below 5.0, while Stafford County Code Sec. 25-199 defines the prohibited discharge as below 5.0 or above 9.0; and

WHEREAS, the Utilities Department determined that a pH above 9.0 is not considered prohibitive and can be evaluated on a case-by-case basis; and

WHEREAS, the Utilities Commission held a public hearing on proposed Ordinance O14-40 and recommended approval by a vote of 6 to 0; and

WHEREAS, the Board carefully considered the recommendations of the Utilities Commission and staff, and the testimony, if any, at the public hearing; and

WHEREAS, the Board finds that the adoption of this ordinance secures and promotes the public health, safety, and general welfare of the County and its citizens;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that the Stafford County Code be and it hereby is amended and reordained as follows, all other portions remaining unchanged:

**Sec. 25-27. Water availability charges.**

- (e) Subsequent changes, modifications, or alterations of existing services that increase the size of the water meter are subject to additional availability charges on the basis of the larger meter. No building permit or certificate of occupancy shall be valid unless all additional charges shall have been paid. There will be no refund of charges where demand is decreased; however, if a customer paid an availability fee and has not connected to the public water system, the Department may repurchase the water availability contract at the price originally paid by the customer, less any outstanding bill amounts.

**Sec. 25-28. Wastewater disposal availability charges.**

- (e) Subsequent changes, modifications, or alterations of existing services that increase the size of the water meter are subject to additional availability charges on the basis of the larger meter. No building permit or certificate of occupancy shall be valid unless all additional charges have been paid. There will be no refund of charges where demand is decreased; however, if a customer paid an availability fee and has not connected to the public sewer system, or has been a pump and haul customer who no longer requires pump and haul services, the Department may repurchase the wastewater availability contract at the price originally paid by the customer, less any outstanding bill amounts.

**Sec. 25-199. Prohibited discharge standards**

- (b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (2) Wastewater having a pH less than 5.0 ~~or more than 9.0~~, or otherwise causing corrosive structural damage to the POTW or equipment;

Planning and Zoning; Amend and Reordain Stafford County Code Sec. 16-4, “Maximum Permissible Sound Levels Generally;” and Chapter 26, “Weapons” Mr. Jeff Harvey, Director of Planning and Zoning, gave a presentation and answered Board members questions. Mr. Thomas asked about the proposed 16 year age restriction on BB guns. Ms. Rysheda McClendon, Assistant County Attorney, said that the age came from State Code. Mr. Thomas asked if the County was required to specify an age. Sheriff Charlie Jett addressed the Board saying that there were no statistics to report where a person under age 16 was more problematic than a 14 year old.

The Chairman opened the public hearing.

The following persons desired to speak:

Dan Post

Paul Waldowski

The Chairman closed the public hearing.

Following the public hearing, Sheriff Jett responded to Mr. Post's concern about bow hunting on the Widewater Peninsula, saying that archery was removed from the prohibitions.

Mr. Thomas motioned, seconded by Ms. Bohmke, to send the item back to the Board's Public Safety Committee for further discussion on the 16-year age restriction on BB guns.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas

Nay: (0)

Planning and Zoning; Amend the Garrisonville Road Service District Mr. Jeff Harvey, Director of Planning and Zoning, gave a presentation and answered Board members questions. Mr. Harvey said that there were two proposed rezonings to add to the District and thirty notices were sent to property owners. He added that the Service District was used to pay for widening Garrisonville Road. Mr. Romanello said that District boundaries were not changing; that it would be brought to the Board annually, and be brought into the system for the next tax year.

The Chairman opened the public hearing.

The following persons desired to speak:

Paul Waldowski

The Chairman closed the public hearing.

Mr. Milde motioned, seconded by Ms. Sellers, to adopt proposed Ordinance O14-41.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas

Nay: (0)

Ordinance O14-41 reads as follows:

AN ORDINANCE TO AMEND THE GARRISONVILLE ROAD  
SERVICE DISTRICT

WHEREAS, on July 17, 2007, the Board adopted Ordinance O07-55, which created the Garrisonville Road Service District (GRSD) to provide additional, more

complete, and/or more timely transportation improvements, in the Garrisonville Road area pursuant to Virginia Code § 15.2-2400 *et. seq.*; and

WHEREAS, the GRSD is a funding mechanism that pays for improvements to Garrisonville Road; and

WHEREAS, since the creation of the GRSD, there have been several zoning reclassifications of properties within its boundaries; and

WHEREAS, the GRSD must be updated for the additional real estate tax levy to apply to those properties; and

WHEREAS, the Board desires to include Assessor's Parcels in the GRSD that have zoning classifications of B-1, Convenience Commercial; B-2, Urban Commercial; B-3, Office; RBC, Recreational Business Campus; RC, Rural Commercial; SC, Suburban Commercial; M-1, Light Industrial; and M-2, Heavy Industrial; and

WHEREAS, the Board conducted a public hearing on this ordinance; and

WHEREAS, the Board carefully considered the recommendations of staff and the testimony, if any, at the public hearing;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that it be and hereby does amend the Garrisonville Road Service District as follows, all other portions of Ordinance O07-55 remaining unchanged:

- The District shall include the Assessor's Parcels listed in Exhibit A, dated July 31, 2014, and is attached to this ordinance;
- The District shall exclude the Assessor's Parcels listed in Exhibit B, dated July 31, 2014, and is attached to this ordinance; and
- Exhibit C is a map of the GRSD, dated July 31, 2014, and is attached to this ordinance.

; and

BE IT FURTHER ORDAINED that this Ordinance shall become effective upon adoption.

Planning and Zoning; Vacate and Remove the Slope, Grading, and Maintenance Easements Across the Front of Parcel 28F-2A-240 Ms. Kathy Baker, Assistant Director of Planning and Zoning, gave a presentation and answered Board members questions. Ms. Patricia Healy, for the applicant, addressed the Board saying that only a small corner of the property encroached on the easement. She said that VDOT approved the vacation.

The Chairman opened the public hearing.

The following persons desired to speak:

Paul Waldowski

The Chairman closed the public hearing.

In response to a comment made during the public hearing, Mr. Sterling said that approving proposed Ordinance O14-43 was right as it was correcting a mistake made when the word “temporary” was omitted from the original paperwork.

Mr. Sterling motioned, seconded by Ms. Sellers, to adopt proposed Ordinance O14-43.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas

Nay: (0)

Ordinance O14-43 reads as follows:

AN ORDINANCE TO VACATE A PORTION OF A SUBDIVISION PLAT, AUGUSTINE NORTH, SECTION 2A, FOR AN EASEMENT ON LOT 240, WITHIN THE ROCK HILL ELECTION DISTRICT

WHEREAS, the subdivision plat known as Augustine North, Section 2, was recorded among the Stafford County Land Records (“Land Records”) in Plat Book 26, Pages 38-48, on June 3, 1994, which included a slope, grading, and maintenance easement, within the Rock Hill Election District; and

WHEREAS, the plat known as Augustine North, Section 2A, including Lot 240, was recorded in Plat Book 28, Pages 278-280, among the Land Records on April 11, 1996, within the Rock Hill Election District; and

WHEREAS, the residence on Assessor’s Parcel 28F-2A-240 was constructed partially within the existing slope, grading, and maintenance easement; and

WHEREAS, Kristine and Donnie Blackwell, the owners of Assessor’s Parcel 28F-2A-240, submitted an application to vacate a portion of the slope, grading, and maintenance easement where the residence encroaches into the easement, as shown on a house location survey by Griffin Surveying, PLLC, dated August 18, 2014; and

WHEREAS, Stafford County Code Sec. 28-24(8)(f), states that no building or structure shall be permitted within any public easement or right-of-way without written consent by the holder of the easement or right-of-way; and

WHEREAS, the Virginia Department of Transportation reviewed the vacation of this easement and found that it is no longer necessary because Lightfoot Drive is complete; and

WHEREAS, the Board held a public hearing on the proposed vacation as required under Virginia Code § 15.2-2272(2) and Stafford County Code Sec. 22-108; and

WHEREAS, the Board carefully considered the recommendations of staff and VDOT, and the testimony, if any, at the public hearing; and

WHEREAS, the Board finds that vacation of a portion of the plat for the slope, grading, and maintenance easement on Assessor’s Parcel 28F-2A-240 is appropriate; and

WHEREAS, the Board finds that this vacation will not irreparably damage the owner of any other lot shown on the plat; and

WHEREAS, the Board finds that this vacation is consistent with good planning practices;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that a portion of the subdivision plat, Augustine North, Section 2A, be and it hereby is vacated, as to the slope, grading, and maintenance easement on Assessor’s Parcel 28F-2A-240, as shown on the “House Location Survey, Lot 240, Section 2A, Augustine North, Rock Hill District, Stafford County, Virginia,” by Griffin Surveying, PLLC, dated August 18, 2014.

Planning and Zoning; Consider an Ordinance Amendment to Stafford County Code Sec. 28-57, “Flood Hazard Overlay District (FH)” Mr. Jeff Harvey, Director of Planning and Zoning, gave a presentation and answered Board members questions. Mr. Harvey said that the County had a deadline date of February 18, 2015, to fix the County’s maps. Fifteen properties were added to the floodplain, fifty-six were removed. Mr. Harvey said that flood insurance policies, or coverage, was up to the lender/mortgage holder on properties that were removed from the flood plain.

The Chairman opened the public hearing.

The following persons desired to speak:

Paul Waldowski

The Chairman closed the public hearing.

Mr. Sterling motioned, seconded by Mr. Snellings, to adopt proposed Ordinance O14-37.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas

Nay: (0)

Ordinance O14-37 reads as follows:

AN ORDINANCE TO AMEND STAFFORD COUNTY CODE  
SEC. 28-57, “FLOOD HAZARD OVERLAY DISTRICT (FH)”

WHEREAS, the National Flood Insurance Program (NFIP) offers flood insurance to homeowners, renters, and business owners in participating localities; and

WHEREAS, the County currently participates in the NFIP; and

WHEREAS, to continue participating in the NFIP, the County must update the Zoning Ordinance regarding floodplains; and

WHEREAS, the County is required to adopt and amend the effective flood insurance rate maps (FIRM) and a Flood Insurance Study (FIS) report; and

WHEREAS, communities that fail to adopt the necessary floodplain management regulations will be suspended from participation in the NFIP, and subjected to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973; and

WHEREAS, this ordinance was reviewed and tentatively approved by the State’s NFIP Coordinator, Mr. Charley Banks; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission and staff, and the public testimony, if any, at the public hearing; and

WHEREAS, the Board finds that the public necessity, convenience, general welfare, and good zoning practice requires adoption of this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December 2014, that Stafford County Code Sec. 28-57, “Flood Hazard Overlay District (FH),” be and it hereby is amended and reordained as follows:

**Sec. 28-57. Flood Hazard Overlay District (FH).**

- ~~(a) *Purpose and intent.* The purpose of these provisions is to prevent the loss of life and property, the increase or creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:~~
- ~~(1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.~~
  - ~~(2) Restricting or prohibiting certain uses, activities and development from locating within districts subject to flooding.~~
  - ~~(3) Requiring all those uses, activities and developments that do occur in floodprone districts to be protected and/or floodproofed against flooding and flood damage.~~
  - ~~(4) Protecting individuals from buying land or structures which are unsuited for intended purposes because of flood hazards.~~

- ~~(b) *Applicability.* These provisions shall apply to all lands within the jurisdiction of Stafford County, Virginia, and identified as being in the 100-year floodplain by the Federal Emergency Management Agency.~~
- ~~(c) *Compliance with liability.* No land within the FH district shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this section or any other applicable laws and regulations which apply to uses within the jurisdiction of this county.~~
- ~~(d) *Abrogation and greater restrictions.* This section supersedes any provisions currently in effect in floodprone districts. However, any underlying zoning regulation shall remain in full force and effect to the extent that its provisions are more restrictive than this chapter.~~
- ~~(e) *Establishment of flood hazard zoning district.*~~
- ~~(1) *Description of district.* The floodplain districts shall include areas subject to inundation by waters of the one hundred year flood. The basis for the delineation of these districts shall be the flood insurance study (FIS) for Stafford County, Virginia, prepared by the Federal Emergency Management Agency dated February 4, 2005, as amended.~~
- ~~a. The floodway district is delineated, for purposes of this division, using the criterion that certain areas within the one hundred year floodplain must be capable of carrying the waters of the one hundred year flood without increasing the water elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in table 3 of the above referenced flood insurance study and shown on the accompanying flood insurance rate map.~~
- ~~b. The flood fringe shall be that area of the one hundred year floodplain not included in the floodway district.~~
- ~~c. The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100 year floodplain boundary has been determined by approximate methods. Such areas are shown as Zone A on the map accompanying the flood insurance study. For these areas, the 100 year flood elevations and floodway information from federal, state and other acceptable sources shall be used, when available. Where specific 100 year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Floodprone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by Stafford County.~~

~~(2) Overlay concept.~~

- ~~a. The floodplain district described above shall be overlays to the existing underlying districts as shown on the official zoning map for Stafford County, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.~~
- ~~b. Should there be any conflict between the provisions or requirements of the floodplain districts and those of any underlying district, the more restrictive provisions shall apply.~~
- ~~c. In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative action or juridical decision, the basic underlying provisions shall remain applicable.~~

~~(f) Official flood insurance rate map (FIRM).~~

- ~~(1) The boundaries of the floodplain district are established as shown on the flood insurance rate map (FIRM) which are declared to be a part of this subsection and which shall be on file in the Departments of Code Administration and Planning and Zoning for Stafford County.~~
- ~~(2) The delineation of any floodplain district may be revised by the board of supervisors where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or individual who documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.~~
- ~~(3) Interpretations of the boundaries of the floodplain district shall be made by the zoning administrator. Should a dispute arise concerning the boundaries of any of the districts, the board of zoning appeals shall make the necessary determination. Persons questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the board of zoning appeals and to submit their own technical evidence if desired.~~

~~(g) Zoning permit for uses, activities and development.~~

- ~~(1) All uses, activities and development occurring within any floodplain district shall be undertaken only upon the issuance of a zoning permit. Such development shall only be undertaken in strict compliance with the provisions of this chapter and with all other applicable codes, such as the Virginia Uniform Statewide Building Code, and chapters of the Stafford County Codes and Erosion and Sediment Control. Prior to the issuance of any such permit, the zoning administrator shall require all applications to include compliance with all applicable state and federal laws and regulations. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.~~
- ~~(2) Notwithstanding the permitted uses and structures in flood hazard districts listed in subsections (h) and (i), the zoning administrator may refuse, subject to review~~

by the board of zoning appeals, to grant any permits for development, if it is determined that the following standards be violated:

- a. ~~Uses and structures permitted in floodplains shall be those least likely to be damaged by the kind and amount of flooding anticipated.~~
  - b. ~~No area known to be susceptible to frequent and dangerous floods shall be permitted to be used during periods when such flash floods are likely to occur.~~
  - c. ~~Any structures located in floodplains shall be located, elevated and constructed as to minimize potential hazards and damage from probable flooding, resist flotation and offer minimum obstruction to flood flow. Where dwellings are permitted, lowest floor, including below grade basement, shall be a minimum of three (3) feet above the one hundred year flood or maximum record flood, whichever is greater. No use shall be permitted which increases amounts of potentially damaging materials (including those likely to be injurious to health) which might be carried downstream in floods.~~
  - d. ~~In the floodway district, no development shall be permitted except where the affect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate county and state authorities.~~
  - e. ~~No use, structure or activity, including the filling of land to change the level of land, shall be permitted in any floodway which adversely affect normal flood flow, increases flooding of land adjoining the floodway, causes diversion of waters in a manner more likely to create damage than does flow in a normal course, or increase peak flows or velocities in a manner likely to lead to added property damaging materials, including those likely to be injurious to health which might be carried downstream in floods.~~
- (3) ~~All structures constructed in any floodplain area shall, within ten (10) days of establishing the lowest floor elevation, submit an elevation certificate sealed by a registered engineer or land surveyor to the Department of Code Administration of Stafford County. For residential structures the certification must show that the lowest floor elevation is a minimum of three (3) feet above base flood elevation; for nonresidential structures which are floodproofed or elevated, the certification must show that the effective flood protection elevation is a minimum of three (3) feet above base flood elevation.~~
- (4) ~~Prior to any proposed alteration, relocation of any channels or of any watercourse, stream, etc., within Stafford County, all applicable permits shall be obtained from the U.S. Army Corps of Engineers, the Department of Environmental Quality (DEQ) Virginia State Water Control Board, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (DCR) Division of Dam Safety and Floodplain Management, and the Federal Emergency Management Agency.~~

~~(5) All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:~~

- ~~a. For structures to be elevated, the lowest floor elevation (including below grade basements) shown at least three (3) feet above the one hundred year flood elevation.~~
- ~~b. For structures to be floodproofed, the elevation of such floodproofing to be at least three (3) feet above the 100-year flood elevation, and an engineer's certification that floodproofing techniques provide protection from the 100-year flood.~~
- ~~c. Topographic information showing existing and proposed ground elevations.~~

~~(6) Recreational vehicles placed on sites shall either:~~

- ~~a. Be on site for fewer than one hundred and eighty (180) days, be fully licensed and ready for highway use; or~~
- ~~b. Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as contained in the Uniform Statewide Building Code.~~

~~A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.~~

~~(h) *Permitted uses in the floodway district.*~~

~~(1) In the floodway district no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred year flood elevation.~~

~~(2) The following uses and activities are permitted provided that (i) they are in compliance with the provisions of the underlying zoning district; (ii) they are not prohibited by any other law; and (iii) they do not require structures, the placement of fill, or storage of materials and equipment:~~

- ~~a. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.~~
- ~~b. Recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, horseback riding and hiking trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet ranges, and hunting and fishing areas.~~
- ~~c. Accessory residential uses, such as yard areas, gardens, play areas, and pervious loading areas.~~
- ~~d. Accessory industrial and commercial uses, such as yard areas, parking and loading areas, and airport land strips.~~

- ~~(3) The following uses and activities may be permitted, by special exception, in the floodway district, provided that they are in compliance with the provisions of the underlying district and are not prohibited by this chapter or any other ordinance.~~
- ~~a. Public works, utilities and public facilities and improvements, such as railroads, streets, bridges, transmission lines, water and sewage treatment plants, stormwater management structures, and other or similar related uses.~~
  - ~~b. Water dependent uses and activities, such as marinas, docks, wharves, piers, or shoreline protection measures, where no administrative exception has been granted by the agent.~~

- ~~(4) The agent may at his discretion issue, in writing, an administrative exception for specified uses and activities in the floodway district. The agent must find that the placement of fill material for the proposed activity or use would not create a flood hazard or contribute to increased flood elevations of off site properties. The applicant requesting an administrative exception shall provide sufficient information, plans and drawings for the agent to determine that there would be no flood hazard impacts. The following uses and activities may be permitted, by administrative exception, in the floodway district:~~

- ~~a. Water dependent uses and activities associated with tidal water bodies, such as marinas, docks, wharves, and piers.~~
- ~~b. Shoreline protection measures where the maximum elevation of the structure or fill does not exceed the base flood elevation.~~

- ~~(i) *Flood fringe and approximated floodplain districts.* In the flood fringe and approximated floodplain districts the development and/or use of the land shall be permitted in accordance with the regulations of the underlying zoning district provided that no placement of fill is proposed for any use except; utilities, public facilities, and improvements, such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants, stormwater management structures, shoreline protection measures and water dependent uses located within or adjacent to tidal water bodies where there would be no increase in the one hundred year flood elevations, and other similar or related uses.~~

~~Activities and/or development shall be undertaken in strict compliance with the flood proofing, related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances.~~

~~Within the approximated floodplain district, the applicant shall also delineate a floodway area based on the requirements that all existing and future development not increase the one hundred year flood elevation more than one foot at any point. The engineering principle equal reduction and conveyance shall be used to make the determination of increased flood heights. This delineation shall be performed by a professional engineer and submitted to FEMA for technical evaluation and approval.~~

~~Within the floodway area delineated by the applicant, the provisions of subsection (h) shall apply.~~

- ~~(j) *Design criteria for utilities and facilities.*~~

- ~~(1) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewage treatment plants, including all pumping stations and collector systems, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.~~
- ~~(2) *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.~~
- ~~(3) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The board of supervisors may require a primarily underground system to accommodate frequent floods and may require a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.~~
- ~~(4) *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in floodprone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.~~
- ~~(5) *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.~~

~~(k) *Variances.*~~

- ~~(1) In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following factors:~~
  - ~~a. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the 100-year flood elevation.~~
  - ~~b. The danger that materials may be swept on to other lands or downstream to the detriment or injury of others, potentially magnifying flood hazards and damages.~~
  - ~~c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.~~
  - ~~d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.~~
  - ~~e. The importance of the services provided by the proposed facility to the community.~~
  - ~~f. The requirements of the facility for a waterfront location.~~

- ~~g. The availability of alternate locations not subject to flooding for the proposed use.~~
  - ~~h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.~~
  - ~~i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.~~
  - ~~j. The safety of access by ordinary and emergency vehicles to the property in time of flood.~~
  - ~~k. The expected heights, velocity, duration, rate of rise, and sediment transport of floodwaters expected at the site.~~
  - ~~l. The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.~~
  - ~~m. Such other factors which are relevant to the purposes of this chapter.~~
- ~~(2) The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or FEMA for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.~~
- ~~Variances shall be issued only after the board of zoning appeals has determined that the granting of such variance will not result in:~~
- ~~a. Unacceptable or prohibited increases in flood heights;~~
  - ~~b. Additional threats to public safety;~~
  - ~~c. Extraordinary public expense;~~
  - ~~d. Creation of nuisances;~~
  - ~~e. Fraud or victimization of the public;~~
  - ~~f. Conflict with local laws or ordinances.~~
- ~~(3) Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from any hardship to the applicant.~~
- ~~(4) The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct below the 100-year flood elevation:~~
- ~~a. Increases the risks to life and property; and~~
  - ~~b. Will result in increased premium rates for flood insurance.~~
- ~~(5) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Emergency Management Agency.~~

~~(1) Existing structures in the floodplain district. A structure or use of a structure or premises which lawfully existed before enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:~~

~~(1) Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that it would not result in any increase in the 100 year flood elevation or present increased flood hazards.~~

~~(2) Any modifications, alterations, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than fifty (50) percent of its market value, shall conform to the Virginia Uniform Statewide Building Code (VA-USBC).~~

~~(3) Reserved.~~

~~(Ord. No. 094-29, § 28-407, 8-9-94; Ord. No. 099-41, 7-13-99; Ord. No. 099-76, 11-16-99; Ord. No. 004-63, 12-7-04; Ord. No. 007-31, 5-1-07; Ord. No. 008-37, 6-17-08; Ord. No. 008-80, 12-2-08)~~

*(a) Definitions [44 C.F.R. § 59.11]*

For the purposes of this section 28-57, the following words and phrases shall have the meanings respectively ascribed to them by this section; provided that unless specifically defined below, words and phrases used in this section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this section its most reasonable application:

Base flood. The flood having a 1% chance of being equaled or exceeded in any given year. This is also referred to as the 100-year flood.

Base flood elevation. The FEMA designated 1% annual chance water surface elevation and the elevation determined per county code section 28-57(q)(3). The water surface elevation of the base flood in relation to the datum specified on the community's FIRM.

Basement. Any area of the building having its floor sub-grade (below ground level) on all sides.

Board of zoning appeals. The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

Coastal A Zone. Flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and three feet.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

*Elevated building.* A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

*Encroachment.* The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*Existing construction.* Structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

*Flood or flooding.*

- (a) A general or temporary condition of partial or complete inundation of normally dry land areas from
- (1) the overflow of inland or tidal waters;
  - (2) the unusual and rapid accumulation or runoff of surface waters from any source;
  - (3) mudflows which are proximately caused by flooding as defined in paragraph (a)(2) of this definition, and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current;
  - (4) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

*Flood insurance rate map (FIRM).* An official map of a community, on which the FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that is available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

*Flood Insurance Study (FIS).* A report by FEMA that examines, evaluates, and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudflow and/or flood-related erosion hazards.

*Floodplain or flood-prone area.* Any land area susceptible to being inundated by water from any source.

Flood proofing. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the U. S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) individually listed on a local inventory of historic places in communities with historic preservation programs that are certified either:
  - (1) by an approved state program as determined by the Secretary of the Interior; or
  - (2) directly by the Secretary of the Interior in states without approved programs.

Hydrologic and hydraulic engineering analysis. Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

Letters of map change (LOMC). A letter of map change is an official FEMA determination,

by letter, that amends or revises a FIRM or FIS. LOMC include:

- (a) Letter of map amendment (LOMA). An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the FIRM and establishes that a land as defined by meets and bounds or structure is not located in a special flood hazard area.
- (b) Letter of map revision (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, floodplain, and floodway delineations, and planimetric features.
- (c) Letter of map revisions based on fill (LOMR-F). A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with Stafford County's floodplain management regulations.
- (d) Conditional letter of map revision (CLOMR). A formal review and comment by FEMA as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS.

Lowest adjacent grade. The lowest natural elevation of the ground surface next to the walls of a structure.

Lowest floor. The lowest floor of the lowest enclosed area including basement. An unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 C.F.R. § 60.3.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.

Manufactured home park or subdivision. A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

New construction. For the purposes of determining insurance rates and floodplain management, structures for which the start of construction commenced on or after November 19, 1980, and includes any subsequent improvements to such structures.

Post-FIRM structures. A structure for which construction or substantial improvement

occurred on or after November 19, 1980.

Pre-FIRM structures. A structure for which construction or substantial improvement occurred before November 19, 1980.

Recreational vehicle. A vehicle which is:

- (i) built on a single chassis;
- (ii) 400 square feet or less when measured at the largest horizontal projection;
- (iii) designed to be self-propelled or permanently towable by a light duty truck; and
- (iv) designed primarily as temporary living quarters for recreational camping, travel, or seasonal use, not for use as a permanent dwelling.

Repetitive loss structure. A building covered by a flood insurance contract that incurred flood-related damages on two occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the building at the time of each flood event.

Severe repetitive loss structure. A structure that:

- (a) is covered under a flood insurance contract made available under the NFIP; and
- (b) incurred flood related damage –
  - (i) for which four or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or
  - (ii) for which at least two separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

Shallow flooding area. A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special flood hazard area (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined under county code section 28-57(q).

*Start of construction.* For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date.

The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include (i) land preparation, such as clearing, grading, and filling; (ii) the installation of streets and/or walkways; (iii) excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; (iv) the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure.* For floodplain management purposes, a walled and roofed building, that is principally above ground, including a gas or liquid storage tank, as well as a manufactured home.

*Substantial damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

*Substantial improvement.* Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred repetitive loss or substantial damage regardless of the actual repair work performed. The term does not however include:

- (i) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
- (ii) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure; or
- (iii) historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, must comply with all requirements of this section that do not preclude the structure's

continued designation as a historic structure. Documentation that a specific requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from this section's requirements shall be the minimum necessary to preserve the historic character and design of the structure.

Violation. The failure of a structure or other development to comply with this section. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this section is presumed to be in violation until such time as that documentation is provided to the Zoning Administrator.

Watercourse. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(b) Statutory authorization and purpose [44 C.F.R. § 59.22(a)(2)].

This section is adopted under Virginia Code § 15.2 – 2200 et. seq.

The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (1) regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- (2) restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- (3) requiring all those uses, activities, and developments that occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
- (4) protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(c) Applicability.

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the county and identified as areas of special flood hazard according to the FIRM that is provided to the county by FEMA.

(d) Compliance and liability.

- (1) No land shall be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with this section and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this section
- (2) The degree of flood protection sought by this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Flood elevations may increase by man-made or natural causes, such as ice jams and debris-restricted bridge openings. This section does not imply that areas outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- (3) This section shall not create any liability on the part of the county or any county officer or employee for any flood damages that result from reliance on this section or any administrative decision lawfully made under this section.

(e) Records [44 C.F.R. § 59.22(a)(9)(iii)].

Records of actions associated with administering this section shall be kept on file and maintained by the Floodplain Administrator.

(f) Abrogation and greater restrictions [44 C.F.R. § 60.1(b)].

This section supersedes any county code section or ordinance currently in effect in flood-prone districts.

(g) Severability.

If any subsection, paragraph, sentence, clause, or phrase of this section shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this section. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this section are declared to be severable.

(h) Penalty for violations [44 C.F.R. § 60.2(e)].

Any person who fails to comply with any of the requirements of this section, the direction, discussion, or order of the Director of Planning and Zoning or any authorized employee shall be guilty of the appropriate violation and subject to the penalties therefore.

The Virginia Uniform Statewide Building Code addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the zoning ordinance are addressed in county code section 28-311.

In addition to the above penalties, all other actions are reserved, including an action in equity for the proper enforcement of this section. The imposition of a fine or penalty for any violation of, or noncompliance with, this section shall not excuse the violation or

noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this section may be declared by the county to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this section.

(i) *Designation of the floodplain administrator [44 C.F.R. § 59.22(b)]*

The zoning administrator is appointed to administer and implement these regulations and is referred to as the Floodplain Administrator. The Floodplain Administrator may:

- (1) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the County Administrator, or his designee.
- (2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
- (3) Enter into a written agreement/contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP) as set forth in 44 C.F.R. § 59.22.

(j) *Duties and responsibilities of the floodplain administrator [44 C.F.R. § 60.3]*

The duties and responsibilities of the floodplain administrator shall include, but are not limited to the following:

- (1) Review applications for permits to determine whether proposed activities will be located in the special flood hazard area (SFHA).
- (2) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- (3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- (4) Review applications to determine whether all necessary permits have been obtained from federal, state, or county departments or agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, or structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any

change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

- (5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Virginia Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies such as Virginia Department of Environmental Quality (VADEQ) and United States Army Corps of Engineers (USACE), and have submitted copies of such notifications to FEMA.
- (6) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on FIRMS as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA). At the time of passing of Ordinance O14-37, there are no such areas designated on the Stafford County FIRM.
- (7) Approve applications and issue permits to develop in flood hazard areas if the provisions of this section are met, or disapprove applications if the provisions of this section are not met.
- (8) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with this section, if non-compliance has occurred, or violations have been committed.
- (9) Review elevation certificates and require incomplete or deficient certificates to be corrected.
- (10) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMS, including hydrologic and hydraulic engineering analyses prepared by or for the county, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- (11) Maintain and permanently keep records that are necessary for the administration of this section, including:

  - a. Flood insurance studies, FIRMS (including historic studies and maps and current effective studies and maps), and LOMC; and
  - b. Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood proofed, other

required design certifications, variances, and records of enforcement actions taken to correct violations of this section.

- (12) Enforce this section, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (13) Advise the board of zoning appeals regarding the intent of this section and, for each variance application, prepare a staff report and recommendation.
- (14) Administer the requirements related to proposed work on existing buildings.
  - a. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
  - b. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (15) Undertake other actions which may include, but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing county departments and owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under NFIP flood insurance policies.
- (16) Notify FEMA when the corporate boundaries of the county have been modified and:
  - a. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to this section has been assumed or relinquished through annexation; and
  - b. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in this section, prepare amendments to this section to adopt the FIRM and appropriate requirements, and submit the amendments to the board of supervisors for its consideration; such consideration shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be

provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

- (17) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- (18) It is the duty of the Floodplain Administrator to take into account flood, mudslide, and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdiction of the county, whether or not those hazards are specifically delineated geographically (e.g., via mapping or surveying).
- (k) Use and interpretation of FIRMs [44 C.F.R. § 60.3].

The floodplain administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data.

- (1) Where field surveyed topography indicates that adjacent ground elevations:
- a. Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations; or
  - b. Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the SFHA.
- (2) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
- (3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations.
- (4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs.

(5) If a preliminary FIRM and/or a preliminary flood insurance study is provided by FEMA:

- a. Upon the issuance of a letter of final determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided by FEMA for the purposes of administering this section.
- b. Prior to the issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to county code section 28-57(q)(3) and used where no base flood elevations and/or floodway areas are provided on the FIRM.
- c. Prior to issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change by and/or appeal to FEMA.

(l) Jurisdictional boundary changes [44 C.F.R. § 59.22, 65.3].

The county floodplain provisions in effect on the date of annexation shall remain in effect and shall be enforced by the county for all annexed areas until the county adopts and enforces county code provisions which meet the requirements for participation in the NFIP. In general, localities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the board of supervisors for its consideration, such consideration shall take place at the same time as or prior to the date of annexation, and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a) (9)(v), all NFIP participating communities must notify FEMA, and optionally the State Coordinating Office, in writing whenever the boundaries of the community are modified by annexation or the community otherwise assumed or is no longer authorized to adopt and enforce floodplain management regulations for a particular area. In order that all FIRMs accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community assumed or relinquished floodplain management regulatory authority must be included with the notification.

(m) District boundary changes.

The delineation of any of the Floodplain Districts may be revised by the county where natural or man-made changes have occurred, where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, and/or an individual documents the need for such change. Prior FEMA approval must be obtained for any such change.

(n) *Interpretation of district boundaries.*

Initial interpretations of the boundaries of the floodplain districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the floodplain districts, the board of zoning appeals shall make the necessary determination. Any person who disputes the location of district boundary shall be given a reasonable opportunity to present the case to the board of zoning appeals and to submit technical evidences if so desired.

(o) *Submitting technical data [44 C.F.R. § 65.3].*

The county's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but no later than six months after the date such information becomes available, the county shall notify FEMA of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

(p) *Letters of map revision.*

When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including State agencies, must notify FEMA by applying for a CLOMR and then a LOMR.

Examples:

1. Any development occurring in the floodway that causes a rise in the base flood elevations.
2. Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
3. Alteration or relocation of a stream including but not limited to installing culverts and bridges 44 Code of Federal Regulations § 65.3 and § 65.6(a)(12).

(q) *Establishment and description of special flood hazard districts [44 C.F.R. § 59.1,60.3].*

The Flood Hazard (FH) Overlay District shall consist of the SFHA. The basis of delineation of SFHAs shall be the FIRM and FIS for the county prepared by the FEMA, dated February 18, 2015, and any subsequent revisions or amendments.

The county may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a local flood hazard map using best available topographic data and locally-derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA are established as shown on the FIRM, which incorporated in and a part of this and which shall be kept on file at the Planning and Zoning Department.

- (1) The floodway district is in an AE Zone and is delineated, for purposes of this section, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the 1% annual chance flood without increasing the water surface elevation of that flood by more than one foot at any point. The areas included in this district are shown on the FIRM.

The following shall apply within the floodway districts of an AE zone [44 C.F.R. § 60.3(d)].

- a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis, performed in accordance with standard engineering practice, that the proposed encroachment will not result in any increase in flood levels within the county during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, and/or computations shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies with the county's endorsement for a CLOMR, and receives FEMA approval.

If county code section 28.57(q)(1)a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of county code section 28-57(s), (t), and (u).

b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

(2) The AE or AH zones will be those areas for which the FIRM and the FIS have established 1% annual chance flood elevations. The following provisions shall apply within an AE zone where floodway has not been delineated. [44 C.F.R. § 60.3(c)].

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the county. The requirement in 44 C.F.R. § 63.3(c)(10) only applies along rivers, streams, and other watercourses where FEMA provided base flood elevations. The requirement does not apply along lakes, bays and estuaries, and the ocean coast.

Development activities in Zones AH and AE, on the county 's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the county 's endorsement – for a CLOMR, and receives the approval of FEMA.

(3) The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the 1% annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 C.F.R. § 60.3(b)].

The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 1% annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies,

analyses, and/or computations shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level by three feet.

During the permitting process, the Floodplain Administrator shall obtain:

- a. The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and
- b. If the structure was flood-proofed in accordance with this section, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five acres, whichever is less.

- (4) The Coastal A Zone shall be those areas, as defined by the USBC, that are subject to wave heights between 1.5 feet and three feet. In the Coastal A Zone, the floodplain development and building standards for VE Zones shall apply. When the Limits of Moderate Wave Action (LiMWA) line is shown on the effective FIRM, the Coastal A Zone can be identified as the AE Zone areas seaward of the LiMWA line.
- (5) The VE or V Zones on FIRMs accompanying the FIS shall be those areas that are known as coastal high hazard areas, extending from offshore to the inland limit of a primary frontal dune along an open coast. For these areas, the following provisions shall apply [44 C.F.R. § 60.3(e)]:
  - a. All new construction and substantial improvements, including manufactured homes, in Zones V and VE (V if base flood elevation is available) shall be elevated on pilings or columns so that:
    1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level plus three feet; and
    2. The pile or column foundation and structure attached to it is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a 1% chance of being equaled or exceeded in any given year (1% annual chance).

- b. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the requirements of county code section 28-57(q)(5) a.
- c. The Floodplain Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The Floodplain Administrator shall maintain a record of all such information.
- d. All new construction shall be located landward of the reach of mean high tide.
- e. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

For the purpose of this subsection, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by county ordinance) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- 1. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a 1% chance of being equaled or exceeded in any given year.
- f. The enclosed space below the lowest floor shall be used solely for vehicle parking, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.

- g. The use of fill for structural support of buildings is prohibited. When non-structural fill is proposed in a coastal high hazard area, appropriate engineering analyses shall be conducted to evaluate the impacts of the fill prior to issuance of a development permit.
- h. The man-made alteration of sand dunes, which would increase potential flood damage, is prohibited.

(6) The AO Zone on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply [44 C.F.R. § 60.3(c)].

- a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM.

If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

- b. All new construction and substantial improvements of non-residential structures shall:

1. have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade;  
or,

2. together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

- c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

(r) Overlay concept.

The FH Overlay District shall be overlays to the existing underlying districts as shown on the County’s zoning map. As such, the provisions for the floodplain districts shall serve as a supplement to the underlying zoning district provisions.

If there is any conflict between the provisions or requirements of the FH Overlay District and those of any underlying zoning district, the more restrictive provisions shall apply.

If any provision concerning the FH Overlay District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

(s) *Permit and application requirements in floodplain districts [44 C.F.R. § 59.22, 60.2, and 60.3].*

a. *Permit requirement.*

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit.

Such development shall be undertaken only in strict compliance with the this section and with all other applicable codes and ordinances, including, but not limited to, USBC and county code chapter 22. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws, and shall review all sites to assure they are reasonably safe from flooding.

Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

b. *Site plans and permit applications.*

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information.

1. *The elevation of the base flood at the site.*
2. *The elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.*
3. *For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.*
4. *Topographic information showing existing and proposed ground elevations at the datum of the FIRM.*

(t) General standards.

The following shall apply to all permits.

- a. New construction and substantial improvements shall be according to county code section 28-57(q) and the USBC, and anchored to prevent flotation, collapse, or lateral movement of the structure. In addition to the USBC requirements, structures shall have the lowest floor, including basement, elevated to or above the base flood level plus three feet. The USBC building standards for VE zones shall apply to Coastal AE zones.
- b. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Anchoring methods include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- c. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- d. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- e. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- g. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- h. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- i. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. In addition to provisions a. – h. of this subsection in all special flood hazard areas, the additional provisions shall apply.
- j. Prior to any proposed alteration or relocation of any channels or of any watercourse and/or stream, within this jurisdiction a permit shall be obtained from the USACE, the VADEQ, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and

FEMA.

- k. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.
- l. The Floodplain Administrator may at his discretion issue, in writing, an administrative exception for specified uses and activities in the Coastal A and Coastal High Hazard Areas. The Floodplain Administrator must find that the placement of fill material for the proposed activity or use would not create a flood hazard or contribute to increased flood elevations of off-site properties. The applicant requesting an administrative exception shall provide sufficient information, plans, and drawings for the Floodplain Administrator to determine that there would be no flood hazard impacts. The following uses and activities may be permitted, by administrative exception, in the Coastal A and Coastal High Hazard Areas:
1. Water-dependent uses and activities associated with tidal water bodies, such as marinas, docks, wharves, and piers.; and
  2. Shoreline protection measures where the maximum elevation of the structure or fill does not exceed the base flood elevation.
- (u) Elevation and construction standards [44 C.F.R. § 60.3].

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with county code section 28-57 (q)(3), the following provisions shall apply.

a. Residential construction.

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE (except Coastal A zones), AH, and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus three feet. See county code section 28-57(q)(4), (5), and (6) for the requirements in the Coastal A, VE, and AO zones.

b. Non-residential construction.

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level plus three feet. See Section 28-57(q)(4), (5), and (6) for requirements in the Coastal A, VE, and AO zones. Buildings located in all A1-30, AE (except Coastal A zones), and AH zones may be flood-proofed in lieu of being elevated, provided that all areas of the building components below the elevation corresponding to the BFE plus three feet are water tight with walls substantially impermeable to the passage of water, and use

structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood proofed, shall be maintained by Floodplain Administrator.

c. Space below the lowest floor.

In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. not be designed or used for human habitation, but shall only be used for vehicle parking, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for vehicle parking (garage door) limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
2. be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must be certified by a professional engineer or architect, or meet the following minimum design criteria:
  - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding;
  - b. The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding;
  - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;
  - d. The bottom of all required openings shall be no higher than one foot above the adjacent grade;
  - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and,

therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

d. Standards for manufactured homes and recreational vehicles.

1. All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in county code section 28-57(t) and (u).
2. All recreational vehicles placed on sites must either:
  - a. be on the site for fewer than 180 consecutive days, be fully licensed, and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
  - b. meet all the requirements for manufactured homes in county code section 28-57(u)(D)(1).

(v) Standards for subdivision proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage to reduce exposure to flood hazards.
4. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five acres, whichever is less.

(w) Existing structures in floodplain areas

A structure or use of a structure or premises which lawfully existed before the enactment of Ordinance O14-37, but which is not in conformity with this section, may be continued subject to the following conditions.

- (1) Existing structures in the floodway area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- (2) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than 50% of its market value shall conform to the USBC and the applicable provisions of this section.
- (3) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of 50% or more of its market value shall be undertaken only in compliance with this section and shall require the entire structure to conform to the USBC.
- (x) *Variances: Factors to be considered [44 C.F.R. § 60.6].*

Variances shall be issued only upon: (i) a showing of good and sufficient cause, (ii) after the board of zoning appeals determines that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the board of zoning appeals determines that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with county code or county ordinances.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may be granted. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. The board of zoning appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with this section.

The board of zoning appeals may issue variances for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In considering variance applications, the board of zoning appeals shall consider all relevant provisions of county code chapter 28 and the following factors.

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway district that will cause

- any increase in the 100-year flood elevation.
- (2) The danger that materials may be swept on to other lands or downstream to the injury of others.
  - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner(s).
  - (5) The importance of the services provided by the proposed facility to the county.
  - (6) The requirements of the facility for a waterfront location.
  - (7) The availability of alternative locations that are not subject to flooding.
  - (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the county.
  - (10) The safety of access by ordinary and emergency vehicles to the property in during a flood.
  - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - (12) The historic nature of a structure. The board of zoning appeals may grant variances for repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (13) Such other factors which are relevant to the purposes of this section.

The board of zoning appeals may refer any application and accompanying documentation pertaining to any variance request to an engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the board of zoning appeals determines that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and

will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

The board of zoning appeals may issue a variance after it determines that the variance will be the minimum required to provide the requested relief.

The board of zoning appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the 100-year flood elevation (a) increases the risks to life and property, and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that the board of zoning appeals issues shall be noted in the annual or biennial report submitted to the FEMA.

; and

BE IT FURTHER ORDAINED that this ordinance shall become effective February 18, 2015.

Planning and Zoning; Comprehensive Plan Amendment/Proffer Guidelines Mr. Jeff Harvey, Director of Planning and Zoning, gave a presentation and answered Board members questions. Mr. Harvey noted that this was a housekeeping matter to bring proffer guidelines up-to-date in the Comprehensive Plan, and that it would be updated on an annual basis.

The Chairman opened the public hearing.

The following persons desired to speak:

Paul Waldowski

The Chairman closed the public hearing.

Mr. Sterling motioned, seconded by Mr. Thomas, to adopt proposed Resolution R14-174.

The Voting Board tally was:

Yea: (7) Bohmke, Cavalier, Milde, Sellers, Snellings, Sterling, Thomas

Nay: (0)

Resolution R14-174 reads as follows:

A RESOLUTION TO AMEND THE STAFFORD COUNTY COMPREHENSIVE PLAN BY ADOPTING AMENDMENTS TO CHAPTER 5, "THE PUBLIC COSTS OF GROWTH AND DEVELOPMENT," OF THE TEXTUAL DOCUMENT, "STAFFORD COUNTY, VIRGINIA COMPREHENSIVE PLAN, 2010-2030," DATED JANUARY 17, 2012

WHEREAS, Virginia Code § 15.2-2229 authorizes the Board to amend the Comprehensive Plan (Plan); and

WHEREAS, pursuant to Virginia Code §§ 15.2-2229 and 15.2-2230, the Planning Commission may prepare and recommend amendments to the Plan; and

WHEREAS, the proposed Plan amendments (i) add language to the Comprehensive Plan, Chapter 5.2.3, to further clarify the connection between the Capital Improvement Plan (CIP) and the proffer guidelines, and (ii) remove the recommended cash proffer amounts for residential units from Chapter 5.3.2 identified in Exhibit A, “Comprehensive Plan Amendments – Proffer Guidelines,” dated November 13, 2014; and

WHEREAS, the Planning Commission conducted a public hearing on the proposed Plan amendments, and provided its recommendations to the Board on the proposed Plan amendments; and

WHEREAS, the Planning Commission recommended approval of the proposed Plan amendments; and

WHEREAS, the Board carefully considered the recommendations of the Planning Commission and staff, and the public testimony, if any, received at the public hearing; and

WHEREAS, the Board finds that the adoption of the proposed Plan amendments will guide and accomplish a coordinated, adjusted, and harmonious development in Stafford County, Virginia, which will, in accordance with the present and probable future needs and resources of the County, best promote the health, safety, morals, order, convenience, prosperity, and general welfare of the citizens of the County, including the elderly and persons with disabilities; and

WHEREAS, the Board finds that the proposed Plan amendments are consistent with good planning practices;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 16<sup>th</sup> day of December, 2014, that it be and it hereby does adopt the proposed amendments to Chapter 5 of the textual document, “Stafford County, Virginia Comprehensive Plan, 2010-2030,” dated January 17, 2012.

Adjournment: At 8:40 p.m. the Chairman declared the meeting adjourned.

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Anthony J. Romanello, ICMA-CM  
County Administrator

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Jack R. Cavalier  
Chairman