

STAFFORD COUNTY PLANNING COMMISSION
May 19, 2010

The meeting of the Stafford County Planning Commission of Wednesday, May 19, 2010, was called to order at 6:33 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Fields, Rhodes, Hazard, Mitchell, Kirkman and Hiron

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Roberts, Stinnette, Baker, Zuraf, Hess, Hudson, Forestier and Hornung

DECLARATIONS OF DISQUALIFICATION

Mr. Howard: Any declarations of disqualification for anything on this evening's agenda? Hearing none we will move right into the unfinished business. And the first item on the agenda this evening is the CUP2900084 which is a Conditional Use Permit for White Oak Car Wash. Mr. Hess?

UNFINISHED BUSINESS

1. CUP2900084; Conditional Use Permit - White Oak Car Wash - A request for a Conditional Use Permit to allow a car wash within a B-1, Convenience Commercial Zoning District, on a portion of Assessor's Parcel 54-59 consisting of approximately 3.65 acres, located on the south side of White Oak Road at Southside Drive and Potomac Avenue within the George Washington Election District. This development would include a full service car wash within a building approximately 6,000 square feet in size. **(Time Limit: July 6, 2010) (Deferred to May 19, 2010)**

Mr. Hess: Thank you Mr. Chairman. May I have the floor computer please? Staff brings back to you attention the Conditional Use Permit 2900084, White Oak Car Wash. Just to do a quick review here, I'm going to show you the previous Generalized Development Plan for your memory, to refresh your memory. The big difference being the entrance to the car wash has changed. It was on the eastbound side of the property and, as you will see, here is a zoomed out shot and here is a zoomed in shot so you can get a little closer idea. The entrance was proposed over here and now here is the current GDP that was in your package. The entrance was moved over to Southside Drive, now on the west side of the property. That's a zoomed out shot and then this is the zoomed in version. As you can tell, circulation is going to change. Anyone coming westbound on White Oak Road would turn left, go down and wrap around the building this was, whereas before it was in an "S" shaped configuration. Now you are just basically doing a loop and going back out. And then, as I will show in an aerial a little bit later on, people traveling eastbound on White Oak Road would turn onto Southside Drive, where it connects into White Oak Road on the western entrance. So, this is the eastern intersection of Southside Drive with White Oak Road; the western intersection of Southside Drive with White Oak Road is over here off the map. And they would come down, travel east along Southside Drive and turn right into the car wash and proceed to exit back out that way or continue to go east on White Oak Road. Just to give you an idea, here are some aerial shots. This is Southside Drive, standing in the middle of Southside Drive, facing White Oak Road. Essentially, traffic coming this way so if this car wanted to come to the car wash it would turn left here then turn into the entrance which would be, I believe, right about where the stop sign is at, maybe a little bit further away from the intersection of White Oak Road and

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Southside Drive. And, again, if you were going east on White Oak Road, you'd turn onto Southside Drive and then turn right, right where that stop sign is just about at. Here is another shot so you can see again, someone coming eastbound on White Oak Road would turn onto Southside Drive and turn in right there. There is also a proposal to regulate right-turn motions, so people wouldn't be able to come up to White Oak Road and wrap around to get into the car wash. There would be posted a No Right Turn sign right there. Just to give you an idea of perspective, here is the western intersection of Southside Drive with White Oak Road and here is the subject parcel property and the intersection is right about there. And what staff also did was modify the conditions. We took out the ingress/egress condition, we modified the GDP to reflect the most recent GDP which is dated May 3rd and then condition number 11 was more or less referencing what I was just talking about as far as the new proposed commercial entrance into the car wash site with the new turn sign off of White Oak Road. And with that, I will take any questions.

Mr. Howard: Alright, thank you Mr. Hess. I will bring it back to the Planning Commission. Mr. Fields, this is in your area of responsibility. Do you have any comments, questions...?

Mr. Fields: Actually, we need to... if Debrarae and the folks would come forward, we have one little thing we are trying to resolve here before we move forward. I believe, if you saw the configuration, remember if you eliminate the right turn onto Southside Drive and put that entrance right on Southside, I think you probably have the solution that actually makes White Oak a little more safer than it is today as opposed to a lot less safe which is what the previous proposal would. It certainly doesn't make it, I don't believe, any worse. Again, remembering this parcel is zoned B-2 and there is the ability to do some commercial use there. What we're trying to do now is sort of a trade-off for the fact that maybe it's a little, you know, in a perfect world with that residential tie-in and would we rezone it today for a commercial, who knows. But given the fact that there's a little bit of a change factor to the residents of the area, if you notice, we didn't look at the whole parcel there. I don't know if you have that available. Can you pull that back up?

Mr. Hess: Sure.

Mr. Howard: It was that back piece of property.

Mr. Fields: Yeah. There are three-some acres total and what we're trying to work out actually right now, before I make a motion on this, is to figure out how to guarantee, which they've agreed to that they're never going to do anything with the rest of that property...

Mr. Howard: Leave it as open space?

Mr. Fields: Leave it as open space, so we have the car wash with the egresses defined and then that's the end game for that property. People don't have to worry about something else ever going in there. And the residents of the area would enjoy, it's not like a park, but they would enjoy the environmental benefits, the three acres of open space. Functionally, when I walked the property, there's basically a ledge that the car wash sits on the minute you go back behind the back of that, the topography slopes down. On the CUP subject property, the issue we were thinking about, of course, it would be great and simple to do it as a condition. What I'm getting from Debrarae and I believe in her conversations with staff is that the CUP is only applicable to a portion of the property. And the portion that we're trying to lock down from further development is not subject to the CUP itself. Is that correct Mr. Harvey?

Mr. Harvey: Mr. Fields, that is correct. The CUP applies to the B-1 zoned portion of the property.

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Mr. Fields: Right. And so the R-1 zoned property, which they are perfectly willing to guarantee, won't be developed. So, I guess Debrarae, you were talking about possibly putting a note on the plan or some sort of... we know that logically that it's not likely to be developed. It would be problematic to develop but, like I said, for the sake of I want to make sure that any citizen understands clearly what's being agreed to here.

Ms. Karnes: Well, Mr. Chairman, we do want to emphasize that we are completely in agreement with doing whatever is needed to be done to ensure that there is no development on the R-1 portion of the site. And the only issue is the mechanics of doing so. We've offered to put a note on the site that basically says that we will not put any access on the CUP portion to the rear of the site for the purpose of development of residential units. I'm also open to any other suggestions from staff or Planning Commission members as to how best to effectuate this.

Mr. Howard: How big is that parcel? The one that's residential.

Ms. Karnes: The portion is not quite two acres but is comprised of a great deal of environmental features that would prohibit building on most parts of it.

Mr. Fields: So, does anyone have any thoughts other than the note on the plan? Mr. Harvey or Mrs. Roberts?

Mr. Harvey: Well, Mr. Chairman, based on the existing zoning and the development regulations we have in the County, they would be limited to a maximum of 1 lot period out of that R-1 portion of the property, if they could achieve an adequate building site. But as far as mechanically, I would have to defer to the legal staff to see if there was any way it could be done. It may have to be something outside of the application.

Mr. Howard: Well, I guess the question is, is there anything, Mrs. Roberts, illegal about making a notation on the GDP that was submitted recognizing the R-1 parcel, as shown and depicted there, if they were to write on that and it just stays in the file. I think that is what Mr. Fields is asking. I mean, can we do it legally? I don't know how enforceable it is.

Mrs. Roberts: If they're proffering the GDP and they make that one of the conditions, that would be fine.

Mr. Howard: Okay.

Mr. Fields: So we could make one of the conditions on the CUP site that there would be no access to the R-1 site?

Ms. Karnes: We would not have any opposition to that.

Mr. Fields: Okay. So we do have our work done. And if you prohibit access to the R-1 site through the B-2 site, for all intents and purposes you've locked, in addition to the development restrictions, everybody feels confident that we've made it an impossible as you can.

Mr. Howard: It doesn't sound like the topography would allow.

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Mr. Fields: That's the same with the rest of the development. The rest of the development of the B-2 parcel, because of the topography, is essentially prohibited. The amount of site work for the return that you could possibly get on that parcel... you just couldn't do it. You couldn't afford to do that kind of site work for what you could get out of that size of a parcel. That's my understanding, correct, from the engineer? It's sort of what you said? Because we looked at that as we were walking and I said "can you develop this" and you said "site work costs are prohibited essentially".

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Yes, I just wanted to find out why it couldn't actually be made a condition in terms of mitigating the environmental impacts of building on the property. You can impose conditions that have to do with mitigating the impacts. And in this instance, why can't you impose a condition that mitigates the environmental impact of the building on the subject lot, that the mitigation that's voluntarily offered by the applicant is to put a deed restriction on the other parcel. I can't understand why you can't do that. Because we have conditions all the time that have to do with, for instance, off-site traffic improvements and which do not take place on the subject parcel. So I don't understand why something like that couldn't be done.

Mr. Fields: Neither do I. That sounds logical to me.

Mr. Howard: I certainly don't have the answer but it sounded initially like the issue was the CUP pertained only to the one parcel.

Mr. Fields: But I understand what Ms. Kirkman is saying. The analogy of off-site traffic improvements certainly seems to be the operative one there that we do occasionally have conditions that don't affect the actual subject CUP area. You've expressed that you will do whatever mechanism we want to do, so can we put in the condition that you're restricting access and... I don't know, what do we want to say... conserving the...

Ms. Kirkman: Well, there would be a deed restriction for open space.

Mr. Fields: A deed restriction for open space. Can you do that?

Ms. Kirkman: So we can get the environmental impacts of building on the subject property.

Ms. Karnes: My client has authorized me to agree to whatever condition there is that restricts development of that portion of the site.

Mr. Fields: Well, if we could put that as a condition, that would make sense. Of course, our vote is recommendation. If there is time, if that raises some flag between now and when it goes to the Board of Supervisors, I suppose there is still obviously time, if we've overstepped our bounds which I don't see how we have since everybody is agreeing to it. So, I guess we'll put the condition that the remainder of the parcel will be put into open space as a mitigation for the environmental impacts of development.

Ms. Karnes: Now, one question about that. Would that condition require an open space easement dedicated to a third party because I'm not sure we'd be able to locate a third part to manage such a small isolated portion.

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Mr. Fields: I don't know whether...

Ms. Kirkman: No.

Mr. Fields: Simply declaring something open space doesn't necessarily mean it has to be an easement, I don't believe.

Ms. Karnes: Okay, that would be my only concern.

Mr. Fields: I believe that you can simply declare and define it as open space.

Ms. Karnes: Okay.

Ms. Kirkman: Mr. Fields, you can do it through a deed restriction and it does not require a conservation easement.

Mr. Howard: I think Ms. Karnes is also trying to understand what's the future liability of the applicant in terms of the property and the ownership, and what do they have to do to maintain the open space. So I think that was part of what she asked.

Ms. Karnes: Yes.

Mr. Fields: Well, I think the open space... you know, this is a case where it's true open space. It just sits there and does what it does.

Mr. Howard: So there's no expectation so everyone knows and somehow in our notes or the record should reflect that we're not expecting the applicant to maintain a park.

Mr. Fields: Just leave it as it is. Okay, with that condition as an amendment, then I move to recommend approval of the CUP.

Ms. Kirkman: Second.

Mr. Fields: Second by Ms. Kirkman.

Mr. Howard: Any discussion?

Mr. Hirons: If I could ask a question? Joey, one thing you said was there was a proposal for a no right-hand turn from White Oak onto Southside there where the entrance/exit is to turn...

Mr. Hess: Right, to make a right turn from White Oak onto Southside?

Mr. Hirons: Yes.

Mr. Hess: I guess getting to the eastern side of Southside Drive and White Oak Road? Yes, on the GDP they show a proposed no right turn sign right there.

Mr. Hirons: Okay. And VDOT is good with that?

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Mr. Hess: Yes they are.

Mr. Fields: It was actually their recommendation.

Mr. Hirons: Good.

Mr. Fields: At the onsite meeting, we were all just scratching our heads on this one and VDOT said “well, we can waive certain entrance width requirements to make this work because we can see how we can make this work, but the condition would have to be no right turn so that you don’t create a more dangerous situation”.

Mr. Hirons: And I think with, like many of my fellow Commissioners, we have concerns with this particular proposal, this car wash here. But, quite frankly, I’m surprised; I really like what was done there and what was found. I really appreciate Mr. Fields for his work on this in helping find the right answer I think. So, thank you.

Mr. Fields: Well, it was a big team effort. Actually I give a lot of credit to VDOT; they were the ones that sort of, I think at the site, probably were able to help us resolve what seemed to be unresolvable. So, much appreciation for their efforts.

Mr. Howard: Any other comments from members of the Planning Commission? I would echo Mr. Hirons comment. I actually like the circulation around the building better myself, too. If I was a user of the facility, I think you have better circulation and it’s easier to use. You have a bailout lane that you can still leverage if you need to. And I think that the way the plan was designed, from a safety perspective on the roadways, is very much improved. So, I will definitely be supporting it. Okay, any other comments? Hearing none, we’ll call for the vote. All those in favor of the motion to recommend approval for CUP2900084, Conditional Use Permit, White Oak Car Wash, signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. All those opposed signify by saying nay. The motion carries 7-0. Mr. Fields, the next item is also involving... oh, no it’s not. I apologize. So that’s approved. Moving on to item 2. I thought this was part of the CUP but it’s not. This is the Comprehensive Plan Review, Miracle Valley Lane Sanitary Sewer Extension.

2. COM1000010; Comprehensive Plan Compliance Review - Miracle Valley Lane Sanitary Sewer Extension - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for the extension of gravity sanitary sewer outside of the Urban Services Area a length of 505 linear

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feet to serve two residences, located on the north side of Deacon Road and east side of Grafton Village Elementary School on Assessor's Parcels 54-132, 133A and 133B within the Falmouth Election District. **(Time Limit: July 4, 2010) (Deferred for meeting with Utilities and Mr. Hiron)**

Mr. Hiron: Mr. Chairman, I met with both our Planning staff as well as the Utilities Department who is the applicant in this case. And they have spoken with the lot owner and he has agreed to deferring this until... did he give a specific date? October 1st, and the concept there is the lots are included in the draft Comprehensive Plan. So they are within the USA of the draft Comprehensive Plan Land Use Map. So, if they end up within the USA then they will be able to do this without application. So, with that, and with the lot owner agreeing to a deferral, I would... do I need to make a motion here for us to defer it until October?

Mr. Howard: Yeah, the problem is that we have a time limit of July 4th.

Mr. Hiron: And I believe that was discussed as being acceptable if the applicant accepts the deferral.

Mr. Zuraf: Well, the applicant, the Utilities Department, talked to the landowner. They reluctantly accepted. They preferred, of course, for this to go ahead and get approved but they reluctantly accepted, holding off until October and deferring the requirement for a decision by July 4th.

Mr. Howard: Yeah, I'm okay... Mrs. Roberts stepped out... I'm okay with allowing that, I just want to make sure it's within our purview to extend the timeframe basically because the time limit exists for a reason and I'm not sure if it's because the Board referred it to us. Mr. Harvey?

Mr. Harvey: Mr. Chairman, State Code says that the County has a sixty day time limit to review these types of applications. In the past, if the applicant has requested an extension, if we get that in writing that is sufficient to allow the extension to occur.

Mr. Howard: So, why don't we defer it to the next meeting pending the letter of acceptance of deferral from the applicant; get that in writing. You want to make that motion Mr. Hiron?

Mr. Hiron: Not really. I move for the Comprehensive Plan Compliance Review for Miracle Valley Lane Sanitary Sewer Extension be deferred until our June 2nd meeting.

Mr. Mitchell: Second.

Mr. Howard: Any discussion?

Mr. Rhodes: And just to clarify, I think what we then will be waiting for from the Utilities Department is their request for deferral, since they are the applicant?

Mr. Howard: Well, I suppose we should see a request in writing, and also the acceptance of the deferral from the applicant, or the property owner, is what Mr. Harvey indicated.

Mr. Rhodes: Okay, thank you.

Mr. Howard: And the applicant, which would be the County.

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Ms. Kirkman: Mr. Chair, I think we also need from the applicant something in writing that they are willing to waive the time limit.

Mr. Howard: Right, I think that's what Mr. Harvey indicated. That's what we would need in writing.

Mr. Harvey: Yes. In this case, the applicant is the County so it would come from the Utilities Department.

Mr. Howard: Okay. So, Mr. Harvey, you'll contact the Utilities Department and tell them?

Mr. Harvey: Yes sir.

Mr. Howard: Any other discussion on the motion? Okay, we'll call for the vote. All those in favor signal by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Mr. Howard: Aye. Those opposed say nay. The motion carries 7-0.

Ms. Kirkman: Mr. Chair, one of the issues that came up in the public hearing in review of this application was the fact that we're still in a situation where pump and haul customers, in making these kinds of requests, there's no evaluation being done about the suitability of the property for alternative on-site sewage disposal systems.

Mr. Howard: Correct.

Ms. Kirkman: And as Mr. Dayton explained to us that although they're not bound by any ordinance that prohibits them, they are reluctant to require that, without the Board of Supervisors' specific direction. And I know that was a concern for a number of members of the Commission and wondered if there was some sort of recommendation the Planning Commission wanted to make to the Board of Supervisors regarding that issue. This is the second time it's come up now in less than a year.

Mr. Howard: I think it's a good question. I'm not sure I understand why the County wouldn't actually have people exploring that option. Why it needs to be a recommendation from the Board of Supervisors when it's something that certainly could save the homeowner and also the County money, I'm not sure. I don't care to entertain it, but I think...

Mr. Fields: Mr. Chair, I think my recollection was is that it really is kind of a matter of administrative housekeeping. The glitch occurred in that if they had been applying for subsidized pump and haul, the

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review of alternative systems would have been part of the process. Because they weren't applying for pump and haul but applying for a sewer extension, the County was simply going to put them on temporary pump and haul and, right now, the procedural language of temporary pump and haul for a neighborhood extension doesn't include the exploration of alternatives. And so it really seems fairly simple; we just need to simply add language to that process. Is that the section, Jeff, of the County Code regarding Utilities is where that is, which is probably why we don't see it as much; it's not in the zoning or subdivision ordinance, right?

Mr. Harvey: Correct; it's in the Utilities Code and that's usually an issue that the Utilities Commission and the Board of Supervisors work out from a policy standpoint. Also, I would like to point out to the Commission that we do have, in your handouts, a letter regarding the soil conditions on-site. Utilities staff had recently received this from the owner; however, it's been done quite a while. So, it probably corroborates the verbal discussion that the Utilities Department had with the owner that there was not a suitable location for a drainfield site available. And we have Mr. Greene from the Utilities Department available to speak to it in more detail if you need.

Mr. Howard: Well, Mr. Greene, if you feel so inclined to tell us why the department wouldn't explore alternative systems as an option or as part of the answer.

Mr. Greene: My name is Chuck Greene, Civil Engineer, Stafford County Utilities Department. The reason why is because during this time we were thinking that the Comprehensive Plan would get reviewed and approved. And this area, I believe, was in the Urban Service Area to be included in the Comprehensive Plan. And it looked like it was moving forward.

Mr. Howard: And it is surrounded by other properties that are in the (inaudible).

Mr. Greene: And that's the only reason. Otherwise we, as a rule, do require them to explore advanced systems.

Mr. Howard: You do require that if they're going to go on pump and haul but, what we did discover, is that because these two properties, I suppose, were deemed as able to hook up to the existing sewer system, or the thought was that they could, we didn't require the review of what other potential on-site sewage disposal systems could work in lieu of connecting them to the system. Which is really what Ms. Kirkman was asking... why isn't that part of the normal review process.

Mr. Greene: The dates on these two documents, the application, was May 11, '09, and the date on this investigation is May 26, '09. It looks like these activities were happening on or about the same time.

Mr. Howard: Yeah, in tandem; sure.

Mr. Greene: Right. So, the evidence is actually we are exploring alternate systems with the application.

Mr. Howard: Fair enough. And I guess we were informed differently, so... Ms. Kirkman?

Ms. Kirkman: That's correct. Mr. Dayton told us that you all did not require that for sewer extension applications.

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Mr. Greene: At the current time, it's not the Health Department's policy and it's not the County's policy to require that.

Mr. Howard: Our point that we raised, and we don't want to get into an argument, it was just a conversation we were having, my point, and still is my point, there's nothing to prohibit you from doing that because...

Mr. Greene: It's smart business to do that.

Mr. Howard: Right.

Mr. Greene: And we have to run this Utilities Department as a business. We have to make a profit to pay our people, we have to make a living. And we're well aware that if people can get on an alternate system, that's where they should be rather than in County subsidizing and pump and haul.

Mr. Howard: Okay, good. So it sounds like it's something that you explore today, which is not what we thought we heard last time so we may have misunderstood. But myself and other members I think were in the same place. It's something we certainly can do and there's nothing to prohibit us from doing that.

Mr. Greene: Right; it's good business.

Mr. Howard: Right; thank you.

Mr. Fields: And I had sort of a technical question on this letter. Mr. Greene? I'm sorry. When it says here in the second paragraph, none of the soils encountered met the requirements of the Health Department for the installation of a septic system. That means any type of septic... is that an all inclusive thing or a conventional drainfield?

Mr. Greene: When they go out and investigate an alternate system, the soils have to perk, which is the rate of inflow, percolation, the soils have to perk at fifty percent of the rate of what they would for a full-blown system.

Mr. Fields: Got it.

Mr. Greene: They don't even perk at fifty percent of the rate is what that means.

Mr. Fields: Okay, so there's no type of septic system currently technologically feasible that could be installed?

Mr. Greene: Well, the real problem is that circle. They cannot locate a drainfield within that circle which is 100 foot radius from a bored well.

Mr. Fields: Got it.

Mr. Greene: The reason I came up here, I just wanted to explain, I took this document and filed it over with the Health Department, so now the Health Department has it also.

Mr. Howard: Great. Mr. Greene, thank you.

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Mr. Greene: Thank you.

Mr. Howard: Mr. Fields, do you have some other question?

Mr. Fields: Nope. Just saying it's a good thing not to have a drainfield closer than 100 feet to a bored well.

Mr. Howard: Right, we agree with that.

Mr. Fields: Nobody would argue with that one.

Mr. Howard: Thank you. Item 3 is the Groundwater Management and we all received some correspondence that apparently we've been notified of some pending legal issue around that. And I know that legal staff and I had a quick conversation and they would need some additional time. They were looking for at least the second meeting in June work session to explore that; is that correct Mrs. Roberts?

3. Groundwater Management Ordinance (**Deferred to May 19, 2010**)

Mrs. Roberts: Yes, please. We will do everything we can to have it by (inaudible).

Mr. Howard: So I will entertain a motion to defer this to the second meeting in June.

Mr. Rhodes: So moved.

Mr. Mitchell: Second.

Mr. Howard: Any discussion? All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Those opposed, nay. The motion carries 7-0. Mr. Harvey, for the record, what is the second meeting in June?

Mr. Harvey: It would be June 16th.

Mr. Howard: Thank you. Okay, the next item is the Rappahannock River Overlay, item number 4.

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4. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) (**Time Limit: October 6, 2010**) (**Deferred to May 19, 2010**)

Mr. Harvey: Mr. Chairman, Ms. Forestier will be giving the Commission a broad overview of the materials that we provided in your packet tonight.

Mr. Howard: Great.

Ms. Forestier: Good evening. Bear with me, I have not done this very often so I'm not sure how to start it up.

Mr. Howard: Computer please.

Ms. Forestier: Basically, I'm Amber Forestier, Environmental Planner in the Planning Department here in Stafford County. At the last meeting, I believe we were requested to provide some background information that could be applicable to any overlay districts that we would be researching, I guess, for the Rappahannock and Potomac Rivers in the County. We gave you a lot of background information basically and what we're doing right now is just summarizing it.

Mrs. Roberts: Amber, I'm sorry, can you speak closer into the mic. And this isn't coming from me, it's coming from all those hands in the audience.

Mr. Howard: Plus it helps with the video if anybody ever wants to go back and listen. Trust me, I've had to do that.

Ms. Forestier: Basically we have it split up in four different sections. I'm not sure if you'd like to stop at the end of each section and ask questions or wait until the very end.

Mr. Howard: Knowing this group, we'll probably need to stop.

Ms. Forestier: Okay. And I'll try my best to answer some questions. Some of it is a bit technically advanced for me as well.

Mr. Howard: Great. We're not going through the whole thing are we?

Ms. Forestier: You don't want to go through the whole thing?

Mr. Howard: It's 160 pages. How many slides do you have?

Ms. Forestier: Thirty.

Mr. Howard: Okay, perfect.

Ms. Forestier: Basically, first is the Chesapeake Bay Preservation Act, Phase III Compliance. There are three basic elements of the Bay Act Program. Phase I was mapping the areas and adapting the ordinances. That was completed I believe in 1991 for the County. Phase II was the adoption of the Comp Plan components. Phase III is what we're facing now which is a review and revision of local codes for inclusion of standards that are basically required under the State regulations. The Compliance with the Bay Act; the County has been found consistent with both the Phase I and Phase II

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portions of the Chesapeake Bay Act. We had an advisory review, which was completed last December, and we were found to be... well, they never word it exactly as you are compliant but they said we did well. But that did include some points that we got from the Potomac River Overlay District. So, that's not to say that we would not make the right number of points next time around. Basically, Phase III requires that we have six provisions for plats and plans that would be in the Code and that's something a bit separate; they're just requirements that we have to make sure are there. We have to make sure that we have specific development standards to address the three general performance criteria in our ordinances. We have to make sure that we have ordinance provisions that minimize land disturbance, preserve indigenous vegetation and minimize impervious cover. Basically, they have come up with evaluation review elements at the Chesapeake Bay Local Assistance Board Level. There are eleven of them. I believe we meet a good number of them already, such as septic pump-out, the requirements for wetlands permits. They are a little unsure as to what they are going to require for agricultural conservation assessments and silviculture exemption requirements for the County at this point, but I'm sure they will come up with something before our review. Basically, we are required to eliminate obstacles to achieving the water quality goals of the Chesapeake Bay Preservation Act and ensure that all components of the local Bay Act are consistent in protecting state waters. And that is the end of that portion of it.

Mr. Howard: Thank you. Are there any questions so far?

Ms. Kirkman: Yes Mr. Chair. Could you please say a little more about how the Board of Supervisors' decision to withdraw the Potomac Resource Overlay District how that impacts the evaluation of our compliance. You mentioned points...

Ms. Forestier: Well, they started out with a point system. Now they've decided not to do points because I believe there was a little argument as to comparisons between urban, suburban and agricultural areas for the point spread. So, they are basically going to review and just make sure that we have a number of different ordinances in place that would protect or decrease impervious area and things like that. But, I believe the Potomac River Overlay District did give us additional points in that we protected intermittent streams and steep slopes. So, we did gain a few points in protecting the water quality.

Ms. Kirkman: So, that was the component of the legislation that was important to them in terms of the Ches Bay Act.

Ms. Forestier: Yes ma'am.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Okay. Next section.

Ms. Forestier: Computer please. In this portion of it, the total maximum daily loads are based on federal requirements from the Environmental Protection Agency at this point. It's a regulatory tool of the Clean Water Act in Section 303(d) and identifies pollutant limits a clean water body can sustain. It includes point sources such as sewage treatment plants that are required to have permits through the Department of Environmental Quality, nonpoint sources like pollutant runoff from land, and that would be covered under our Stormwater Management and E&S or Erosion and Sediment Control Ordinances. But there are also a lot of things that are nonpoint sources that we don't have control over. There is also a margin of safety that's built into the total maximum daily load calculations. The

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EPA is sending a pollution diet to meet the clean water standards that are required for the Bay. They are capping nitrogen, phosphorus and sediment loads for all of six Bay states and DC. The states are going to set load caps for point and nonpoint sources and kind of, I guess the states are going to decide how they split it up amongst different watersheds. The draft will be available for public review or comment from August through October, and the final TMDLs are going to be published by the EPA in December of 2010. Why now? This new approach to the restoration of the Bay is the mandatory pollution diet. There was an executive order that was signed in May of 2009 by President Obama that required that the EPA basically take over and make sure that all the states were going to do the maximum they could to actually meet some goals this time because none of the goals had ever been met since the original Chesapeake Bay Act had been signed by the states. They are going to set two-year milestones and this is where the counties are going to be involved. Each county will have to approve and basically sign onto two years goals that we will be held to for our own little pollution diet in our own county for our drainage area; which they haven't come anywhere near close to figuring out what that's going to be or how it is going to be achieved but that is the goal. There will be, apparently, consequences for not meeting any commitments. We're not sure if that's at the state level or at the local level. It will probably start at the state level and work its way down. There are a number of different sources for the pollution in the Chesapeake Bay and, as you notice, a lot of it is from agriculture which is outside of our purview at this point really. But we can make a pretty big dent in the urban and suburban pollution levels. As you can see from this map, we have not come too close to reaching our goals in this area. I believe we've reached nitrogen, we're in the twenty-one to forty percent and in the phosphorus pollution controls we are in the forty-one to sixty... I think we were around fifty percent in Virginia. The current state target loads, and this is from the EPA, they haven't finalized these yet, is that our target load in Virginia is 59.2 for nitrogen and 7.05 in phosphorus. And Virginia does take quite a lot of the nitrogen load. We are responsible for removing quite a bit of it. So, the rules are going to be pretty stringent I believe. Basically, I stole this one from the EPA's website. This is the dates that are important. We are basically in the Phase 1 of watershed implementation plans. They have monthly webinars where they are updating us on what's going on. I can forward that to anybody if anybody is interested in finding out more about this. Later this year, we will be able to review and comment on the proposed total maximum daily loads that the EPA will come up with and in December they will establish them. And from there, the watershed implementation plans will become pretty much set in stone in the sense that the states will then have to start deciding how to split it up among the counties and the watersheds. And then starting in 2011, there will be two year milestones on reporting, modeling and monitoring all of the waterways. That's the end of that one.

Mr. Howard: Okay, so Mrs. Forestier, in the beginning of the deck that you gave us to read, there was an attachment, it's actually page 3 through probably 18. It's a checklist and it gives a description and purpose, and in the checklist it has, you know, obviously questions and then answers. So what I was hoping, and maybe we can get this for the next meeting, is, I am assuming this checklist is sort of what we're shooting for, right? So, if we took the checklist and we summarized this and we had all the areas where we seem to be compliant or we've made progress, and then the areas where the County seems to be deficient and not... do you have that in here somewhere?

Mrs. Forestier: No, I might have that in my folders because I was a member of the group that actually came up with the checklist.

Mr. Howard: Okay, because that would be helpful. I think that's one of the big things we were looking for tonight is...

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Mrs. Forestier: Where we're short.

Mr. Howard: Yeah, what is kind of our internal report card today and what do we need to do in terms of... because a lot of the information that's in here was really State related and I understand that. So, we don't really have Stafford County specifics but we do know in the County the things that we are doing and that we're not doing as it relates to some of these requirements, right?

Mrs. Forestier: Yes. And we do have more stringent requirements than the State requires for Stormwater Management and Erosion and Sediments Control so far.

Mr. Howard: As an example, one of the questions was does the County allow somewhere in the ordinance for shared driveways. And we do that, right, and there are other questions that we don't do certain things.

Mrs. Forestier: Parking areas as well.

Mr. Howard: So, that I think would be helpful to understand sort of where we are not doing the things we need to do. And I think that will help us understand what we need to do, because the Board has charged us to come back and kind of put these two things together, these two elements, and make it into one. And we're not sure that we can do that without knowing what's broken.

Mrs. Forestier: We can do that.

Mr. Howard: Okay. I don't know if there are any other questions on section 2 for anybody else? Ms. Kirkman?

Ms. Kirkman: Mrs. Forestier, I don't think you addressed this but the recent Ches Bay Foundation settlement agreement with the EPA... how is that going to affect all of this?

Mrs. Forestier: I don't believe it affects it at all. From what they told us in the webinar last week, it basically follows along with all of the things that have come out of the executive order. So, it's just another thing that will push us to actually fulfill all of the requirements of the executive order.

Ms. Kirkman: So, this settlement agreement is consistent with the executive order?

Mrs. Forestier: Yes ma'am.

Ms. Kirkman: So that's why it won't change the process?

Mrs. Forestier: It does not change the process; however, I am sure it adds another layer of enforcement on it.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Great. Section 3.

Mrs. Forestier: Computer please. The Potomac River Resource Protection Area Overlay. This is a DEQ Impaired Waters Map that kind of gives you an idea of how large the Potomac River Watershed is in the County. Close to three-quarters of the County drains into the Potomac. The purpose of the

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Potomac River Overlay was to recognize and protect sensitive water resources within the Potomac River Watershed. There were segments of Austin Run, Aquia Creek, Accokeek and Potomac Creek that were considered category 5 impaired waters by the Department of Environmental Quality in 2008. Basically, a category 5 impaired water is a water that would require a total maximum daily load to be set upon it. They have not come up with those plans yet for most of our creeks. Basically, the affects were on aquatic life, wildlife, fish and shellfish consumption and recreational use. The ordinance was approved by the Board of Supervisors on October 7, 2008, and it was invalidated in March of 2010. I'm not sure that I can speak to the reason it was invalidated; that might be better if you spoke to Jeff. The Potomac River Overlay District was designed to apply to new development within the district boundaries. It was based upon applications for subdivisions, site plans, rezonings and conditional use permits would need to follow it. No existing lots of record would have been affected unless subdivisions were proposed within those existing lots. There was a requirement for submission of an existing conditions plan with an application for development that would have shown forest cover, floodplains, resource protection areas, intermittent streams and slopes of twenty-five percent or greater. Once the existing conditions were shown, certain development criteria would need to be met based on those conditions. The 100 foot Critical Resource Protection Area buffer would have been extended to include intermittent streams and slopes of twenty-five percent or greater or adjacent to perennial and intermittent streams and tidal water bodies. These extended buffers would fall under the Chesapeake Bay ordinance requirements for the CRPA buffers. This was the original Overlay District Map. And that's the short version.

Mr. Howard: I think we got that one. Thank you.

Mrs. Forestier: As for the Rappahannock River Overlay District, it was a work in progress as we all know. Basically, the Impaired Waters Map from the Department of Environmental Qualities shows that the whole southern portion of the County drains to the Rappahannock. And we have some impaired segments there as well. Claiborne Run has E. coli, Deep Run has fecal coliform, and the Rappahannock River even has PCB in the fish tissue. I believe the Rappahannock River already has a total maximum daily load plan that was, if I remember right, created in 2008. So there's already a plan in place to try and take care of the PCB issue in the Rappahannock.

Mr. Fields: What is the source of the PCBs, do you know?

Mrs. Forestier: I do not know.

Mr. Fields: And the E. coli and fecal coliform, is that agriculture?

Mrs. Forestier: They usually say it's agriculture and also failing drainfields, from what I understand, and direct pipes. I'm not sure what that refers to but that was part of the plan.

Mr. Fields: That's how they used to deal with sewage in Potomac Creek. Do they know what the mixture of it is? I mean, do they just assume that there's a general mixture of agricultural uses, specifically in this area I would assume cattle farming, and the drainfields, are they just assuming a general mix or do they have data or can they pinpoint what is causing what where from any kind of precision?

Mrs. Forestier: I believe that they do it on a county level within the watersheds. I'm not sure which model they use, but I know that they use certain watershed models that they input kind of the

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percentage of this. I'm sure it's not exactly right but they have some concept of where they need to focus.

Mr. Fields: Okay. I now when I was on the Rappahannock River Basin Commission, there is a significant difference on how things react above the fall line versus to the tidal portion. Is there any distinction there between where the sources of impairment are? Is the PCB issue coming from... I mean, I assume it's coming from upstream?

Mrs. Forestier: I think that's upstream.

Mr. Fields: Within Stafford County or actually way up stream?

Mrs. Forestier: I think it's all along.

Mr. Fields: All along. And what causes PCB contamination?

Mrs. Forestier: That I'm not sure. I am not sure where that came from.

Mr. Fields: PCB is an artificial chemical compound, it's a manufactured chemical compound. So it doesn't occur from a convergence of natural processes?

Mrs. Forestier: I don't believe so.

Mr. Fields: It's an industrial by-product?

Mrs. Forestier: I can find out more information on that for you.

Mr. Fields: I'm just curious.

Mr. Howard: Okay, any other questions? No? Okay.

Mrs. Forestier: I believe we included a copy of the Rappahannock Tributaries Watershed Planning Study in your packet. It's quite a large study; I shortened it to four slides. The Rappahannock Tributaries Watershed Planning Study was begun in 2001 when the Friends of the Rappahannock and Stafford County joined together to develop a proposal to the National Fish and Wildlife Foundation Small Watershed Grants Program to conduct comprehensive watershed planning in Stafford County's Rappahannock Tributaries. Ten major watersheds that flow into the Rappahannock were studied. These are all of our major watersheds. The goals of the study were to develop detailed and clear action-oriented plans to guide the protection of water quality and habitat in each of Stafford's Rappahannock Tributaries; to pilot a new program to secure broad-based behavior change for reducing non-point source loads; and to demonstrate recommended actions with a field demonstration project. The key recommended action items and funding priorities were Low Impact Development, a Water Stewardship Program, reforestation of degraded streamside forest corridors, preservation of key intact forest corridors, ongoing Water Quality Monitoring, establishment of Volunteer Adopt-a-Stream Programs, and ensure compliance of agricultural operations with the implementation of "Farm Plans" and "Nutrient Management Plans", which are actually required under the Chesapeake Bay Regulations.

Mr. Howard: Thank you Mrs. Forestier. Are there any other questions?

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Mrs. Hazard: Mr. Chairman, sorry to go all the way back to where you were before, but I think it's a pretty general, hopefully, question. So, the timeline that we're talking about is wherein the notice of proposed rule making they're accepting comments now. I'm going back to...

Mrs. Forestier: Right. I don't believe they've actually posted anything for comments. Well, I correct myself. There's something out there for comments right now but it's not the total maximum daily loads.

Mrs. Hazard: Okay. But the intent is by December for them to have something that will be available for the States to start implementing first of the year? Did I understand that correctly?

Mrs. Forestier: They will start next year. They will have to do Phase 2 of their Watershed Implementation Plans.

Mrs. Hazard: I'm just looking at the timing because I'm thinking when that gets turned, because that's first to the States before we get any guidance to the localities.

Mrs. Forestier: Yes ma'am.

Mrs. Hazard: And I guess my thinking is that timing is around when the legislature gets in session that I think we want to be sort of pro-active on thinking through some of these issues before the legislature gets their hands on it. So, I'm just thinking outside the box. I don't want us to get some surprise come March.

Mrs. Forestier: We shouldn't. Our representative at the Chesapeake Bay Local Assistance Department is actually on the committee that is coming up with the Watershed Implementation Plan, so we kind of have our ear to the ground on that one.

Mrs. Hazard: Well, that would be great. If there's any time anything that comes up that they have additional information when that starts to come in, I know I would be interested in where they're going in general.

Mr. Howard: Sure.

Mrs. Forestier: Yes ma'am.

Mr. Howard: Yeah, I was going to suggest that, and again there's a lot on the docket already for the next meeting, but the second meeting in June, if we could get that comparison that I mentioned earlier or kind of that overview. I would love to hear the definition of the PCBs, what's the origin, and if we need Rishi for that, that's fine.

Mrs. Forestier: Okay.

Mr. Howard: Just so we understand what are these contaminants, where they may be coming from and how it impacts how we're thinking about these overlays. What group came up with the checklist?

Mrs. Forestier: It was just the Chesapeake Bay Local Assistance Board and a number of us counties from the counties were on an advisory committee.

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Mr. Howard: Is there consensus in that group of things that all those counties would put in place?

Mrs. Forestier: Not really.

Mr. Howard: Not really? Okay.

Mrs. Forestier: It was entertaining; we had Arlington represented and a number of other counties that were more agricultural and there was an argument over what worked for one didn't work for the other.

Mr. Howard: That could be true. And same with our County; in parts of the county it works in some parts and might not work in others. Is there anything else that anybody from the Commission would like to see? I know there's a lot of data to go through.

Mr. Fields: Other than I told you so, I've been saying this since 2000. I've been saying this for ten years that this was going to happen.

Mr. Howard: Okay.

Mr. Fields: So, I am officially saying I told you so. I tried to get this dialogue going ten years ago.

Mr. Howard: We'll git-r-done. Okay, thank you Mrs. Forestier. So, we can have this moved to the agenda for the second meeting in June and at least have those two new pieces of information and anything Mrs. Forestier wants to share from those webinar meetings that she attends.

Mr. Harvey: Certainly.

Mr. Howard: We've got to get a committee together, I'm sure, at some point with this as well. Okay, we will pause right here, right now, and we'll come back to the agenda in just a moment. We'll open up the meeting to public presentations. There are no public hearings scheduled tonight so those in attendance may really speak about anything they want because there's no public hearing, that I'm aware of, right? There's no public hearing?

Mr. Harvey: That is correct.

5. Discussion of Medical and Dental Clinics Definitions (**Deferred to May 19, 2010**)

Discussed after Public Presentations.

6. Reservoir Protection Overlay District (**Time Limit: January 29, 2010**) (**Deferred to May 19, 2010**)

Discussed after Public Presentations.

7. Amendments to the Comprehensive Plan (**Time Limit: June 1, 2010**) (**In Comp Plan Committee**) (**Deferred to May 19, 2010**)

Discussed after Public Presentations.

8. Nonconforming Structures (**Deferred to May 19, 2010**)

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Discussed after Public Presentations.

9. Fees for Minor Revisions to Planning and Zoning Applications (**Deferred to May 19, 2010**)

Discussed after Public Presentations.

10. Redevelopment Area Plans - Boswell's Corner, Courthouse Road, Southern Gateway and Falmouth Village (Falmouth Village in Committee - Peter Fields and Scott Hiron) (**Deferred to June 2, 2010**)

NEW BUSINESS

11. House Bill 1250, Definition of "Other Administrative Official"

Discussed after Public Presentations.

7:30 P.M.

PUBLIC PRESENTATIONS

Mr. Howard: Okay. So we will open up the room for public presentations. And again, you may come forward. We need you to state your name, where you live and you will have three minutes. There's a little light on the podium that when it's green, you get to go; when it gets to yellow you have about a minute left; and then when it gets red we would just ask that you conclude your comments. We will not answer you directly, but we will try to get general answers if it's something that we can actually answer or have staff at least get a general answer or directional response. So, anyone wishing to address the Planning Commission may do so by stepping to the podium in the front of the room.

Mr. Waldowski: Paul Waldowski. On March 8th, Forbes released a list of the twenty-five richest counties in the nation. And low and behold, Stafford County was ranked as the twelfth richest county in the nation with a media household income of \$89,536. And the percentage of residents twenty-five or older with a Bachelors Degree or higher is thirty-six percent. Now, like any analysis, see, I would ask Mr. Forbes, what happened with the seven districts and where did they get these statistics. When Mr. Fields just commented about he waited ten years, well Rip Van Winkle waited twenty years and he just happens to be my brother-in-law. And we woke up on 102 Blueridge Court and we realized that we own the storm pond there. And when it rained Monday, Shenandoah just kept putting water in there. And I only own 1/107 of the storm pond but that's 1/107 too much. Where I currently live, in Rock Hill, I own another storm pond, and I'm one of twenty-five owners who owns a storm pond that's at the end of a state road. Now, I feel that I'm looking for a fair and equitable solution. I don't want favoritism because I happen to be a member of a HOA where I get to take care of a resource that should be a county resource. And I have brought you solutions both publicly and in writing. So that's my number one planning issue. My number two planning issue, I am also the proud owner of a condominium and I don't get a water bill. And I'm one of thirty-four subdivisions in Stafford County that doesn't get a water bill. Now, someone's making decisions in this county that's passing on these entities that Rip Van Winkle wakes up to see. I must say that the Porter Library now has four stop signs but my kids are already grown and graduated from college so they never got to use them. And let me close with dumpsters, because everyone's on the Crow's Nest. Well, I've got bees nests and

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wasp nests and I've got these birds coming in making all kinds of nests because we've got no dumpster and we're putting trash on our balconies. So I look forward to some kind of response, an email, at yhavehoas@gmail.com. And let me close with one more thing. We need a commuter parking lot, and more importantly, you need a walkway to go across 610 so you can use those businesses that our visitors would like to populate and put revenue into our county. Thank you.

Mr. Howard: Thank you Mr. Waldowski. If there is anyone else in the room that would like to address the Planning Commission, you may do so by stepping up to the podium. Seeing no one else moving, I will now close the public presentations. And there's no public hearing so we will continue along with the existing agenda. And the next item on the agenda was item 5, discussion of the medical/dental clinic definitions.

5. Discussion of Medical and Dental Clinics Definitions (**Deferred to May 19, 2010**)

Mr. Harvey: I recall there was some discussion at the last meeting with regard to supervision, but I don't believe there was any direction to staff as far as any additional changes from the Commission.

Mr. Howard: No, I don't think we had any additional recommendations. I'll bring it back to the Planning Commission. Is there anyone that has any recommendations, comments, concerns, suggestions? Mr. Hirons.

Mr. Hirons: Mr. Chairman, I think one of the things we asked about supervision was something along the lines of State Code and State agencies and how they view supervision. I don't recall exactly what it was either, but it's something of interest.

Mr. Howard: Right, and I think Mrs. Roberts... I kind of stole her thunder... but I think Mrs. Roberts did that research and had that answer. And there are many different regulatory boards that have oversight of the many different medical practices that exist in the Commonwealth. And that would be outside of our purview to even be looking at that or considering the supervision piece.

Mr. Hirons: Yes, but it's still in the language, correct?

Mr. Howard: Right, so we have to have that...

Mr. Hirons: And I had a couple thoughts, but I'm just not really prepared to... because they're not fully formed, I don't think, I was wondering if we could continue this and defer it probably until actually the second meeting in June since the first one is full.

Mr. Howard: Okay, are you making a motion?

Mr. Hirons: Yes I am.

Mr. Howard: Alright, is there a second?

Ms. Kirkman: I just have a question Mr. Chair. Is there any sort of time limit on this?

Mr. Howard: Well, let's get the motion; is there a second?

Mr. Rhodes: Second.

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Mr. Howard: Okay. Discussion; Mr. Harvey, is there a time limit on this?

Mr. Harvey: I believe so. I would have to go back and check to see when that time limit would expire. I don't have it with me right this second, but I can verify that in a few minutes.

Mr. Howard: Okay. So, I guess the motion is on the table and seconded. If the motion is within that timeframe then we would be allowed to do that. If it's not, we're not. Well, I would have to believe it came to us two meetings ago. We have ninety days. I would assume the second meeting in June is safe. It's probably due in July, right? It's ninety days typically?

Mrs. Baker: I just had the information here that the Board of Supervisors referred it to the Planning Commission on April 6th and you all first had it on your agenda on the 22nd of April.

Mr. Howard: So was there a time limit on that Kathy?

Mrs. Baker: That would be ninety days from that day.

Mr. Howard: Right.

Mr. Harvey: It's ninety days from your first regular meeting after it's been referred to you.

Mr. Howard: So, that would have been the first meeting in May. Well, it was referred to us... April 22nd.

Mr. Fields: So, we're only at thirty days.

Mr. Howard: So that would be fine. But we would have to do something by that date or get some thoughts on paper. Alright, so the motion is on the table. Is there any further discussion? All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Those opposed, nay? The motion carries 7-0. The next item on there is for May 19th, the Reservoir Protection Overlay. But I think that sort of goes in tandem with the Rappahannock Overlay, right? Is that correct?

6. Reservoir Protection Overlay District (**Time Limit: January 29, 2010**) (**Deferred to May 19, 2010**)

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Mr. Harvey: Mr. Chairman, this item was referred to you by the Board and their direction to the Commission was to bring it back after the Comprehensive Plan was completed. And that's still a work in progress.

Mr. Howard: So, we should change the date then, instead of continuing to defer it.

Mr. Harvey: Yes, that's what I would recommend Mr. Chairman. Currently, there's discussion about possibly having a joint public hearing for September 7th regarding the Comprehensive Plan.

Mr. Howard: So, is there a motion? Would somebody like to make a motion to defer this... it really sounds like we should defer it until the August session.

Mr. Fields: Why, if the August is still in advance of the Comprehensive Plan action?

Mr. Howard: Well, I think we'd have to start working on it before the...

Mr. Fields: My question has been, we were all in unanimous agreement on moving this forward as it was revised after considering all the public comments. So, essentially whenever we get the green light from the Board of Supervisors, I think we just motion to approve and move forward. Unless we want to go back and re-open it, but I thought we...

Mr. Howard: I don't think there's any harm in getting it before us, getting refreshed in August and going through the details again to make sure we all understand it.

Mr. Fields: Alright.

Mr. Howard: Unless the will...

Mr. Fields: I just didn't want to get ahead of the curve again I guess, since the restriction is post-Comp Plan.

Mr. Howard: I understand that but it doesn't prevent us from at least having conversation. I, personally, I think by August I'm going to need an update.

Mr. Fields: Okay. Yeah, that's fair.

Mr. Howard: But we need a motion.

Mr. Mitchell: Motion to defer to the August 18th, 2010 meeting.

Mrs. Hazard: Second.

Mr. Howard: Second by Mrs. Hazard. Any discussion?

Ms. Kirkman: Mr. Chair, I'm going to oppose that motion. When this direction from the Board came that this legislation was not to be worked on until after the Comprehensive Plan, at that time I stated that it seemed nothing more than a way to kill the legislation without actually standing up to take that action. I was assured that was not the case and that's why a May date would be set to continue work on this legislation. I want to point out that this is the *only* piece of legislation that has been held up

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allegedly because work on the Comprehensive Plan is more important. There have been numerous other pieces of legislation that have gone through the Planning Commission during this time. And for that reason I am going to oppose the motion.

Mr. Howard: Thank you Ms. Kirkman. Any other discussion? Okay, hearing none I will call for the vote. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Those opposed?

Mr. Fields: No.

Ms. Kirkman: Nay.

Mr. Howard: The motion carries 5-2. Okay, we are up to item 7 which is the amendments to the Comprehensive Plan. And, Mr. Zuraf, will you give us a quick update on that?

7. **Amendments to the Comprehensive Plan (Time Limit: June 1, 2010) (In Comp Plan Committee) (Deferred to May 19, 2010)**

Mr. Zuraf: Sure. Good evening Mr. Chairman and members of the Planning Commission. As you are aware, the Comp Plan Committee has been working over the last several months pretty much on a weekly basis, working on adjustments and amendments to the draft Comprehensive Plan. So, what we have provided is the work that has been generated to date. This includes amendments to Chapter 2, the Goals, Objectives and Policies. The information provided basically identifies all the changes that have been proposed to date with strikethrough and underline format. In that section, the work is not quite finished. You will see within that Chapter 2 there are areas that are shaded; that's still issues that are being discussed so Chapter 2 is not fully complete by the group. And, in addition, we have provided you the UDA strawman document that we discussed at the last meeting that was forwarded to the Comp Plan Committee by the Joint Planning Commission/Board Comp Plan Committee. And staff has been tasked with incorporating these Urban Development Areas into a revised draft Land Use Map. In addition to incorporating these UDA's into the draft Land Use Map, we were also given the task of revising the Land Use Plan to be more general in nature with fewer land use categories. So, what you have received tonight before you is the latest version of that Land Use Map, the full size version of the map, which basically does that; it incorporates these Urban Development Areas, it makes them that more general. The group, the Joint PC/Board group, as well as the Planning Commission Committee, met last Thursday and they are continuing to work on this map. This map that you have tonight reflects all the latest changes that that group made, including there were two, just to point out in the UDA document, there were two alternative Urban Development Areas out in the Westlake area and further out Route 3. Those alternative UDA's are off the table so you have nine Urban Development Areas on the map that are remaining. And that's, I guess, an update and again work is continuing. The Committee will be meeting again with the Joint Board/Planning Commission

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meeting next Thursday night, the 27th, at 6:00 p.m. in the Activities Room. And that's the update I have today.

Mr. Howard: Thank you Mr. Zuraf. Mr. Harvey, the last meeting we had a proposed timeline that was shared. Did the Board of Supervisors adopt that timeline do you know? Because if they did... because the time limit here is June 1st and obviously we're not going to hit that so that has to be changed. So, we either have to put something in writing to them to request the adoption of that timeline or was that adopted?

Mr. Harvey: The Board did not take it up for a specific action at their meeting yesterday.

Mr. Howard: Okay. We probably need to send them something I would think.

Mr. Harvey: I believe initially it started with a request from the Chairman of the Board saying we'd like you to accomplish this by June 1st. I'll talk to the County Administrator about further guidance on that.

Mr. Howard: Okay, so we get the process right. Were there any questions from anyone on the Commission about what Mr. Zuraf has presented?

Mr. Hirons: Has the title of the UDA document been officially changed to working document as opposed to strawman which has been such a huge issue? Well, what's interesting is I did a little search today and I found that Fairfax County Planning Commission actually uses a strawman process and creates strawman documents for a lot of their...

Mr. Howard: It's a very common process in my work.

Mr. Hirons: I know there were some comments in the past about what does strawman mean and it's interesting that it actually is used in some planning formats.

Mr. Howard: I'd argue it's used in more places than that.

Mr. Hirons: Yeah, from software development we have plenty.

Mr. Howard: In any case, I'm not sure we need to do that. Are there any other comments?

Ms. Kirkman: Mr. Chair, I had some questions. Going back to the strawman document, under the Brook Station UDA description it says "as mentioned in the UDA summary, these new infrastructure requirements are the result of new development and extensity and, therefore, will be the responsibility of the developer or developers of Leeland Town Station". Why are the developers of Leeland Town Station responsible for infrastructure requirements at Brook Station?

Mr. Howard: That could be a typo. I think the objective, and Mike, you can correct me, was to make them responsible for the infrastructure improvement in that particular...

Mr. Zuraf: Elsewhere in the document you see that similar where it's applied to the developers within that specific redevelopment area or urban area.

Ms. Kirkman: So that's a mistake; it should say Brook Station.

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Mr. Zuraf: Yes, the developers of Brook.

Ms. Kirkman: And then at the end of the document, there's this kind of cryptic note that says "at 7,000 less apartments than previous proposed Comp Plan". Is that also some sort of error?

Mr. Zuraf: I would have to look into that to see what the build-out in the previous Comp Plan identified as far as Urban Residential Land Use build-out and compare that to this.

Ms. Kirkman: Well, the previous draft document referred to density but I don't recall there being mention anywhere of apartments in the description of the UDA's.

Mr. Zuraf: Unless that is intending to... the build-out that would occur in R-2 or R-3, we would have to look to see if there is some sort of correlation within that.

Ms. Kirkman: Well, do any members of the Committee know what that refers to?

Mr. Howard: No, I don't actually. I don't know.

Mr. Fields: Mr. Chairman, I have a concern with that as well. My concern is that the term "apartments" refers to a specific housing type, whereas, the documents refer to specific densities. Even the previous document, which had I guess what you would call urban-style densities in the redevelopment areas, those densities were not so excessive that they couldn't be accomplished by a number of housing types. Certainly urban and characteristic but townhouses, duplex, Stafford County since 2000, one of the things I brought forward in 2000, we haven't had a lot of use for them yet but this would be an application of several alternative housing types like zero lot line, courtyard type developments; in other words, development more characteristic of urban areas or even reminiscent of like European (inaudible). So the word apartments is a little misleading in that it tends to indicate that there was an intention for a specific type of housing where what was really intended was a specific density of housing. So, I would sort of appreciate (inaudible).

Mr. Howard: Well, we can have that taken off.

Mr. Fields: The word "apartments" I think is too specific for what the intent it.

Mr. Howard: I agree. I think the intent, I don't know for sure, but I think the intent was to demonstrate, and this is going back to a conversation we had as a group a few meetings back with the form based code, but was to demonstrate that potentially the way that the densities were, or the difference in the density plan, was that we were trying to allocate more commercial square footage which we believe would help pay for some of the costs the County would incur by this increased density in terms of the infrastructure, the demand it places on the infrastructure. So, I think that was the goal. I don't that to be factual though, but we can have that taken out of the strawman document.

Mrs. Hazard: And, Mr. Chairman, I would just want to say too, after the meeting last Thursday there were a lot of numbers we were still running that we haven't had that shared because we are not meeting tomorrow night. We are not meeting for another week.

Mr. Howard: Mrs. Hazard, I would just recommend that at your next meeting your group make a recommendation to have that taken out and then it just gets removed. Mr. Harvey?

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Mr. Harvey: Mr. Chairman, Mrs. Baker is being my conscience tonight. She informed me that the Board, at their May 4th meeting, already granted the extension on the Comp Plan.

Mr. Howard: So we just need to change our agenda.

Mr. Harvey: Yes.

Mr. Howard: Great. That's why we have Mrs. Baker. That's twice tonight she came through. Thank you Mrs. Baker.

Ms. Kirkman: Mr. Chair, what's the process going to be? Is tonight the night that we ask about changes that have been made? When is that process going to be happening, because some fairly significant changes have been made to the document.

Mr. Howard: Yeah, I think that's a great question Ms. Kirkman. I think we wanted to give everyone a chance to read this and I would say after the 27th meeting we would bring this back; probably the second meeting in June. And that would make sense that the Planning Commission spend really as much time as we would like.

Ms. Kirkman: And when you say "this", are you talking about the entire Comp Plan or are we going to break it down into more manageable chunks?

Mr. Howard: I think it would be broken down into manageable chunks. I think that would be appropriate. Anyone not agree with that strategy?

Ms. Kirkman: Well, if I could just ask the Committee members, there is one particular change that I found particularly striking and would like to hear the thinking on that.

Mr. Howard: Sure, go ahead and ask.

Ms. Kirkman: The language that was removed was that amendments to the Comprehensive Plan "shall not be made for any individual group or organization for purely personal convenience, caprice or gain".

Mr. Howard: What page are you on?

Ms. Kirkman: This is on page 2-3, Policy 1.1.5, and what was taken out by the Committee was "amendments shall not be made for any individual group or organization for purely personal convenience, caprice or gain" and that was language the previous Committee had taken from a Maryland, I believe it was, Comprehensive Plan. We felt like it really embodied the kinds of ethics that we would like to see in land use decisions. And so I'm just wondering what the thinking was for removing that.

Mr. Howard: Okay. I don't know if Mrs. Hazard or Mr. Hiron would like to address that.

Mr. Hiron: I'm kind of waiting for Mrs. Hazard. I don't recall exactly since the process of the Committee was to start from the beginning and work its way through. So, now it's been three months that we've been working on this. But I think the general discussion was somewhere around it didn't make a lot of sense to us. We didn't have good reason as to why it was in there and, frankly, your

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reasoning from a Maryland plan is great; this is Virginia. If there was another Comp Plan within Virginia that had it in, maybe it would make a little bit more sense to me. But, again, our meetings, the Committee meetings, have been open and we've encouraged people to come by, especially anyone who wants to see certain things in there or out of there and discuss with us. And we, quite frankly, haven't had that many visitors and we'd welcome it.

Ms. Kirkman: Well, I would ask the Committee to consider putting that language back in. Regardless of where it comes from, I think it upholds the kind of ethics that I'm sure everyone on this Commission supports.

Mr. Rhodes: I would just submit that I don't know that without it that that would necessarily become a rampant action. It takes a fairly odd, negative bend or tone in the middle of the document.

Mr. Howard: I'm trying to recall myself, I think if you read policy 1.1.5, it basically says "amendments to the Comprehensive Plan should be made to serve the general public interest. The amendments should be based on a general need in response to the current context of development patterns and community vision, and not based on a specific development proposal". And then obviously the language that was removed was "the amendment shall not be made for any individual group", so it's really, in my mind and maybe I'm wrong, it's kind of saying something that's similarly stated. I know one of the challenges has been, I think, that we constantly have to make amendments to the Comprehensive Plan for a specific parcel or for a specific reason or some property that's adjacent. One of the goals, which is why the Committees have reduced the number of designations, is to allow the Comprehensive Plan to be a little bit more flexible so we're not constantly, as a Planning Commission, making numerous amendments to a Comp Plan; because when you do that, it just means your Comp Plan is no good. Mr. Zuraf, do you have a comment on that?

Mr. Zuraf: No.

Mr. Howard: Okay. I don't know that it was suggested to be removed to allow improprieties to occur in Stafford County; I don't think that was the case. We should debate it though. There is no reason why we can't debate through that.

Mr. Rhodes: If there was a desire to have statement about expectations and high ethical standards, I think it can be made in a positive phraseology versus a negative kind of dicing phraseology. And certainly if we wanted to make one about the expectations and continue the high expectations and high ethical standards, etcetera, that would be the way I would approach it.

Mr. Howard: I think you're right, Mike, but again, I just go back. I'm kind of there with the first part of that paragraph already. For me, it means the same thing to me so that's the way I'm viewing it. But it's a good callout. Any other comments? Alright, so we know the timeline was revised and we'll shoot for the 27th, Mr. Harvey, of June I think you said? I'm sorry, the second meeting in June is the 16th. The 27th is the next meeting of the Committee. Great. Nonconforming structures?

8. Nonconforming Structures (**Deferred to May 19, 2010**)

Mr. Harvey: Mr. Chairman, Ms. Hudson has a brief presentation to help us visualize the issue we've had in the past regarding nonconforming structures and how they're treated.

Ms. Hudson: Computer please. I'm going to show you some examples of increasing nonconforming

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structures where not increasing the nonconformity. The single-family residential structures that this pertains to, nonconforming due to setbacks, the Code allows for an addition to the house when not increasing the nonconformity. And what is not increasing? These are some examples. This particular lot with a single-family dwelling has a side setback that is only 9.9 feet which is nonconforming; that's where the red arrow is. The required setback on that side is 10 feet. The proposed addition is the red square. As you can see, the proposed addition is not in the area of the nonconformity; therefore, it's not increasing the nonconformity. This is a corner lot. This line here and across here is the setback line for this particular corner lot. The street-facing side setback over on this side is 16.4, which is nonconforming. The required setback on this street-facing side is 25 feet. The proposal was for this second-story addition and, as you can see, the second-story addition has not affected this area; therefore, it's not increasing the nonconformity. We had another case. This is another corner lot in a subdivision. This street here is the shortest; therefore, this is the front of this corner lot. Back here where the red arrow is, is the rear. The setback for the rear yard is 35 feet. This rear setback is only 26.5; therefore, this is nonconforming. The proposal was for a small addition here on the side not affecting the nonconformity, not increasing the nonconformity. This is a larger lot zoned A-1. The side setback here highlighted in yellow is 17.1 which is nonconforming because the required setback is 20 feet. They proposed a second floor addition over on this corner of the dwelling; therefore, it did not increase the nonconformity over here. Do you have any questions?

Mr. Howard: Are there any questions from any members of the Planning Commission?

Ms. Hudson: Thank you.

Mr. Harvey: Mr. Chairman, to recap where we were, this is an item that has been referred to you by the Board of Supervisors to change the process to where these types of non-conforming structures, presently require a Special Exception issued by the Board of Zoning Appeals. With the proposed amendment, that would not be the case, it would be reviewed as part of an administrative process. Provided, again as Ms. Hudson was saying, there is no increase to the aspect of the structure. So staff would suggest the Commission consider setting a date for a public hearing.

Mr. Howard: Is the document included or was that part of the previous meeting, because I do not have it with me.

Ms. Hudson: At the last meeting.

Mr. Howard: Right. Thank you, Mr. Harvey. Okay, what is the will? Would someone like to make a motion on that?

Mr. Fields: I move we send this to public hearing... advertise it for public hearing.

Mr. Rhodes: Second.

Mr. Howard: Any discussion? All those in favor, signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

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Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed? The motion carries 7-0. The next item is the fees for the revisions to the planning and zoning applications.

Mr. Fields: You know...didn't we used to have... excuse me just a minute... didn't we used to have a very elaborate set of languages to request a public hearing? Do I need to make that motion again?

Mr. Howard: Probably, yes.

Mr. Fields: Mr. Di Peppe always read from a specific document.

Mr. Howard: That was for the...

Ms. Kirkman: I think that was when we would actually make the recommendation, which we have not been doing that either. You mean the general wellbeing, necessity...

Mr. Fields: The motion to advertise does not require that same language?

Mr. Howard: We have not used that in the past.

Mrs. Roberts: There is a public necessity and welfare sentence...

Mr. Fields: Was when we recommended.

Mr. Howard: That is actually on the front page. We actually do use...

Mr. Fields: Since those issues can tank and otherwise in litigation can tank and otherwise good ordinance, I don't want to be guilty of making a mistake.

Mr. Howard: That is a very good point.

Mr. Fields: So, we are okay with that. So sort of vaguely saying sending it to public hearing...

9. Fees for Minor Revisions to Planning and Zoning Applications (**Deferred to May 19, 2010**)

Mr. Howard: Okay, fees for minor revisions to the Planning and Zoning application

Mrs. Hornung: Good evening Mr. Chairman and members of the Commission. In your packet you will have some information that was requested at the last meeting on the applications that were submitted to the County since 2005 for Major Site Plan Revisions, Proffer Amendments and CUP condition amendments. In the first chart you will see there were about twelve applications for proffer amendments. Probably about an average of three per year, there was only one in 08 and three in 2009, but none been submitted so far in 2010 for proffer amendments. There were only twelve applications in about five years. For Conditional Use Permit condition amendments, there were only five since

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2005, two in 2006, two in 2009 and one in 2010. And then the most applications that have been submitted for revisions were regarding site plans. You will see since 2005 there have been forty-six. And a lot of them have been... probably the majority of the changes were due to environmental issues. Stormwater management, drainage, utilities sometimes entrances, but not that often were there increases in building size, but there were some. Those total forty-six and you did have some basically every year. The most that were submitted were during 2005 and 2007 and last year and this year there have been only three. It also gives you the time of...the months...the time of review for each application and I did take an average, but since there were only a few, maybe one or two per item that had a revision. On those that took two years or seventeen months, they would have skewed the average a little bit. And then you also have the column that shows the fees that were paid. Some of them, the fees are very similar, that is when our fees were revised to just have a standard fee for a major site plan revision. The rezonings... the proffer amendments, excuse me, and the conditional use permits, a lot of those were based on acreage and adjacent property letters, because they were still... went to public hearing. After this chart you will also see a number of pages that gives you an idea of how the fees were calculated for each application. Now the average fee or the fee that was recommended by the Board for these minor changes are much less than what we would currently charge because they do not take into account staff time; which means going through a public hearing process, that is why the fees were high because it incorporated at least two meetings of the public hearing, which included the salaries of the members of the Commission and the Board of Supervisors.

Ms. Kirkman: So under the proposed ordinance, those public hearings would not take place?

Mrs. Hornung: They would take place, but the staff time is not included in the calculation of the fee. Because the fee is showing that it is half of what the current fee is.

Ms. Kirkman: But, staff is still going to be there right?

Mrs. Hornung: Correct. Not only staff from the Planning Department, but it takes into account staff from the Commission and the Board of Supervisors.

Ms. Kirkman: So, how does that time get reimbursed then?

Mrs. Hornung: It doesn't.

Ms. Kirkman: Does that create a negative revenue flow for the... I mean, I don't understand why the fees are not including that staff time, because I assume in some instances that is the most expensive component.

Mrs. Hornung: Well it does include part of the staff time, but it is the fee that is recommended is assuming that staff will not incur as much time working on the project when it is just a revision versus a brand new project. Obviously a brand new project goes to a staff meeting once a month and then there are a number of other departments that review, but if there is a minor change to one of the proffers or one of the amendments then it might be... for example if it is a transportation proffer change, then it might just go to the transportation office. If it is something that is just with planning, it might be planning staff only.

Mr. Howard: Right, I think the problem is we are not really comparing apples to apples. If it is a minor revision today it is treated as a major revision. That same fee holds true, right?

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Mrs. Hornung: Correct.

Mr. Howard: But it does not necessarily take the same amount of time.

Mrs. Hornung: Correct.

Mr. Howard: So we don't really know... we don't know, I don't think is if it is a minor revision and it... one example could be a minor revision to a site plan in a business... in a GDP could be the number of parking spaces, right? The number of parking spaces might change for some reason why they had to move a dumpster or... something changed so there has to be a site change.

Mrs. Hornung: It could be something very minor... or it would be something very minor as long as it did not affect the overall calculations. If they wanted to reduce their parking and their parking was less than the required, then that would not work.

Mr. Howard: I understand that. I am just trying to make a hypothetical example so. You don't really know what we don't know. Which is we don't know what it takes today to do these major revisions that are really minor revisions. We have not really captured that.

Mrs. Hornung: Correct.

Mr. Harvey: Yes, Mr. Chairman. I guess to also add to the discussion, staff has worked with the Board of Supervisors Committee that looks at fees and they have also made recommendations to the Board. They have acknowledged to the Committee we don't have experience with these minor applications. We will probably have to set a fee for it first and monitor to see how we are in regards to recouping things. Mrs. Hornung was saying if you follow the normal process for how we allocate dollars on a typical application, you would probably not make...

Mr. Howard: You are in the negative.

Mr. Harvey: You are in the negative if we were trying to totally recoup the total cost.

Mr. Howard: Right.

Mr. Harvey: But we have not experienced this, so we have to take a look at them to see where we will actually be.

Mr. Howard: I would hope that the goal was that you would see more minor revisions raising revenue for the county, while staying compliant to Mrs. Hornung's point with the site plan and zoning requirements, but not taking up as much staff time. I would hope. If that does not work we would not want to do it.

Mr. Harvey: Also Mr. Chairman, just to keep us focused the issue for the Commission to consider is a definition, as far as the new application types, the actual fee is a matter that the Board of Supervisors considers.

Mr. Howard: So we should be thinking of the definition of the minor revision, what constitutes a minor revision?

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Mrs. Kirkman: I had some questions about that, Mr. Chair.

Mr. Howard: Of course, Ms. Kirkman.

Ms. Kirkman: I think what would be helpful Andrea, is if you could take this list you gave us, I don't think it would be a lot of work, but to note on each of these, would it be considered a minor revision under the proposed ordinance.

Mr. Howard: Would we even know that because we don't have the definitions yet. Would you know that?

Mrs. Hornung: Well we did in the last... that is what I was looking... well I was not looking at the Commission I was going back to the May 5th ...

Ms. Kirkman: Right, it said something about increasing intensity and density.

Mrs. Hornung: Right, the definition of the minor amendment to a conditional use permit or proffer amendment would be no more than two permit conditions or proffer changes.

Mr. Howard: Okay, right.

Mrs. Hornung: As an example you could allow an extension of time if it expires and no increase in use intensity or functionality. So it's related to that. And a minor amendment to approved major site plan would be very similar. Something that does not change the use, intensity or functionality, the change would not substantially affect the layout. For example nothing changes except they want to move the building from the left to the right or the east to the west. That is a major change because then you have to rework everything, and uses not requiring an increase in parking. Now obviously if they wanted to decrease the parking, what we look at is that provided parking is usually at least same at the required or in access. So if they reduce the provided parking, as long as it doesn't go below the required, we check all the calculations again just to make sure that there aren't any issues with that.

Mr. Howard: Sure, so is that feasible to do what Ms. Kirkman asked. Would you know based on these descriptions would they be minor or majors, based on the definitions of May 5th.

Mrs. Hornung: I think we could look at some of them. In the proffer amendments, I happened to make some markings that they were probably more than half that affected the use.

Mr. Howard: That would be a major then right?

Mrs. Hornung: Right. Because you are looking at adding daycare, medical professional, business office, you might be adding something else.

Mr. Howard: Right.

Mrs. Hornung: West Lake, relocating a school site... that might be something. Well, because the Board has to approve it, it would go through the process anyway. That might be something a little bit more involved, because you want to look at the site that is the replacement site. There may be a lot of issues, so there may need to be more investigation involved. That is just...

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Ms. Kirkman: We are bound by the definitions. So, I think that is how to think about these things. Not in terms of the work they require but how they fit or don't fit within the definition of minor revision.

Mrs. Hornung: Right. The definitions will only... the purpose of the definition is related to the fee. It is still going to go through the public hearing process and if we find that it is too intensive then, as we do with a lot of applications, we will have to tell the applicant well this is more involved. It does not fit as we are going through the review or maybe something happens to the process and may need to convert it to a major.

Ms. Kirkman: But, my point is... do you have any basis to tell an applicant that if it turns out that something requires a lot of work but still meets the definition of a minor revision.

Mrs. Hornung: Then we would do a lot of work and it would still fall under the definition and we would process it accordingly.

Ms. Kirkman: That is why I am saying we need to really focus on what the definitions are not how much...

Mrs. Hornung: Exactly.

Mr. Howard: That was Mr. Harvey's point.

Ms. Kirkman: Then...under the definition there is no more than two revisions, is that cumulative or can somebody come in and make an application for one revision? And then come in and make a second application for a second one, and a third one and it never bump up to the major category or is there anything in the definition that says no more than two cumulatively or any aggregate or...

Mrs. Hornung: Well, that would be up to the Commission, how you want to craft the definition. We could put a time limit in there, but when they come in...

Mr. Howard: Well time limit, I think you are also suggesting number of changes.

Mrs. Hornung: Cumulative, right. But if they come in today with an application for one change, lets say their fee is going to be almost sixty-two hundred dollars plus the adjacent property letters. Now if they come in after that is approved or denied, they come in another time, they are going to pay another sixty-two hundred dollars again, that brings it up to twelve thousand. We are getting very close to a conditional use permit fee for a brand new application.

Ms. Kirkman: Doesn't it depend in part on the size of the project? I know...

Mrs. Hornung: That does, yes.

Ms. Kirkman: Because if it is a very large project, that may not be the case because the fees on the large projects are quite substantial.

Mrs. Hornung: Right, because you have, I think it is \$125 over five acres for the fees for the public hearing.

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Ms. Kirkman: When you get to the large acreage projects, the logic that you are sort of laying out no longer applies.

Mrs. Hornung: Right.

Ms. Kirkman: Because the increment based on the additional acreage, makes the fee very large.

Mrs. Hornung: Right.

Mr. Howard: We could even put that into the Ordinance, right, the size of the parcel or the size of the development. That could be worked into whether it could even qualify to be a minor or major.

Mrs. Hornung: Sure.

Mr. Fields: Just to amplify the point... I agree with... what Ms. Kirkman is driving at... what she is trying to do is not have people trying to take advantage of minor subdivision plans to create a hundred unit subdivision, five units at a time. We don't want someone with a large scale project to create a major revision of their plan, chipping away at it on these small minor ones sequentially because they figure out they can game the system. So, I think the cumulative...for each plan a cumulative or aggregate total of allowable minor revisions before we trigger a major...what is considered a major revision might be prudent note.

Mr. Howard: I think we agree. Can we bring this back on June 16th with the definitions that you have already created? And then again spend some time talking through this and get some agreement amongst the Commission to... for the definitions and then move this thing forward or kill it.

Mrs. Hornung: Do you want to add something in about cumulative to the definition? Do you want the definition to be crafted differently than the way it is presented?

Mr. Howard: I am at a disadvantage because I do not have it in front of me. But I guess that is fine if you want to attempt that and we can again strategize as a Commission.

Mrs. Hornung: I have the staff report if you want to look at...

Mr. Howard: No that is okay. You can bring it back on the 16th and we can look at it.

Mrs. Hornung: Because, don't forget it will still come before you and it will go to the public hearing process with the Planning Commission and the Board.

Mr. Howard: Absolutely, it may change again.

Mrs. Hornung: You can still approve or deny... recommend to approve or deny as well.

Mr. Howard: Is that good?

Mrs. Hornung: Okay. Thank you.

Mr. Howard: The next item is deferred. New business, House Bill 1250; Mr. Harvey, do you want to review that real quick?

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10. Redevelopment Area Plans - Boswell's Corner, Courthouse Road, Southern Gateway and Falmouth Village (Falmouth Village in Committee - Peter Fields and Scott Hirons) **(Deferred to June 2, 2010)**

NEW BUSINESS

11. House Bill 1250, Definition of "Other Administrative Official"

Mr. Harvey: Yes, Mr. Chairman. The House Bill 1250 was signed into law by the Governor. It basically establishes that for purposes of vesting any decision or determination by the Zoning Administrator could qualify as an affirmative governmental act, which could potentially vest somebody's project for protection against changes in the Zoning Ordinance. Also it specifies Other Administrative Officer could qualify as well. The Board of Supervisors had some concerns about that and they have forwarded two Ordinances to the Planning Commission for your consideration. One is to define who this Administrative Officer is and the second one is to define what a written order requirement, decision or determination is. So it could be clear in our code as to what are the potential items that could be considered affirmative governmental acts...an acknowledgement of that. And so with the second Ordinance, it sets up a time line to where now presently the Zoning Administrator has to wait thirty days from the time we send out notices to abutting owners that we have received a request for a determination or an interpretation. This proposal would extend it to seventy-five days. That potentially could give the Planning and the Board time to hold public hearings if they found a defect in the Ordinance based upon their concerns with potential determination. Those are items for the Commission to consider. The Board referred it to you and did allow you to make modifications as you deem necessary.

Mr. Howard: Okay. Are there any questions from anyone on the Commission?

Ms. Kirkman: Yes, Mr. Chair.

Mr. Howard: Ms. Kirkman.

Ms. Kirkman: So under the definition of written order, requirement, decision or determination, I wonder if we want to somehow amend that to a letter written by the Zoning Administrator or Administrative Officer issued in conjunction with the County Attorney's office. There is some other document that we also require the Attorney sign off on before it goes out, I can't remember which one it is. This would really insure...because of the consequence of these decisions, it would really insure that the legal review takes place as well.

Mrs. Roberts: Yes, under state code the zoning determination have to be done in conjunction with the County Attorney's office. However, pretty much, I think ninety-nine point nine decisions we deal with the Zoning Administrator. I believe Ms. Hudson actually had a meeting last week with Zoning Administrators from Northern Virginia and further to see how they were handling this. I think it would be a good idea to get... they were going to do a position paper or something so that we all have... if we all agree we all are implementing it the same way so that if one jurisdiction gets sued, we know where we stand. We are working with that; Rachel has been very active in that.

Mr. Howard: I think the issue is that House Bill 1250 was ambiguous to a certain extent, right, with defining other administrative officer.

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Mrs. Roberts: Absolutely. That is why the other jurisdictions are working together to make sure we are on the same page.

Mr. Howard: Right.

Ms. Kirkman: In consideration that that process may or may not come to a consensus, I would like to again suggest that this be one of the pieces of paper that we require be done in conjunction with the County Attorney's office.

Mrs. Roberts: That is fine.

Ms. Kirkman: Then my second question, I don't understand...if someone could walk through the logic again of changing the, "at least thirty days but no more than ninety days shall elapse between notification of adjacent property owners" changing it to at least seventy-five days. What's the... I am not quite following the logic there.

Mr. Harvey: The extension to seventy-five days may give the Planning Commission and Board an opportunity to conduct a public hearing and change the code if they were concerned that our Ordinance was not sufficient. They could potentially change the code before the decision was rendered.

Ms. Kirkman: But the decision doesn't have to be rendered for ninety days, why does the seventy-five days make a difference.

Mr. Harvey: In our Ordinance right now, we have sort of a period for the public to be able to comment on it because we post that out. So I guess we could push it further out, the question we would have is that the code says ninety days from the time we receive it, it may be a few days delay from the time of receipt of the request to getting the notices out to the public. So you could push it further, but I would recommend not to send it all the way to ninety days, because that might put us against a time barrier, which could potentially create a problem.

Mr. Fields: So you are saying seventy-five days allows you to possibly have a Planning Commission/Board of Supervisors public hearing and then fifteen days before the end of the public to have comments.

Mr. Howard: That is right.

Ms. Kirkman: But you could do that anyway regardless. That is what I am trying to figure out. So what this is saying is that "no order can be issued sooner than seventy-five days"?

Mr. Harvey: Yes.

Mr. Howard: Say that again.

Mr. Harvey: It says at least seventy-five days have to basically laps between the time that we notify the adjacent owners and the time that the Zoning Administrator makes her decision. That having it in the code is something that we talked about internally, now in some regards you almost don't like to do this because it can extend the time frame out where you may have someone who's... in economic development interest it may be desirable to have a quick decision on whether yes or no, they can do what they are intending on doing. But on the other hand you could have a situation if you don't have a

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time limit in there, if there is miscommunication or people were not aware of what was going on, there could be a decision that was made that the community does not feel was desirable.

Mr. Howard: To not allow any decision before seventy-five days really seems that that could cause a hardship...what if a business was going for financing and... there are a lot of things that happen. You could really cause a lot of things, some real harm and delay.

Mr. Harvey: There are pros and cons to both sides of this issue.

Mr. Howard: So, right now it is thirty days.

Mr. Harvey: Yes.

Mr. Howard: It is not the ninety, you will hear within thirty days. What you are suggesting is actually adding forty-five days to that length of time before the applicant would hear anything.

Ms. Kirkman: But I think I understood what you were saying, Mr. Harvey. So increasing it to seventy-five days gives you a basis to not being arbitrary and capricious about not issuing something sooner and at the same time allows the Board time to pass legislation through if there is something that needs to be corrected.

Mr. Harvey: Yes, it gives the Board time to...

Mrs. Roberts: To understand the consequences.

Mr. Harvey: Yes and in the case of how we normally conduct business is that once we send out the notices, this determination will fall in line with others and it may be more than thirty days just out of normal course of business before the determination is issued. But the way the Ordinance currently reads, it has got to be at least thirty days.

Mr. Howard: Right, so what you are saying is the State allows a maximum of ninety days and currently Stafford County allows a maximum of thirty days but could take up to ninety. But what you are suggesting is that we change that to seventy-five days to be within fifteen days less of the State requirement.

Mr. Harvey: And that seventy-five days could be technically eighty days if it took us five days to send out the notices.

Ms. Kirkman: To notify.

Mr. Howard: You still have the ninety days, but you are saying you are not going to tell them anything for seventy-five.

Mrs. Roberts: This would allow the Planning Commission and the Board to hear public input...

Ms. Kirkman: And get it to the Board.

Mrs. Roberts: And make the appropriate decision based upon all the facts brought forward.

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Ms. Kirkman: Alright, thank you.

Mr. Fields: I hate to see what happens when that is not the case. That is a pretty compelling story.

Mr. Howard: Okay, any other comments? Do we want to recommend that we go for a public hearing on this or do we want to take some time and work through some of the...

Ms. Kirkman: When does this get implemented? Effective when?

Mr. Harvey: I believe it comes into effect July 1st.

Ms. Kirkman: So we want to get this done and to the Board of Supervisors in time for them to have a public hearing prior to July 1.

Mr. Harvey: It probable won't be practical to make that, but the Board could consider it maybe in their first meeting in July or their meeting in August because of the advertisement requirements. Right now we would be looking at the second meeting in June for a public hearing. That is June 16th and could conceivably give the Board enough time to advertise a public hearing for their first meeting in July if everything fell into place.

Ms. Kirkman: So you would need to know tonight to advertise for July 16th?

Mr. Harvey: June 16th.

Ms. Kirkman: I mean June 16th.

Mr. Harvey: Yes if we were to keep on that tract.

Ms. Kirkman: Then I would make a mo...because I am very concerned about this issue. The consequences of this are just absolutely enormous and so I would suggest the we... I would make a motion to send it to public hearing, amending it to include under written order, similar language regarding in conjunction with the County Attorney's office that we have for vesting determinations.

Mr. Fields: Second.

Mr. Howard: Any discussion? All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

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Mr. Howard: Aye. Opposed? The motion carries 7-0. Okay. Mrs. Roberts any report this evening?

Mrs. Roberts: Not this evening.

PUBLIC HEARINGS

None

PLANNING DIRECTOR'S REPORT

Mr. Howard: Mr. Harvey, any Planning Director's Report?

Mr. Harvey: Mr. Chairman, two items from yesterday's Board of Supervisors meeting. One, they had the presentation on the Transfer of Development Rights legislation, and the Board has requested the Planning Commission to develop a TDR Program and TDR Ordinance that would be voluntary in nature. There was some discussion that other localities in other states had programs where they started off with a down zoning and then gave the property owners as compensation potential development rights, if they chose to use them. Also yesterday the Board of Supervisors initiated an amendment to a Conditional Use Permit for B and J Auto Sales on Cool Springs Road. So staff will begin preparing that amendment application and we will schedule a public hearing at some later date.

Mr. Howard: Okay. Great, thank you. I don't have a Chairman's report, nothing to report. Any Committee reports? I think we went over some of the data.

Ms. Kirkman: I am sorry I did have...so the Board is going to be the applicant for that change?

Mr. Harvey: Yes Ma'am.

Ms. Kirkman: And this is for a private business?

Mr. Harvey: Yes Ma'am.

Ms. Kirkman: Okay, thank you.

COUNTY ATTORNEY'S REPORT

None

COMMITTEE REPORTS

CHAIRMAN'S REPORT

No report.

OTHER BUSINESS

APPROVAL OF MINUTES

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Mr. Howard: Okay, anyone want to move for the approval of the minutes?

Mr. Mitchell: Second for approval Mr. Chairman, of April 7, 2010, Stafford County Planning Commission minutes.

Mr. Rhodes: Second.

Mr. Howard: Alright, seconded by Mr. Rhodes. Any discussion?

Mr. Rhodes: Yes, I would just like to clarify that every time we do this it gets to be a little quicker. This one is at forty-two days from the time of the meeting.

Mr. Howard: Thank you Stacie. All those in favor of approving the minutes of April 7, 2010 signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed? The motion carries 7-0. The meeting is adjourned.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 8:35 p.m.

Gordon Howard, Chairman
Planning Commission