STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
January 21, 2009

The work session of the Stafford County Planning Commission of Wednesday, January 21, 2009, was called to order at 5:39 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

Members Present: Fields, Di Peppe, Rhodes, Mitchell, Carlone and Kirkman

Members Absent: Howard

Staff Present: Harvey, Nugent, Stinnette, Zuraf, Stepowany, Schulte, Schultis, Ennis and Baral

Declarations of Disqualification

None

4. Review of Proposed Ordinances

a. Establishment of Time Limits for Plans

Brenda Schulte stated the Planning Commission had been considering a time limit for plan review submission. At the January 7 Planning Commission meeting the Commission recommended some changes to the draft document. Those were added to the memorandum in bold and the additional changes for valid reasons for approval of the plan extension were discussed. However, the Commission requested additional information to be presented in regards to waiver applications and their processes in the Planning Commission. She stated on page 4 of the memorandum they would see Article VIII, Division 2, which was the Waiver of Requirements, was included as well as a brief description of the process in which an application was processed by the department. She then discussed the actual process in detail which included submitting a completed application and associated documents and fees. She stated a lot of the application waivers were not identified until the application for the subdivision was under review. They were not submitted as outlined in the ordinance, prior to submission or in conjunction with the submission of a preliminary plan. Staff recommended looking at that section of the Code, which was 22-243(a), of the Procedure for Waiver because a lot of them would come up during the review and the necessity for a waiver would be identified at that time.

Ms. Kirkman stated she wanted to make sure she understood what Ms. Schulte was saying. It did say "whenever possible, shall submit", it did not say they had to submit.

Ms. Schulte stated just to clean that up staff would recommend specific language of "when" a waiver request would be required. The Planning Commission had been very specific with the time limits. The Planning Commission had been looking to eliminate vague language. She asked if the Planning Commission also wanted to clean that up as well as "within the thirty days" because a lot of times these waivers, as recommended in (a) it was under review and had more than thirty days before it would go to the Planning Commission if they did it simultaneous with the preliminary plan.

Ms. Kirkman stated the applicant needed flexibility whenever possible because it may not be known until the second or the third or a later review that they would identify the need for a waiver.

Ms. Schulte stated it was just to clarify "whenever possible" and then it said "shall submit".

Mr. Fields asked if this was applying to major/minor and family subdivisions and if this process was the same for all or was there a different process for the different situations.

Ms. Schulte stated this one was actually specifying that it be submitted with or prior to the submission of a preliminary. She was under the assumption that it was only submitted with a preliminary. A minor plan that would not follow the same requirements as the preliminary in the Code had its own set of requirements for submission. She stated Mr. Harvey may be able to clarify on that.

Mr. Fields asked Mr. Harvey if this was a situation that only applied to major subdivisions.

Mr. Harvey stated the way the Code read, yes. In the past there had been some minor subdivisions that had gone before the Planning Commission for request for relief for the standards and had been granted waivers.

Ms. Kirkman asked if the Planning Commission granted relief even though there was no provision for granting relief to minor subdivision plans.

Mr. Harvey stated there was no specific requirement that talked about waivers other than for preliminary subdivision plans. For instance, it had been a while but they may have seen a subdivision plat that had a 5 to 1 lot shape waiver as part of that minor subdivision plat. A whole other process would need to be addressed for minor subdivisions when they reviewed the subdivision ordinance in its entirety because past legal counsel was there was no provision in State Code for waivers of ordinance requirements. The question was how would they structure relief to the standards and that would be something they would have to consider working on in a broader view.

Mr. Fields stated according to the ordinance, there was no technical waiver process for minor family subdivisions.

Mr. Harvey stated that he was correct.

Mr. Fields stated that seemed like something they would want to look at. His concern was that the Planning Commission did not want to create a two-tiered structure. They did not want to be discriminatory but at the same time they wanted to be reasonable in distinguishing between a very large scale commercial subdivision and people simply carving out a couple of lots off of their family property. They were two fairly different situations in many respects. He stated he just wanted to make sure that their waiver process, which had always appealed to him philosophically to have a fairly tight set of well articulated requirements with relief on a case-by-case basis rather than making requirements loose to accommodate lots of different circumstances. He wanted to be sure in his own mind that the waiver process was reasonable and accessible to anybody under any circumstance.

Ms. Kirkman stated it might be helpful to remember that the reason why they began discussing the waiver provisions was not in relationship to family or minor subdivision plans, it was in relationship to time limits for preliminary subdivision plans. Specifically, it was concerns on the part of the Planning Commission that the original language in the draft legislation had this hole they could drive a truck through that said they could get an administrative waiver for any other reason. There was discomfort

in having basically a blank check. It then came up what if there really was some unforeseen circumstance and how would that be handled and the way it would be handled was through the waiver process. The Planning Commission had questions regarding was the waiver process adequate for this situation and what she gathered from the presentation was the fee would be $1,250 which did not seem out of reach for a major subdivision. There was a process and there was enough flexibility that the waiver could be requested even though the plan had already been submitted. That was her understanding why they were discussing the waivers. She stated they may need to also look at the waiver process generally separate from this. In her mind it answered there should be relief if there were some unforeseen circumstance. Therefore, they could eliminate paragraph number 6 in the draft legislation they were considering.

Mrs. Carlone asked if they could go ahead and request starting on the minor subdivision plans and creating a waiver.

Mr. Fields asked if they wanted to start articulating a process and requested staff to start.

Mr. Harvey stated the ordinance had some flexibility in 22-241 but when staff looked at the procedure, the procedure was limited. He thought past Commissions relied more on the provisions of 22-241 rather than 22-243.

Mr. Fields stated they would need to articulate that in the Code.

Mr. Harvey stated it would probably be helpful to clean that up.

Mr. Fields stated that quite often the waiver would come up later on in the review and asked if that had been the staff's experience. He also asked when a waiver issue came up later in the review of a plan, was that something that the applicant could have foreseen with a more thorough plan or was that sometimes the things that was just not within the area of expertise with the applicant and their engineering and planning staff.

Ms. Schulte stated probably more of the second. And sometimes it was due to some of the comments made by other agencies or departments.

Mr. Fields stated it was something that the applicant and their engineering and planning staff probably could not have picked up, that it was not a result of just being not doing a thorough job. It would probably be something unreasonable to expect them to foresee or anticipate.

Ms. Schulte stated in most cases she thought so.

Mr. Fields stated there was a lot of work that went into designing a plan and depending on how substantial the application, some people had different layers of staff that would have to prepare it. He asked if there were any other questions on this and if they were ready to move this forward.

Ms. Kirkman stated they did need to make a decision about whether or not they were going to include number 6. At the last meeting she had suggested additional language that came out of some other ordinances which was identified as paragraphs (e) and (f).

Mr. Fields asked if anyone else had any notes or comments and there were none. He then asked if they were ready to move this to the evening session and then to public hearing.

Mr. Harvey stated that would be the normal course of business but legal counsel was looking at it and had some suggestions for modifications.

Mr. Nugent stated perhaps they could discuss this and some of his concerns during the break.

Mr. Fields stated that was fine and they would listen to counsel's remarks and bring it up at the evening session.

b. Elimination of the Preliminary Subdivision Plan Process

Jon Schultis stated that when they were last together he brought up what his research presented. There was a legal impasse. The State Code did not have minimum qualifications for what constitutes as a preliminary subdivision plan. That seemed to run right up against other departments' need for a concept plan. He stated in lieu of that conversation the Commission asked him to bring other departments with whom he had been speaking. Mr. Fulton deLamorton of Transportation, Mr. Dale Allen of Utilities and Mr. Rishi Baral of Stormwater Management were present.

Mr. Fields stated they would start discussions with Mr. Allen. He asked his remarks and what was Mr. Allen's sense on the concept of eliminating the preliminary plan from the standpoint of Utilities.

Mr. Allen stated the parts of the preliminary subdivision plan that the Utilities Department were interested in were a preliminary layout, a concept level layout, showing the general alignments of the water and sewer lines, the points of connection. They would also like to see the sizes of planned pipes and connection points. Those were the requirements. At some point in the design process, it would have to go through various steps. The process to design a plan would not go from a blank piece of paper to a 100 percent design all in one step. The concept level plan was simply one of the steps that was necessary when they go through the design process. He stated they would like to review it both to satisfy the Utilities Department that the engineer was going off in the right step and the right path and for the benefit of the engineer so that he was not designing something that they were going to say it was all wrong and to start all over again. It was beneficial to both parties to see that and it was a practice that would go on throughout the engineering community in general, whether it was structural engineering, sanitary engineering or any other branches of engineering. He stated that was basically the reason they would like to see a concept plan first before the engineer would start the detailed design. It was simply standard practice in the engineering community.

Mr. Fields asked if it was crucial. If a subdivider did not have the preliminary subdivision plan, would it prohibit the Utilities Department from achieving what it would consider an adequately designed end product.

Mr. Allen stated as long as the Utilities Department would get a concept level plan at some point in the process. If this were the first stage of a construction plan, that would satisfy them just as well. It did not have to be part of the preliminary plan.

Mr. Fields asked if Mr. Allen was saying that the concept plan was needed so that the Utilities Department and the design engineer, the individual developing the property, would not go into a great deal of detail until they knew exactly where all of the utilities would go. They would agree on the size and diameter of the pipes and the exact location before a lot of work was done.

Mr. Allen stated that was correct.

Mr. Fields stated just reading the regulations the engineer might not be aware of exactly what the optimum design should be.

Mr. Allen stated yes. His department wanted to come to an agreement as to what was to be designed. Where was it going to connect to the County system. They could do some analysis on it to make sure they felt satisfied with it and what was the general alignment. Once they decided where the water and sewer lines were going, then the engineer would start really putting a lot of design effort into it in designing the particular pipes, connections, valves and all the details of a water and sewer system.

Mr. Fields stated in the standard practice, the concept plan could occur at the construction plan process. Ultimately it could be more cumbersome or a little bit more awkward perhaps than usual but it did not prohibit the possibility of getting a well-designed water and sewer system.

Mr. Allen agreed. If it were part of the construction plan submittal process then it would add another step in that process. In essence, he did not know if they would be doing this for other departments but it would be a preliminary design that they would get before they would get a full design. Essentially it would be the same thing, it would just all occur together if they did it that way.

Mr. Fields stated a question that came up in the last meeting. One would assume in terms of overall capacity, since they had a Comprehensive Plan that defined an urban service area and also, in conjunction, Utilities had a Master Water and Sewer Plan that defined with and how capacity would be expanded, nothing of this concept plan was related to that. They would understand where water and sewer was permitted and when it was going to be available. He asked if anybody could understand that without necessarily having to do a concept plan and that the concept plan was more extremely site specific and really engineering versus planning oriented.

Mr. Allen stated yes, and the Water and Sewer Master Plan dealt with pipes 12” and larger. It identified the major infrastructure. It was the transmission lines for water, the tanks, the pumping stations and on the wastewater side it was the major interceptors, the pumping stations and the force mains. The part that goes with the subdivision was site specific for that particular subdivision or in the case of a site plan for that particular site plan. The plan would contain smaller diameter lines that distributed the water to the individual buildings and houses and collected the wastewater from those houses and deliver them to the larger transmission facilities that were called out in the Master Plan. He stated the two were different components.

Mr. Fields asked if this was where the engineer said they were going to put a 4” pipe here and Utilities would say they did not think that would be adequate, given how it would have to function with the rest of the whole system.

Mr. Allen stated yes, that was essentially correct. The plan design would have to answer whether the project would need to have two connections or one connection, would they want to run the sewer down this branch and connect to this manhole or would they want to go in a different direction.

Ms. Kirkman stated from what he was describing they could stage this in the construction plan process and asked if that was correct.

Mr. Allen stated it could be a step in the construction plan process. They really did not care when they would see it as long as they would see it before the engineer would start doing detailed design.

Ms. Kirkman stated from the way he described it, it sounded like this was really for the applicant's benefit so that they did not do the full engineering on a plan that Utilities may not approve and asked if that was correct.

Mr. Allen stated he thought that was a major part of it.

Ms. Kirkman stated to keep the design engineer from going too far down the wrong road.

Mr. Allen stated that the Utilities Department did not end up reviewing some details of something they did not want at all. Use of staff time was a consideration.

Mr. Fields asked if there were any other questions or comments.

Mrs. Carlone stated she read through some of their regulations and procedures for submitting a plan and there would still be that initial contact with the project manager within the Planning office so that would still remain there that they will sit down at that time if there was something that she thought could be discussed at that time. She thought this was really for the Planning office.

Mr. Schultis stated if she was referring to a pre-submission conference with the planner to essentially go over the details he would envision that if they were to put together a very comprehensive construction plan that that would probably have to be a part of it considering the amount of design and detail that would go into it. If the question was could a lot of the issues that Mr. Allen brought up be done at a meeting before the plan was submitted, he did not see why those details could not come up. Whether or not it would fulfill the concept plan idea that Mr. Allen was looking for then he would have to let Mr. Allen respond.

Mrs. Carlone stated it did mention that they use the word "concept" plan at the initial meeting and she was not talking about the greater detail, she was just talking about something that might stand out.

Mr. Schultis stated staff's concern with anything coming in separate to the overall construction plan was because there were no minimum qualifications of what was a preliminary plan in the State Code. If something came in ahead of time, that could be perceived as a preliminary plan. There was nothing that specifically stated a preliminary plan would have X, Y, Z or A, B, C. He stated if a concept plan came in ahead of time he would say that there would probably be a fairly good argument that the concept plan would count as the preliminary plan and be subject to the vesting thereto.

Mr. Fields asked if there were any more questions for Mr. Allen and Utilities. He thanked Mr. Allen for his time. He asked Mr. Baral to come forward.

Mr. Baral stated for Stormwater Management a concept plan would still be required because Stormwater Management design involved a lot of different items. Stafford County Stormwater Management guidelines envisioned Low Impact Development (LID) which was a little more complicated than traditional Stormwater Management. For that matter, a concept plan would become very vital.

Mr. Fields asked if the concept plan could occur at the construction stage and not at the preliminary.

Mr. Baral stated it very well could but the design engineer would have to spend a little more money. Their review process also may be much longer because they would not know what they would be looking at if it became a full-fledged plan.

Mr. Fields asked if it meant the construction plan process would then get extended because to initiate the construction they would first have to come in with a Low Impact Development concept plan.

Mr. Baral stated that was correct.

Mr. Fields stated he was assuming, from what he had seen, design of the stormwater system would take quite a while as there was a lot to consider. Compared to more conventional stormwater, LID would get into a lot of very site specific issues like soil types and topography.

Mr. Baral agreed.

Mr. Fields stated but it could be done at the construction and they were talking about a longer time to complete a construction plan but there was nothing to prohibit it from being done at that point.

Mr. Baral stated from an engineering principal yes. The way in which the Stormwater Management Ordinance was written in several places it had clearly specified that some of those items would be done during the preliminary plan.

Mr. Fields stated in the Code they actually stated that some things were done during the preliminary plan and they would have to change the Code to move it to the construction plan.

Mr. Baral agreed. One of the major items in LID, for example, LID was to be implemented as far as practicable and that clause had been written in the preliminary plan for that also.

Ms. Kirkman stated it was mentioned it may add some additional expense and asked if it would also decrease some expenses because often there were changes between the preliminary and the construction plans that significantly changed the Stormwater Management calculations.

Mr. Baral asked if she was implying that would reduce the cost.

Ms. Kirkman stated yes and if they were having a two plan process, which was what they had now, where the concept plan was based on a preliminary that may or may not get built out in that way, was

there also the possibility that some savings could be achieved by the fact that they no longer had a two plan process. Instead, when they would go to do their Stormwater Management plan, it was based on what they were actually going to build rather than what they thought they were going to build.

Mr. Baral stated that was possible but if they had to look at a full-phased Stormwater Management plan without the privilege of looking at a concept plan, they would be looking at a more final design and that would have to be changed. The time to be spent on a final plan would be much more than a concept plan. If there were some errors that would need to be corrected, that would be identified well ahead of time if they had a concept plan.

Mr. Fields asked if there were any other questions for Stormwater. He introduced Mr. deLamorton with the Office of Transportation.

Mr. deLamorton stated some of the initial thoughts in reviewing the Commission's request was looking at it from two different standpoints, one from a purely engineering point of view and the other from a transportation planning point of view. He echoed Mr. Allen's comments regarding knowing such details in advance that they would get from a preliminary plan and that they would know in advance if they would need turn lanes or things like that. He stated it would be awkward to have a construction plan submitted and from the outset. He stated the other issue could be that streets may not be constructed to accommodate future traffic. They would not know what the larger viewpoint was of a development and therefore they would not know where the substreet connections were and as a development was designed the roads out towards the main entrance and access points were built wider to accommodate more traffic or they were built with a stronger base. They would be missing that opportunity. On the transportation planning side, of it he thought most importantly to stipulate was they would not have had the opportunity to review a Traffic Impact Analysis prior to the construction plan. It was actually the construction plan, some of the details of the layout of the roads and things like that that come from the results of the TIA. They would not have that opportunity. There may be concern, in getting back to the engineering side, that the new VDOT Secondary Street Acceptance Requirements had certain connectivity requirements. They may not be met because a developer may submit smaller sections of a larger development.

Mr. Fields stated unlike the others, he saw a somewhat unworkable situation if there were no transportation work done prior to the start of a construction plan and saw it as being very problematic, not for the developers specifically but also for the county.

Mr. deLamorton agreed there would be a waste of staff time. He thought the biggest element was the TIA.

Ms. Kirkman stated under Chapter 527 they would be required to do a much more comprehensive TIA for any major development than they currently require.

Mr. deLamorton agreed.

Ms. Kirkman stated when a developer would submit a construction plan then the Office of Transportation would be getting a Chapter 527 review.

Mr. deLamorton stated that was what he was speaking of.

Ms. Kirkman stated but he would get that.

Mr. deLamorton stated the County and VDOT would get a TIA but it would be with a construction plan and the construction plan would not have the improvements that were suggested in a TIA for a larger project.

Ms. Kirkman asked if that could be handled through a staging process where at the first stage they would submit the TIA.

Mr. deLamorton stated certainly but he would not want to see any engineering detail whatsoever until they could analyze the traffic impact.

Ms. Kirkman stated she thought she had heard from everyone about the subject of preliminary plans. She stated that the discussion was helpful.

Mr. Fields stated Utilities could essentially design its system to be what it was and could foresee a little better than transportation. He asked if there were any other questions. He thanked Mr. deLamorton and stated he appreciated him taking the time. He stated the Planning Commission had heard from the different departments and asked the Planning Commission what the next step was and if anyone had any ideas.

Ms. Kirkman asked for more time to think about the issue.

Mr. Fields stated it was obviously a big concept to move forward with. He stated they would think about what they heard and do more research.

Ms. Kirkman suggested in terms of their agenda and looking at the time of day, she was wondering if at that point they would consider tabling the rest of the ordinance work until the evening session. The Planning Commission had a preliminary subdivision plan to work on in this work session and she was concerned about getting it done.

Mr. Fields stated that was fine with him since they did not have any public hearings. He asked if it was fine with the Planning Commission to move on to the subdivision plan.

Mr. Di Peppe stated he just wanted to make sure the Planning Commission would get to the electronic signs on the agenda.

Mr. Fields stated they would get to it and they also had the discussion of what the Planning Commission wanted to do this year which he did not want to push off unless absolutely necessary. He stated if there were no objections they would postpone the ordinance work and move on to the subdivision plan, Southgate.

Discussion on the below-listed items were passed by:

c. Electronic Signs

d. Propane Distribution Facilities

e. Agricultural Districts Lot Yield

f. Reservoir Protection Overlay (Deferred to subcommittee - Archer Di Peppe, Ruth Carlone and Gail Roberts)

g. Rappahannock River Overlay District (Deferred to subcommittee - Peter Fields, Ruth Carlone, Friends of the Rappahannock and Rappahannock River Basin Commission)

5. Review of Pending Rezoning/Conditional Use Permits

None

6. Review of Pending Subdivision Plans

a. SUB2600305; Southgate, Section 2 - Preliminary Subdivision Plan - A preliminary subdivision plan with 24 duplex units on 12 lots, zoned R-1, Suburban Residential, pursuant to the previously approved Cluster Concept Plan, consisting of 10.81 acres located on the west side of Cambridge Street approximately 1,500 feet south of Edward E. Drew Middle School on Assessor's Parcels 45-163 and 45-163A within the Hartwood Election District. **(Time Limit: March 4, 2009) (History - Deferred to December 3, 2008 Regular Meeting at Applicant's Request) (Deferred at December 3, 2008 Work Session to January 7, 2009 Work Session) (Deferred at January 7, 2009 Work Session to January 21, 2009 Work Session)**

LeAnn Ennis stated she met last Thursday with the engineer, applicant and Mrs. Carlone. The things that were brought up for discussion were the multi-purpose court, the pavement of it, the fence along the walking trail and swingsets around the gazebo. After the discussion the engineer told Mrs. Carlone that he could put stickers on the preliminary plan sheets reflecting notes regarding the agreed upon items. The engineer did have those with him at the meeting.

Mrs. Carlone stated at the previous meeting there were a couple of surprises, one being where the gazebo was it was showing as useable space. It turned out that was just for an entrance feature rather than for part of the recreation. Also, she went back through earlier plans and the current one and it looked like, if that was correct, the Stormwater Management pond was shown in Section 1.

Engineer stated that was correct. It was developed as an overall plan for Stormwater Management as far as Section 1 and Section 2 would go. The two ponds that were provided in Section 1 were designed to handle the impervious area and all the runoff from Section 2 in order to ensure that the outfalls located at Route 1, the existing culvert, as well as behind Section 2, the existing lot, were adequate outfalls and met the state and county standards as far as 2 year and 10 year stormwater discharge requirements would go.

Mrs. Carlone stated that this should have been handled as a separate project. Southgate 2 should be a stand-alone project even though they were going to wrap it into Southgate 1. She noticed there were some comments also on the site plans about having a condominium association which was another issue. She did get a memo about condominiums but he mentioned this would be all wrapped into

Sections 1 and 2 as an HOA and she did not know how that would possibly work between a condominium association and an HOA. She asked if Chris Hoppe would be there.

Mr. Harvey stated that Mr. Hoppe could not be there because he was preparing for a Park Authority Board meeting. He did speak to Mr. Hoppe by telephone about the application and some of his comments he had in a previous memo.

Mrs. Carlone stated recreation was another issue. Recreation amenities should be viewed as if Southgate 2 was a separate project, which was not being done there. Also the engineer brought up during their meeting that where the walking trail in between lots 10 and 11 that there was going to be some type of piping through there, water and sewer, some type of utilities.

Gary Dempsey of Dominion Consulting and Management, Inc. stated as part of the individual services for lot 11 there could be a water line that would serve the meter that would serve back to the unit as well as a potential sewer lateral.

Mrs. Carlone stated she was going to go back and look further into this. She felt the number of staff reviews of the plan was a little excessive. There was a third submission to the county and more changes especially on the pipestem and she just felt there were quite a few issues that really, unless they could do something about, she felt they were getting short-shifted in the Section 2. The two ponds were on the first section and she wished they could correct some of this especially on the narratives for the multi-lot use. She stated she really needed to give them a list of things she would like them to take a look at. According to the cluster development it mentioned having an allocation for fire station, for a community park and several other issues and the only thing they had was a 50’ x 85’ court.

Mr. Dempsey stated he thought the cluster subdivision that related to open space went into terms that open space could be used for public purposes. At the time, the County chose not to take the land for those uses. Since the County was not interested in the land, it would go to the HOA which then would become useable open space for the community. He believed there were different stipulations in that cluster ordinance that said it could go to community use or the County could take it and make a community park, fire station, school or whatever they wanted. If the County did not want it then it would resort back to the HOA and would be used as common open space for the developments but could be developed as a park, as trails, as tot lots, as gazebos, however the community would feel they would best use that space.

Mrs. Carlone stated the space in between the lots to be used for a trail was not acceptable. The engineer mentioned he could put in shrubbery along the trail but that would not be sufficient for security. She stated plus the lines running through the trail.

Mr. Dempsey stated many developments with trails generally had a trail system that would run behind the units and access points would run between units. It was not much different than the sidewalks that would run in front of a house as far as security would go.

Mrs. Carlone stated she was looking at the slopes and the useable space was greater than 15 percent.

Mr. Dempsey stated when developed they would not be. A portion would be graded out to meet the standard of useable open space.

Ms. Kirkman asked Mr. Baral some questions about the Stormwater Management. Her primary concern was the requirement that a Stormwater Management concept plan for this preliminary subdivision be submitted with this application. When she looked at the Stormwater Management plan, particularly since stamped on every sheet it said this was for information purposes only, it was not clear to her where the Stormwater Management plan for this subdivision was. She asked Mr. Baral to look into the issue.

Mr. Baral stated he did look at it. As they discussed at a previous meeting, some segment of Section 2 was taken care of by the Stormwater Management pond in Section 1. When Section 1 was designed, some portion of Section 2 was already taken care of or some section of Section 2 was considered as an impervious area already. He stated that analysis was done for the remainder of Section 2. Whatever plans were brought in this set from Section 1 was referred to as for information purposes only.

Ms. Kirkman stated they had to have an approved Stormwater Management concept plan for this subdivision. The plan that was attached to this said it was for Southgate 1 and it said for information purposes only. When they went back and looked at the notes from the reviews they also noted that it was for 1 only. She stated what she asked Mr. Baral was to show her where the calculations for all of Section 2 were included so they could see which Stormwater Management pond, the drainage from which part of Soutgate 2 was going to. That was the part he was not able to do when they met earlier and she asked him to show her where those calculations were done.

Mr. Baral stated one of the places to look was sheet 2 of 5 in the bottom right corner there was a statement.

Ms. Kirkman stated the statements on the plan were talking in circles. It said it would be included in Southgate 1 and she was asking him to show her where it was being included in Southgate 1.

Mr. Baral asked if she was looking for the design of Southgate 1.

Ms. Kirkman stated she was asking where in the design of Southgate 1 it showed the Stormwater Management calculations for Southgate 2.

Mr. Baral stated to look at sheet 3, the open area which said on site uncontrolled area in the legends section and it had 4 items. In this particular table it mentioned uncontrolled area. At the bottom was the calculation for the ponds and at the right top were the calculations.

Ms. Kirkman stated on the legend it had four different categories and denoted onsite area to BMP 1, the second category denoted offsite area to BMP 1, and the third one denoted onsite area to BMP 2. She asked what BMP Southgate 2 was draining into.

Mr. Baral stated this drainage area did not have BMP because the computation showed that post-development discharges were lower than pre-development discharges.

Ms. Kirkman stated there was impervious area being added to Southgate 2. There was going to be some changes in the post-development runoff. She asked where was the runoff going?

Mr. Baral stated that was correct. If they looked at the previous and post-drainage area, because of the changes in construction some of the drainage in BMP would go to post-development. He needed the sheets together so he could discuss it more in the table so he could describe further between pre- and post-development.

Ms. Kirkman stated the requirements in the preliminary subdivision ordinance was that there needed to be a Stormwater Management concept plan for the subdivision they were reviewing tonight. The engineer comments on the review form said there was none and that it would be done with something else. The sheets they have attached there all said "for information purposes only". None of them said they were the Stormwater Management concept Plan for Southgate 2. She stated she could not find anywhere where the drainage for Southgate 2 was going and where the Stormwater Management plan was for Southgate 2.

Mr. Baral stated the post-development discharge in this area was lower than the pre-development discharge in this particular section.

Mr. Fields asked if he was saying that after development there was actually less stormwater coming off the property.

Mr. Baral stated that it was true. The drainage area pattern changed between post- and pre-development conditions. Some segment of the Southgate 2 post-development discharge was lower than pre-development discharge because the drainage area was reduced.

Mr. Fields asked if it actually got less.

Mr. Baral stated the drainage shifted to other areas. The one they were talking about the drainage area was squeezed and as a result discharge was reduced.

Ms. Kirkman stated she thought the problem was there was no Stormwater Management concept plan for Southgate 2.

Mr. Fields stated even something showing there did not need to be a new stormwater pond for Section 2 and if that was true he thought Mr. Baral could understand as to why they were confused about this. It was still somewhat vague to all of them where exactly all the stormwaters from Southgate 2 was going and how it would be handled.

Mr. Baral stated in Southgate 2 some of the area was already considered impervious areas in the Southgate 1 Stormwater Management plan. Some of the area was not. In this study what it showed was for the remainder of the area because some portions were already considered developed that flow was piped and taken to the pond in Section 1. For the remainder of the area, post-development drainage area was reduced compared to pre- because of the flow change. Some of the flow was piped and taken to the pond.

Ms. Kirkman asked why it said this sheet was for information purposes only if it was the Stormwater Management concept plan for the subdivision plan they were reviewing tonight.

Mr. Baral stated it was part of Southgate 1 development.

Ms. Kirkman asked if it was for Southgate 1, where was the plan for Southgate 2.

Mr. Fields stated he thought the concern the Planning Commission was having was that to some degree the information seemed to sort of exist on the plans. He stated that the Planning Commission members were not stormwater engineers. Mr. Baral would have to bear with them on the questions. Mr. Fields thought there was a concern he was getting from the Commission that there was reference to calculations, there was reference to other plans, even if it was to repeat the plan for Southgate 1, there was nothing anywhere that anyone could look at in a concrete sense that said here was exactly how the stormwater for Southgate 2 and this was the plan for Southgate 2. Even if they cut and pasted the part of 1 that applied to Southgate 2, he thought there was a real concern that they should have had a plan that was Southgate 2. They understood what he was saying but there was a concern procedurally that their obligation to make sure that these plans were really in the best interest of everybody was being achieved. If they had a document was for information purposes only that referenced where the stormwater would go he thought Mr. Baral could see their concern that they really did not have a plan for Southgate 2 even though it was implied but it was not explicit.

Mr. Baral stated that a better way of presenting the plan would have made it much clearer to understand.

Mr. Fields asked Mr. Baral that as a Stormwater engineer and as the county's person in charge of making sure the stormwater was taken care of properly, it was his opinion that these calculations and the calculations he was looking at adequately address the stormwater outflow of the property they were calling Southgate Section 2. He asked Mr. Baral if it was his feeling that all of the information he needed as an engineer to make an informed decision on Southgate 2 was fully there and explicit and it was his opinion that there were no negatives regarding the stormwater of Southgate Section 2. Had all issues been addressed from the county's perspective.

Mr. Baral stated he did a quick review spending two hours reviewing this plan and he matched numbers. He went through the plan and made comparisons of previous and post-development drainage areas. He also checked whether the numbers were correct and those numbers already matched. He stated from the study what he could say was those numbers made sense. What he realized was a better presented plan would have been much more easier to understand.

Mr. Fields thanked Mr. Baral and stated the Planning Commission was not trying to make the issue more difficult. They were just trying to understand it.

Ms. Kirkman referred to a map of county subdivisions. She stated she could give the numbers but not the names of nearby subdivisions. She did not have the legend to the subdivision maps but there were twelve existing subdivisions within a one mile radius of the proposed plan. She asked Ms. Ennis to show her where those were on a vicinity map.

Mr. Harvey stated he had not yet acquired the legend for the county subdivision map. They would be happy to provide it to her. He asked her to identify the numbers of the subdivisions and he would be glad to go back and check on the vicinity map.

Ms. Kirkman stated it was attached to the maps that were for sale up in the office and asked if they could pull a map during the break. She asked Ms. Ennis to show her on a vicinity map where the political boundaries were identified. When she looked at a map within a one mile radius she was able to identify three political boundaries for three separate districts.

Ms. Ennis showed her on a map.

Mr. Harvey stated the districts Ms. Ennis was referring to were magisterial districts which were different than election districts. For planning purposes, they followed magisterial districts because those boundaries did not change.

Ms. Kirkman stated the ordinance said political boundaries and asked when he said magisterial did he mean the precinct level.

Mr. Harvey stated no. It was a term that had been used for decades for plats and plans to identify different areas of the county. He thought it went back to the days where they had a magistrate that went throughout different parts of the county to record deeds. As far as political boundaries, there would be the county boundary but he thought that was not within the scope of the vicinity map. He stated that normally staff would not find election districts identified on vicinity maps because they changed every ten years.

Mr. Fields stated magisterial districts had always been around and that was different. The election districts changed to comply with the Department of Justice requirements when they redistrict according to the census.

Ms. Kirkman stated she did not see it in the application but staff may have it in their files the covenants, restrictions and open space plans that were supposed to be submitted with a cluster.

Ms. Ennis stated she had a copy of the covenants in her file.

Ms. Kirkman asked if it also included a plan for the maintenance of the open space.

Ms. Ennis stated all they required was a copy of what they were proposing.

Ms. Kirkman asked if she could show her where the concept plan for the water distribution and wastewater collection system was.

Ms. Ennis asked if she wanted her or Mr. Allen to describe the location and layout.

Ms. Kirkman stated she wanted Ms. Ennis to show her since she was the planner that reviewed the application.

Ms. Ennis stated she did not review it for the water concept.

Ms. Kirkman stated she did review it to say that it met all the requirements and that it was complete.

Ms. Ennis stated staff reviewed that and she was just part of the staff.

Ms. Kirkman stated she was not asking Ms. Ennis to review it, she was just asking where it was located in the plan. The applicant was supposed to submit a concept plan and if she looked at Southgate Section 1 it had a separate sheet labeled Water and Sewer Concept Plan.

Ms. Ennis stated that on the left side of sheet 3 the water and sewer lines were shown in the lot layout.

Ms. Kirkman asked if there was no separate concept plan for this.

Ms. Ennis stated no, it was part of the preliminary plan included on sheet 3.

Ms. Kirkman asked Ms. Ennis to show her where the description and narrative of some kind of plan for the multi-use lot was. She saw it outlined in the usable open space but there was some detail provided about tot lots. In the same way the plan provided details on what the tot lots looked like, there was supposed to be the same kind of detail on the multi-use lot.

Ms. Ennis stated the engineer planned on adding a note to the plan that said "the multi-purpose court will be paved and striped, a detail will be provided on the final construction plans".

Ms. Kirkman stated there was no detail provided on the plan.

Ms. Ennis stated the note would require it on the construction plan.

Ms. Kirkman stated Section 22-168 regarding the open space regulations required that where land did not go to public purposes then it needed to be developed in accordance with the development control policy Parks and Rec land requirements. That policy did not have something called useable open space but it did talk about having community parks.

Ms. Ennis stated the ordinance Section 22-168 talked about developer contribution to offsite sewage and drainage facilities.

Mr. Harvey stated he thought the reference should have been Section 22-268. A copy of the development control policy was forwarded to the Commission earlier today. It mainly focused on rezoning applications and had been used throughout time to work with developers to try and negotiate the location and use of open space. It had criteria of so many acres per thousand of population and also 15,000 in the case of a regional park. He stated with this small application they probably would have met or exceeded the acreage per thousand requirement as it was only twelve lots.

Ms. Ennis stated this was a by-right subdivision, it was not rezoned.

Mr. Harvey stated that she was correct. It was referenced in the code as a starting point for discussion about the amount of open space they would have and what it was going to be used for.

Ms. Kirkman stated number 5 under that same section, 22-268, it said "there shall be provided at least one area of open space consisting of lands outside of the floodplain being at least one acre in size and having no dimension less than fifty feet".

Ms. Ennis stated that was the gazebo area.

Ms. Kirkman stated that was not an acre in size.

Ms. Ennis stated it was 1.56 which was usable open space.

Ms. Kirkman asked if that was what she was referring to as the one acre with no dimensions less than 50 feet.

Ms. Ennis stated yes.

Ms. Kirkman stated that portion of the open space area had dimensions that were less than 50 feet such as the pedestrian access-ways.

Ms. Ennis stated the pedestrian areas were not included in the useable open space.

Ms. Kirkman stated the definition of usable open space was they could not include slopes greater than fifteen percent and asked Ms. Ennis if she looked at the slopes in the usable open space to determine what slope they were, particularly given they had a letter from Parks and Rec that noted most of the open space area was in slopes from 11 to 17 percent.

Ms. Ennis stated that Parks and Recreation was referring to the entire open space area.

Ms. Kirkman asked if Ms. Ennis looked at the slopes for the area they had approved as being usable and if she confirmed that none of those were greater than fifteen percent.

Ms. Ennis stated the engineer had to subtract those out of the useable open space area.

Ms. Kirkman stated they had not done that. She believed that the contours were steep.

Ms. Ennis stated the plan was not showing the grading. The land would be graded to meet the requirement. The construction plans would show the grading.

Ms. Kirkman stated the pre- and post-development stormwater calculations were not based on the usable open space being graded.

Ms. Ennis stated she would have to look into that and get back with her.

Ms. Kirkman stated in Section 28-73 of the Zoning Ordinance it made it very clear that the purpose of a cluster subdivision was in order to provide open space for public facilities. The public facilities needed to be one of four types, a community park, a fire and rescue station, a school or other public facility. She asked where the public facility was identified on the plan. She read provisions of the section aloud.

Mr. Fields asked if there was a technical definition of community park under Parks and Recreation.

Ms. Kirkman stated that Parks and Recreation rejected this particular piece of land as not being suitable.

Ms. Ennis stated that it was not suitable for them to maintain. Parks and Recreation said they did not want to maintain it so the HOA would maintain the open space and tot lots that they had.

Ms. Kirkman stated the definition of Parks and Recreation for a community park was at least 12 acres so it clearly did not meet that requirement. She believed that was part of the reason why Parks and Recreation rejected it because the open space area was too small and they also raised issues about the slopes. She stated this plan was served by a cul-de-sac, Port View Drive, that began in Southgate 1. She asked if Ms. Ennis reviewed these two plans to ensure that the number of lots on this cul-de-sac did not exceed what was allowed in the ordinance.

Ms. Ennis stated she did not review Section 1. She could verify to see if the plan did meet the maximum number of lots allowed and get back to her.

Mr. Rhodes asked Mr. Baral when he looked at post-development calculations on sheet 5 of 5, was he considering any grading plan associated with the usable open space, or any further grading or leveling off of that area in his calculations.

Mr. Baral stated for Stormwater Management purposes primarily if it did not create an impervious area then there would not be substantial change in stormwater flows.

Mr. Rhodes asked when Mr. Baral said portions of this were in Southgate 1, was that able to be defined. On sheet 5 of 5 where there was development area C or development area D, was it able in one of the blocks to be identified what was considered with Southgate 1 calculations and then what was left here in post-development.

Mr. Baral stated that on sheet 5 of 5 the area with both cul-de-sacs were covered in Southgate Section 1.

Mr. Rhodes asked what was covered as Drainage Area (DA) “C” = 2.31 acres and DA “D” = 0.71 acres were considered in Southgate Section 1.

Mr. Baral stated correct.

Mr. Rhodes asked if the other portion was what the remaining post-development impact was.

Mr. Baral stated that was correct.

Mr. Di Peppe asked when the engineer was designing the first section and the stormwater management, did the engineer realize that the second section was going to be graded. The initial discussion was because of changes in the first project that that was actually going to reduce the run-off on the second project to less than before they started. He asked if they took into consideration when they were making this did they even know when they were considering the first section that the second

section was going to be graded. He would assume if they were going to grade it then it would significantly change run-off.

Mr. Baral stated he did not know the exact answer to the question. The way this plan looked was actually when Southgate 1 was designed the designer knew certain areas of Southgate 2 would be included. When they came up with a final design of Southgate 2, they came to a conclusion that certain areas were not included. For that matter, the engineer provided Mr. Baral a computation that depicted the extent of the true drainage areas. The engineer provided this computation and he found that post-development discharge was lower than pre-development discharge.

Mr. Di Peppe stated he just did not understand since they did not know which sections were really going to end up being graded how they could make those computations.

Mr. Baral asked if Mr. Di Peppe was referring to the Southgate Section 1 plans.

Mr. Di Peppe stated yes. If they did not know what they were going to do in Southgate Section 1 he could understand after-the-fact.

Mr. Baral stated the engineer did for the anticipated area in Southgate Section 1. The engineer anticipated as to what area they would include in Southgate Section 2 but when he assigned a final preliminary plan he realized that other drainage areas were to be included. From the way this plan looked, he thought that was the line of thought.

Mr. Di Peppe stated that was another reason why they should have seen a complete Stormwater plan for Section 2. He thought that was Ms. Kirkman's whole original objection that they could not go back and rely on the plans done for Section 1 because they really relied on different grading for Section 2 than originally planned. Since they were actually looking at the grading that would happen they needed to see the actual Stormwater calculations for the Section 1 pond.

Mr. Baral stated that was very true. One of the significant facts in Stormwater Management planning was what they did in every plan. Every final Stormwater Management plan should be able to stand on its own so that the construction contractor would know what to do and what not to do. Because this was a concept plan in this preliminary plan the engineer provided him enough information as to what was the flow pattern, what BMPs were serving what area for the new drainage area and what the previous and post-development plans were. In the final plan, it would have to include everything and the final plan needed to be able to stand on its own.

Ms. Kirkman asked Mr. Baral to look at sheet 5, the post-development conditions. She stated what they were trying to do was to understand how the applicant was going to grade out and eliminate all slopes greater than fifteen percent in the open space area. They talked about discharge points A and B and the channels for that. If those slopes were graded out to be 15 percent or less, she asked if that was going to change those drainage divides.

Mr. Baral stated it very well may. It did not have to but in some instances it may.

Ms. Kirkman stated there was a house sitting at the very bottom and one of those drainage divides fed right into a house.

Mr. Baral stated he saw that also.

Mr. Fields stated they needed to take a recess and would come back at 7:30, do the public presentation and pick up where we left off and keep moving forward.

7. Review of Proposed Comprehensive Plan Amendments

None

8. Other Unfinished Business

2009 Calendar Year Work Plan

Discussed during regular meeting.

9. Approval of Minutes

June 4, 2008 Work Session

June 18, 2008 Work Session

July 2, 2008 Work Session

Discussed during regular meeting.

10. Adjournment

With no further business to discuss, the meeting was adjourned at 7:06 p.m.

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Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES
January 21, 2009

The regular meeting of the Stafford County Planning Commission of Wednesday, January 21, 2009, was called to order at 7:45 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the Stafford County Administration Center.

MEMBERS PRESENT: Fields, Di Peppe, Mitchell, Rhodes, Carlone, and Kirkman

MEMBERS ABSENT: Howard

STAFF PRESENT: Harvey, Nugent, Stinnette, Zuraf, Stepowany, Schulte and Ennis

DECLARATIONS OF DISQUALIFICATIONS:

None

PUBLIC PRESENTATIONS:

None

PUBLIC HEARINGS:

None

UNFINISHED BUSINESS:

1. SUB2600305; Southgate, Section 2 - Preliminary Subdivision Plan - A preliminary subdivision plan with 24 duplex units on 12 lots, zoned R-1, Suburban Residential, pursuant to the previously approved Cluster Concept Plan, consisting of 10.81 acres located on the west side of Cambridge Street approximately 1,500 feet south of Edward E. Drew Middle School on Assessor's Parcels 45-163 and 45-163A within the Hartwood Election District. **(Time Limit: March 4, 2009) (History - Deferred to December 3, 2008 Regular Meeting at Applicant's Request) (Deferred at December 3, 2008 Work Session to January 7, 2009 Work Session) (Deferred at January 7, 2009 Work Session to January 21, 2009 Work Session)**

Mr. Fields stated they would continue the discussion from work session concerning Southgate Preliminary Subdivision Plan. He asked Ms. Kirkman if she had any additional questions.

Ms. Kirkman stated they did go back during the break and look at some of the staff review comments and there was one regarding Stormwater Management that she wanted to bring to the Commission's attention. She wanted to point out that in the reviewer comments regarding the concept preliminary plan it stated staff did note in those comments a Stormwater Management concept must be approved prior to submission of a Stormwater Management design plan. There was also noted the preliminary plan for Southgate did not appear to include or account for Southgate, what was then referred to as Extension, including the Stormwater Management calculations. She stated it did appear that staff never reviewed or had a concept plan for Southgate 2.

Mr. Fields asked if there were any other technical questions for clarification or understanding for staff or any of the applicants' representatives.

Ms. Kirkman stated in looking at the definition of cul-de-sac she had been informed, and she just wanted to make sure, if they could go to that definition it was trying to determine where the cul-de-sac Port View Drive began. She assumed it began where there was actually an outlet to another road that had an actual outlet to other roads. She stated staff seemed to be thinking differently and asked Mr. Harvey to explain.

Mr. Harvey stated he would have to take a look at the situation and see what the previous review comments had been from this project as well as the project they were tying into. Over the years they have had to deal with this issue and they had to make some corrections to how they were reviewing cul-de-sacs. The way staff at one point in time looked at it was if it had one entrance in and out it was a cul-de-sac and they were told that was not correct for legal issues. He stated he would go back and see what sort of determinations had been made in that regard in previous years and would report back to the Commission at another meeting.

Ms. Kirkman stated their definition on that was a street with one outlet and having a turn-around area. She asked where the outlet for this particular street was.

Mr. Harvey asked if she was referring to the one main street that cul-de-sac tied into, it tied into another street that intersects with it, a cross-street.

Ms. Kirkman stated it was at the cross-street that the cul-de-sac began.

Mr. Harvey stated that was where the cul-de sac intersects with another street would be where the cul-des-ac begins. He stated it could also be a place where a stream could cross that would begin the cul-de-sac length.

Ms. Kirkman stated it did begin at the beginning and the length of that cul-de-sac was 900 feet.

Mr. Harvey stated he would have to go back and look at previous guidance staff had on this issue because he knew, about a decade ago, there was a lot of debate and discussion and staff had to make some changes based on legal advice. He would have to verify how that was being interpreted and reviewed.

Mr. Fields stated there were overlays to what seemed to be obvious. When they would look at it on a plan there were procedural overlays that staff had been implementing on advice of counsel some years back. He asked if that complicated the matter.

Mr. Harvey stated that was his recollection because if they looked at the definition Ms. Kirkman read, it was a very simple definition. When they would try to put that in context of how land was laid out and developed it sometimes would not fit very well. For instance, in this subdivision there was a cul-de-sac coming off of a cul-de-sac and was it considered one cul-de-sac or two and how was that interpreted. He stated he would have to go back and refresh his memory on how they were calculating the origination point of the cul-de-sac.

Mr. Fields asked if they had a requirement on any system of roads that would only have one ingress and egress point that there was a limit of a certain number of houses. He asked if that number was thirty-five houses.

Mr. Harvey stated he thought thirty-five was correct and he recalled some ordinance amendments that required them to have more than one access to an existing public street if more than thirty-five lots were in the subdivision. He stated that was part of the debate and discussion that occurred in the past.

Mr. Fields asked if that could be multiple cul-de-sacs, it was still the question of how many houses if only one point of ingress and egress and the two were slightly individual issues.

Mr. Harvey stated yes.

Ms. Kirkman asked if there was only one entrance to Southgate 1 and were they well above the required number of lots for one entrance. She stated between Southgate 1 and Southgate 2 there were up to one hundred twenty-some lots.

Mr. Harvey stated Southgate 1 had an exit on Truslow Road and also on US Route 1, so there was through-traffic movement with in that subdivision.

Ms. Kirkman asked to be shown on the preliminary the location, because she did not see it. She asked if the applicant would only needed two access points for that number of lots.

Mr. Harvey stated he would have to verify what the code said because there was a threshold for the number of lots and access points. He was not sure if they had any stub streets that would count towards that also.

Ms. Ennis stated it did have a couple stub streets.

Ms. Kirkman stated that clarified everything that was left.

Mrs. Carlone made a motion to move item 1 to the evening session. Mr. Di Peppe seconded. The motion passed 6-0 (Mr. Howard was absent).

Mr. Harvey stated for a point of clarification if the Commission was inclined to accept the changes to the plan that the applicant had proposed with the additional notes, the code required that the plan be in its complete form and available for the public for five days before they take action.

Mr. Fields asked if the Commission intended to vote to approve the plan with the changes, would the Commission have to wait the five days.

Mr. Harvey stated correct and they would have to wait five days.

Mr. Fields stated they had that on the evening session and they would go back to where they were with the Electronic Signs on the work session.

Mr. Stepowany stated the staff report mentioned there was a subcommittee formed with Mr. Kenneth Peskin of the International Sign Association, Deputy James Hamilton of the Sheriff's Office, Mrs. Carlone, Mr. Di Peppe and himself. They met that morning for a couple hours and stated he and Deputy Hamilton went out and evaluated several signs. He handed out a Billboard Lighting Diagram and explained it in depth. He then went over a revised proposed Ordinance in detail with ideas in bold from Mr. Peskin.

Mr. Di Peppe stated he would like to mention they thought that wording was good because Mr. Peskin tried to point out where the state of technology was now and where it was going and the broader definition would capture more of where the technology was now. He stated the concern was with merging technologies if they did not have a little broader definition a new technology would come out and it might not be covered.

Mr. Stepowany stated Mr. Peskin was trying to bring to their attention that people may find loopholes. He stated the Commission should consider this because in the industry they may find a loophole and that would not meet their definition. The more types of electronic and the more types of technology staff could include in the list, the better they would be. He stated Mr. Peskin said LED was used for everything now.

Mr. Di Peppe stated the California text seemed to cover all of this.

Mr. Stepowany stated that what they seemed to model this after and was still being reviewed by the County Attorney. He continued explaining the revised proposed Ordinance.

Mr. Di Peppe asked if changing the foot candles would make the ordinance more restrictive.

Mr. Stepowany stated the County Attorney's office was still evaluating and my need more time.

Mr. Di Peppe stated he would suggest removing the change if it would delay the ordinance another month.

Mr. Stepowany asked to just go with the .8 foot candles.

Mr. Di Peppe stated yes, because to him they were not having a problem. If that was the one thing that would make it more restrictive and would keep them from moving forward, it was a problem they did not have.

Mr. Stepowany stated the other item they talked about had already been removed.

Ms. Kirkman asked what it was they were talking about taking out.

Mr. Di Peppe stated one of the suggestions Mr. Peskin made, was that in certain other localities there were different foot candles based on different uses. In the rural residential it was a lower foot candle. He was not against the lower foot candle in a residential but they were not having the problems with the lights in the residential and commercial yet.

Mr. Stepowany stated they were talking .3 foot candles to .5 foot candles which was not that great of a difference. It was recommended .3 foot candles so there must have been some variation between .3 foot candles and .8 foot candles .

Mr. Di Peppe stated if they left it at .5 foot candles, which was in the original ordinance, then they would not be any more restrictive and the difference was from 50 feet away at the roadway not very great. It would be very difficult for the average person riding by to see the difference. He stated to make this ordinance more restrictive and hold it up a month for a negligible difference was not a good idea.

Mr. Stepowany stated it would be more like two months to hold it up.

Mr. Fields stated it may have seemed obvious but they kept saying "a right-of-way" and asked if they needed to actually identify if it was a right-of-way of a public street or were the two so synonymous they did not need that amplification.

Mr. Stepowany stated that had always been the discussion, should it be the street or right-of-way. They did define a street and a street could be public or private so making it street would be better defined. He stated before it was the boundaries of the right-of-way which was another issue that was brought up because where exactly was the boundary.

Mr. Fields stated that was part of the reason he was asking and their functionality of this was the impact on the roadway.

Mr. Stepowany stated they could better define where the edge of the street was.

Mr. Fields stated everybody knew where the edge of the street was.

Mr. Stepowany stated he had no problem with changing it from right-of-way to street as street was defined as a means of access to three or more properties and it could be private or public.

Mr. Di Peppe asked if it would make it more restrictive since they originally advertised it from the center line of the street to from the edge of the street.

Mr. Stepowany stated it was actually the right-of-way boundary where the measurement was. The intent was always the edge of the street. He stated it was up to Mr. Nugent as he still had to review it. He continued with the discussion of measurement of signs. He stated the measurement would be taken at chest level or DBH, diameter breast height.

Mr. Di Peppe stated the reason they would use chest height was he was thinking about people sitting in an automobile.

Mr. Stepowany stated most signs had the technology to dim it if there were issues and Mr. Peskin recommended .8 foot candles.

Mrs. Carlone stated in one of the discussions they had mentioned schools and church signs and local country grocery stores and asked if they were taking out the .3 foot candles.

Mr. Stepowany stated Mr. Di Peppe recommended taking the .3 foot candles out if it would make it more restrictive where they would have to go through new public hearings.

Mr. Di Peppe stated he raised that point because they were talking 50 feet away and it was up to the Planning Commission on what they wanted to do. These discussions had been going on for more than a year and they were getting ready to get another one of these signs in the next two months.

Ms. Kirkman stated she thought it was better if they did not discuss specific signs.

Mr. Di Peppe stated this ordinance was not going to stop that sign.

Mr. Stepowany stated they changed the type of sign from LED to EBB because they got rid of the definition for LED and discussed the recommended changes of the colors.

Mr. Di Peppe stated Mr. Stepowany did a great job. The meeting was very fruitful because there were different stakeholders sitting at the meeting discussing different issues and debating what each person brought up. He stated he thought it was a very effective meeting.

Mr. Stepowany stated a question was brought up about the 6 square foot sign and explained why they had it. He stated they would take Mr. Peskin's suggestions and recommendations and they would address some of his other concerns when they get more into the rewriting of the lighting section of the Zoning Ordinance that Deputy Hamilton was also helping staff with.

Mr. Di Peppe stated one of the things they found out with what Deputy Hamilton did was this ordinance would not restrict, for example, some of the very high foot candles came about because of the background that was being flashed was light blue or yellow and because of using the very light background they were raising the candle power. They could have the same ad but to use a darker background and they were not restricting content, just glare.

Mr. Stepowany stated going back to the chart they would see the sign measurements Deputy Hamilton took with a dark background and primary colors was averaging between .3 foot candles and .5 foot candles. The same sign with a yellow background was about 2.3 foot candles. He stated they discussed this ordinance and did not prohibit a company to continue to have their messages, they would just have to better control their illumination and use darker shaded backgrounds.

Mr. Fields asked if they were waiting for legal.

Mr. Di Peppe stated they needed to hear from legal because they were concerned about the wording.

Mr. Nugent stated he reviewed this for the first time while sitting in this meeting and had enough concerns with some of the language that he would like the opportunity to review the ordinance in more detail. Assuming that there were no more restrictive changes, however, and assuming that in fact they would change the .3 foot candles to meet what it use to be at .5 foot candles, then he would see a delay for only another two weeks. He could not guarantee that he would not find something that was not more restrictive and if he did he would have to report that fact to the Planning Commission.

Mr. Di Peppe agreed to hold it in committee.

Ms. Kirkman stated she wanted to verify where they were in the process. They had a couple paths they could go on this ordinance. One path was that if there was anything in the ordinance that was more restrictive then both at the Planning Commission level and at the Board of Supervisor level they would have to hold new public hearings. Otherwise, they may recommend language and measurement changes. She stated if they did that and nothing was made more restrictive, then the process would be it would go straight back to the Board of Supervisors and they would be able to act without an additional public hearing and asked if that was correct.

Mr. Nugent stated assuming the changes that were ultimately made were not substantive.

Ms. Kirkman asked not more substantive or not more restrictive, there was a difference.

Mr. Nugent stated there was a difference. He asked if there had been any advertisements concerning this ordinance.

Mr. Stepowany stated yes.

Mr. Nugent stated it could be an issue or perhaps not. He could let the Commission know depending on what was ultimately agreed upon.

Mr. Di Peppe asked if they could at least suggest that they make that change back to .5 foot candles.

Mr. Stepowany stated he did not have a problem with that.

Mr. Di Peppe stated they spoke with the deputy who actually did the measurements and they talked about the difference from the sign to the roadway and how much more distraction that would be.

Mr. Fields stated he did not think anybody was arguing with him.

Mr. Stepowany stated he would change .3 foot candles to .5 foot candles and right-of-way to street.

Mr. Fields stated in two weeks they would have counsel's opinion and hopefully be able to move forward with the long-awaited and much anticipated electronic sign ordinance. He thanked Mr. Stepowany stating it was a very good and thorough presentation. He stated the Commission had a work session item but he suggested they move forward with the preliminary subdivision plan item on the regular meeting and then go ahead and talk about taking up the calendar year work plan. He stated they were now picking up the Southgate Preliminary Subdivision Plan as forwarded from the work session to the regular meeting. They had asked questions and examined it in detail and if there was no staff input he would ask Mrs. Carlone what she wanted to do.

Mrs. Carlone stated she wanted to make a recommendation for denial and for a resubmission of this preliminary plan for the following reasons. This was a separate subdivision apart from Southgate and the applicant included the stormwater management ponds that should have been on this particular Section 2. She stated she had quite a few reasons and asked if she should give them now or wait.

Mr. Fields stated on something like denial of a plan to ask counsel's opinion on how she should present the motion.

Mr. Nugent stated she could give her specific reasons or she could simply ask for denial without giving reasons. It was usually recommended that reasons be given. He stated the code required that reasons have to be given to the applicant so that the applicant has some idea or knowledge as to what the applicant would need to do to make it right.

Ms. Kirkman stated her understanding in making the motion to deny was they did need to specify both the specific sections of the code they believed were not in compliance as well as the actions that could be taken to make corrections. When the applicant were to submit a new plan they would know what was needed to be corrected.

Mrs. Carlone stated her recommendation for denial for Southgate 2 was based on quite a few items and some had just come out. Section 22-58, the preliminary plan should include the Stormwater Management descriptions, general locations as regulated by 22-133. Section 21-5, Stormwater Management should be incorporated by reference. The plan did not have an approved Stormwater Management plan and with the conversation with Mr. Baral, that could be done and to go ahead and work with the applicant. The correction would be by including the concept plan in accordance with regulations into the new plan. This plan should be a separate entity and submitted as a standalone project. She stated another issue was 22-58(5)(c), land for common use and public use clusters. The application did not contain proposed restrictions or open space plans. The correction would be by

including them. Section 22-58(6)(b), public water and sewer and the plan did not contain a concept plan for water distribution and wastewater collection and it did not show lots 10 and 11 served by sanitary sewer. That would be by including in the concept plan. She stated there were quite a few other issues. Open space regulations should have been specifically showing the percentage of the gross area of the tracts and they had already discussed the pipe stem lots. She stated those were the main reasons for her recommendation to deny and resubmit as a separate project without showing its own water management ponds. She stated going more into the detail, she thought they were short on the cul-de-sacs but she was not sure where they were with that.

Ms. Kirkman seconded. She stated she would offer some friendly amendments and clarifications to the motion which she had hoped her colleague from Hartwood would consider. The clarifications and amendments she would suggest to the motion are as follows: one addition was the plan was not in compliance with Section 22-58(2) on the vicinity map because it did not show all the subdivisions within a one mile radius. That could be corrected by adding this information to the vicinity map. She believed Mrs. Carlone already mentioned lack of compliance with 22-58(5)(c) because the application did not contain proposed restrictions or adequate open space plans. That could be corrected by including in the plan. Additionally, she would amend it to add that this plan was not in compliance with 22-58(11) regarding amenities. The plan did not contain a graphic description or narrative of the multi-use lot that could be corrected by including this information in the plan. She would also add regarding Section 22-168(6) in subdivisions approved for cluster developments where the required open space was approximately one acre or greater in the area as this was, such open space shall be located and shall have such dimension and topography as to be useable open space. According to the plan in front of them approximately half of the area in the 1.56 acre and 0.22 acre open space area that was designated as useable open space contained slopes greater than 15 percent which by definition were not useable open space. That could be corrected by reconfiguring the plan to meet the minimum requirements of 22-168. She stated additionally, regarding 22-270 provision for pipe stem lots, chapter 28 did not specify anywhere that pipe stem lots were permitted in either an R-1 land use or in a cluster subdivision. Section 22-270 said they were permitted only as specified in the Zoning Ordinance and lot 11 was a pipe stem lot. This could be corrected by reconfiguring lot 11. She stated she would also add that Section 28-73 stated that cluster developments shall provide useable open space that could be developed for a community park, fire and rescue station, school or other public facility. The plan did not provide sufficient useable open space that could be developed for any of the listed public facilities. This could be corrected by reconfiguring the plan to provide sufficient useable open space for one of the required public facilities. Finally, she would not state the Stormwater Management plan was a reason for denial, however, she would amend the motion to state that the Planning Commission expressed concerns about compliance with Section 22-58(9) regarding the Stormwater Management plan, and also expressed concerns with compliance with Section 22-191 regarding cul-de-sac. Between Southgate 1 and Southgate 2 the number of allowed lots on the cul-de-sac Port View Drive may exceed the allowed number. She stated also regarding compliance with 22-58(6)(b), submission of a concept water and sewer plan, it clearly did not have the required information regarding sanitary sewer for lots 10 and 11. Additionally, there was not a separate concept plan as they had seen in other plans and they would recommend that the applicant, in the future, submit a separate sheet depicting the water and sewer concept plan.

Mr. Nugent stated during her recitation of the friendly amendment, she made several references to Section 22-168. He asked if it was her intention to refer to 22-268.

Ms. Kirkman stated yes it was.

Mr. Fields asked as clarified did the motioner accept the amendments.

Mrs. Carlone stated yes.

Mr. Fields stated the motion was on the floor for denial for the reasons articulated by both Mrs. Carlone and Ms. Kirkman and asked if there was any discussion.

Mr. Rhodes apologized because he was late arriving and asked if they had determined the citation associated with the pipe stem lot was indeed one… He remembered the last discussion on this topic there was belief by the one Commissioner that it did not meet and then there were some statements by staff previously that objection was not necessarily founded in their interpretation of the ordinance. He asked if the Commission had additional discussion concerning that tonight.

Mr. Fields stated they did not discuss that.

Mr. Rhodes stated they did have in some discussion of the denial of a past one where a litany of things were stated that he did not believe were all necessarily agreed to. He did not want to sit there all night but he almost wanted to go by item and confirm whether that was staff's opinion that they did indeed not meet that or if that was an individual's opinion.

Mr. Fields stated he assumed that since it was up to the Commission at that point it was their collective opinion that finally weighs in at this point of approval or denial. He stated Mr. Rhodes was welcome to ask staff a question as part of his process of deliberating and making his vote on this. When it was on the floor it was ultimately the Commissions' decision with the help and advice of staff. He asked if that made sense and stated he kind of agreed with what Mr. Rhodes was saying.

Mr. Rhodes stated yes and they just went through he did not know how many different reasons and he had not picked up a strong contention that all those issues, though they were raised at different points in discussion, were all ones that at the end of the day merited validity or complete accuracy. To cite all these and to make a vote on them with how many that number was he was not comfortable at this point. He recalled specifically a couple back and forth discussion on the pipe stem lot and they were citing that as one of the things not meeting and he thought they had come up with some determination that they were actually acceptable in this plan. He stated he would like to confirm that they were not.

Mr. Harvey stated as evidenced in previous meetings the Zoning Administrator had made an interpretation that the Zoning Ordinance allowed pipe stem lots by cross-reference between the two codes, the Subdivision and the Zoning Ordinance. As Mr. Fields stated staff would provide the Commission with a recommendation on a plan based on their view of the ordinance.

Mr. Rhodes stated on that one item, while they probably had some cleaning up to do in some areas because it was by reference. He remembered part of that discussion was still the recommended opinion of those that was not necessarily in compliance with that ordinance that would be one he would have difficulty with. He stated there was such a prepared list he wished he could see it. He would like to make sure he had confidence that each one they were citing was one that was actually he had a conviction was correct and given the long list he was not sure how to proceed expeditiously. He stated he would like to be able to see a capturing of all the items that were cited.

Mrs. Carlone stated their discussions at the previous meeting about the ponds being on an off site subdivision. This again was presented as a separate subdivision so she felt quite comfortable on the basis of denial for them to come back and present one of these based on being a subdivision on its own and to have its own. She considered the Stormwater Management using off site as another area, for tot

lots you do not go off site to take care of your recreational requirements. She stated if there was something else in particular they wanted to discuss to do it.

Mr. Rhodes stated he would just highlight that as Mr. Baral identified it was not the cleanest, easiest, most readily explainable but as they looked at the different variables in the Stormwater Management plan and albeit as counter-intuitive as some portion of that from pre-imposed and the different discharge, because the major portion of impervious was considered in the original Stormwater Management plan he was comfortable that it all met that and they would have to, at the construction plan stage, get it approved and specified detailed and accepted. There were elements in the couple items that she just cited on Stormwater Management and also on the tot lot. He stated he walked a lot further for his tot lot in his subdivision than that portion, since there were only 12 lots in it, just one or two lots up from some of the buildings. He just did not see many of the things that were cited as necessarily being a basis for denial.

Mr. Fields stated he understood Mr. Rhodes' concerns but it would seem to him that since the reasons listed for denial also listed potential remedies and resubmission that any of those, depending on how they were interpreted, ultimately they were all provided with a remedy. That somewhat mitigated against the finality of the denials.

Ms. Kirkman stated she was going to offer for purposes of clarity, now that the motion was on the floor for debate, she would be happy to go through each of the sections and why she supported the motion. Some of them may be obvious right away and some of them may require a little more discussion. She stated just to make sure everybody understood everything covered she would be willing to do that if that would help everyone feel more comfortable voting on the motion.

Mr. Fields stated he did not want to go against procedure but he wanted to see if that was necessary. He asked each member if there were certain things they could debate or discuss. The motion was the motion and to simply change it would require a substitute motion or the offering of an amendment. He asked if that was how the Commission wanted to proceed or if a vote was appropriate on the substance of the idea. He asked Mr. Mitchell was his thoughts were.

Mr. Mitchell stated he agreed with Mr. Rhodes and look at the items and then let staff comment.

Ms. Kirkman stated the one thing she would say was they have had one business meeting on this, three work sessions and two additional meetings with the applicant and staff so the debate right now was really amongst the Planning Commission members. They had heard from staff a number of times on this and she would hesitate about opening it up again to discussion with staff.

Mr. Fields asked Mr. Di Peppe how he felt about this.

Mr. Di Peppe stated he thought they could talk about it for four more hours and did not know if that would change the vote one bit. It was not that he was not interested in people having the discussion, he thought each Planning Commissioner felt the way they did based on what they had heard so far and maybe something could get changed in that. He stated he would like to go ahead and have the vote but he would do the will of the Planning Commission.

Mr. Fields stated he was just trying to make sure everybody had all the information they needed to make an informed vote. He asked Mr. Rhodes and Mr. Mitchell if there were specific items they felt spoke for themselves and they would not debate and some items they would debate or did they want to hear each one of them. There were about twelve or thirteen things and it could take a little while if

they actually went back to staff and he thought that would be a little bit exhaustive to go back and forth on these. He stated denying a preliminary subdivision plan was a serious matter and deserved to be done as scrupulously fairly and thoroughly as possible and he thought that was where they were all headed. He asked if there were certain issues they felt they would need to hear articulated again.

Mr. Rhodes stated since he knew on the three he commented on he was not necessarily comfortable that it would support a denial on the primary points which were Stormwater Management, the pipe stem lot and there was a third but he could not remember. He was trying to think through as they were being brought up by Mrs. Carlone and then Ms. Kirkman brought up several more and he knew he missed some as they were brought up. He asked if they could at least restate them as that would be helpful. He stated on the few primary items, from the discussions they have had previously and tonight, he was not at a point of denial based on those but he did not know that he caught all the ones that they were citing as reasons for denial. The only other open question he had was, were all these items brought up in the two work sessions they subsequently had with the applicant. He stated he just wanted to confirm that all these were raised to them as the issues that were challenges.

Mr. Fields asked Mrs. Carlone and Ms. Kirkman to go through the list.

Ms. Kirkman asked Mrs. Carlone if she would give the floor to her to go through these things.

Mrs. Carlone stated she just wanted to make a statement. This started out the earliest she could see in May 2006. There was also a third submission and then some other changes. There were some surprises that showed up that she was not aware of until they had their meeting this past week. She restated again this was a separate subdivision and should be handled as a standalone project with its own stormwater. She stated they should not use off site tot lots. She spent quite a bit of time going to two other meetings besides the regular ones and it just needed to be resubmitted as a standalone project.

Ms. Kirkman stated the motion as amended was divided into two parts, the first part being the Commission was quite clear that the motion, if approved, would be that the Commission believed the plan was not in compliance with these sections of the ordinance. The second part was areas that the Planning Commission had concerns about compliance but because there were all kinds of issues regarding interpretation and past practices that they were noting those concerns but not stating them as the reason for denial. She stated the first reason for denial was lack of compliance with Section 22-58(2) Vicinity Map. The requirement was that the map shall show all subdivisions within a one mile radius which it did not. That could be corrected by adding that information to the vicinity map when a new application was submitted. The plan was not in compliance with Section 22-58(5)(c) regarding land for public or common use in the cluster alternative which stated that the proposed covenants, restrictions and open space plan shall be furnished. While there were covenants supplied, the only information in those covenants was that the homeowners association would maintain the open space. She stated that was really not a plan for an open space and it did not describe the restrictions on the open space. For example, as depicted, one was led to the impression that this was a wood-chip walking trail through a natural area open space but that was not clear from the plan. That could be corrected by adding more information about the restrictions in the open space plan. The next one was Section 22-58(6)(b) regarding public water and sewer required documentation. As noted in the reviewer comments and observed on the plan, the plan did not provide for how lots 10 and 11 would be connected to sanitary sewer. That could be corrected by including this information in the new application. The next one was Section 22-58(11) regarding amenities. This section cited that "private amenities to be located within the subdivision shall be identified by graphic descriptions and narratives within identified sections of the subdivision." The plan did not contain a graphic description or

narrative of the multi-use lot. This could be corrected by including this information in the plan. She stated the next area of lack of compliance was Section 22-268(6) which stated that "in subdivisions approved for cluster development wherein the required open space was approximately one acre or greater," as was the case in this plan, "generally such open space shall be so located and shall have dimension and topography as to be useable open space." To understand what that meant they had to go to the definitions in 22-267 regarding open space useable which stated "that open space within the boundaries of a given tract that is designed for recreational purposes and may include, but need not be limited to,…" and it listed a bunch of uses. Then it went on to say "useable open space shall not include areas in easements under power lines, steep slopes greater than fifteen (15) percent, golf courses and stormwater ponds." Approximately half of the area in the 1.56 acre and the 0.22 acre open space areas were designated as useable open space and contained slopes greater than 15 percent. There was no plan statement that these would be graded and, in fact, if they looked at the drainage divides in the post-development conditions it depicted these slopes remaining were greater than 15 percent. This lack of compliance could be corrected by reconfiguring the plan to meet the minimum requirements of 22-268. She stated the next area of lack of compliance was Section 28-73 where allowed "cluster development as allowed by the provisions of this article shall be permitted only in the R-1, R-2 and R-3 districts. All cluster developments shall provide useable open space that can be developed for a community park, fire and rescue station, school or other public facility." The plan did not provide useable open space that could be developed for any of the listed public facilities. This could be corrected by reconfiguring the plan to provide sufficient useable open space for one of the required public facilities then the county could make a decision on whether or not they want to accept it. Right now the plan did not have any useable open space sufficient to meet the requirements of any of those public facilities. She stated the last area of non-compliance was Section 22-270, provisions for pipe stem lots, which stated "when permitted in the zoning ordinance, pipe stem lots shall conform to the following requirements." Chapter 28 of the Zoning Ordinance did not specify anywhere that pipe stem lots were permitted in either the R-1 land use or in the cluster subdivision. Section 28-35, the table of uses and standards, did not permit pipe stem lots in R-1. Section 28-76, permitted uses in a cluster development, did not permit pipe stem lots. Lot 11 was a pipe stem lot and this could be corrected by reconfiguring lot 11. She stated the areas of concern were there may be a lack of compliance with Section 22-58(9), Stormwater Management. It appeared there was never a separate Stormwater Management concept plan reviewed or approved for Southgate 2 although this really just needed to be sorted out and it would improve the new application if a separate plan clearly delineating the Stormwater Management plan for Section 2 was submitted. She stated secondly regarding Section 22-191, cul-de-sac, there was concerns about compliance with that area although again this was an area where there may be some further research needed on both legal interpretations and practices between Southgate 1 and Southgate 2. The number of allowed lots on the cul-de-sac Port View Drive may be exceeded. Finally, an area of concern of the Planning Commission was lack of compliance with Section 22-58(6)(b) which stated there shall be a concept plan for sewer and water. Although this information may or may not have been wholly contained in the preliminary plan on sheet 3, it was very hard to distinguish because of all of the other information in the plan. She stated other preliminary plans she had seen that had these concept plans put them on a separate sheet. The Planning Commission would encourage the applicant to correct this by detailing that information on a separate sheet when they submit a new application.

Mr. Fields asked Mr. Rhodes if that went over everything. He stated it was helpful to him as well.

Mr. Rhodes stated that was very helpful. To clarify, he asked if they did confirm that all these items were brought up with the applicant in the two meetings.

Mr. Fields stated his recollection was they did discuss these in the work sessions and possibly with the applicant.

Mrs. Carlone stated something they did not mention was the proximity of the walking trail to lots 11 and 12 for safety sake even though there was a discussion period on that. Also the sewer lines on the trail. She stated there was so much and she would just reiterate again that this should have been presented as a separate project with these changes which included what was required of Southgate 2.

Mr. Di Peppe stated he would vote against the subdivision because he believed they had subdivision ordinances for a reason. Some of their primary duties on the Planning Commission was to make sure that the i's were dotted and the t's crossed and he thought there was a lot there that did not meet their ordinances. He stated that was why he was going to vote against this plan.

Mr. Fields stated it had been his experience with eight years on the Board and a year on the Planning Commission now that these were exactly the types of things that he had seen the downside of that kind of detail not being paid attention to. Some of the older subdivisions did not even have these regulations but he could tell you that virtually every subdivision in the George Washington District had some tragic flaws with it that could have been corrected by what may seem to have been an obsessive but ultimately a thorough examination of every one of these little nuance details. Certainly the stormwater concern was grave. While it may seem difficult, he thought the fact that their remedy was open to simply come back with a resubmitted plan that would take care of all these details. He thought that made a lot more sense in his mind then simply revising this. He stated he thought denying was appropriate as they were giving a thorough and very fair set of remedies that could ultimately lead to the success of this subdivision. In principal, he thought was certainly an appropriate place for this type of thing but without this kind of details this could become a place that people in all good faith purchase a home in and then find certain of these details that were not taken care of become a problem. He stated this was not a huge plan but would relatively be in the public's best interest to push the reset button and address these issues and come back.

Mr. Rhodes apologized for dragging this on so long and asked the costs of resubmitting as far as their fees.

Ms. Ennis stated the applicant would have to submit all new applications and would have to restart the process. She thought the base fee was a minimum of $4,000.

Mr. Rhodes stated to vote for this motion was to agree that every one of these reasons was a basis for denial.

Mr. Fields stated he would have to ask the County Attorney about that. He asked if a vote to deny an absolute affirmation of every one of these reasons or were these reasons the basis for denial in toto.

Mr. Nugent stated he would suggest that it was in toto because individual members may agree with some and disagree with others and could still vote to deny.

Mr. Fields stated their individual feeling about one or the others could still create a collective preponderance of reasons to deny even though they may disagree with one individually.

Mr. Nugent stated correct.

Mr. Rhodes thanked his fellow Commissioners for their patience as he went through this. He stated he believed they had some challenges when they would get into defining exactly what an open space plan and how much of an open space plan was acceptable and how much was not, how much was a graphic description and how much was not. There were several items he would have a problem with and a few that Mrs. Carlone and Ms. Kirkman raised did cause him concern and would cause him to at least defer because he did not like forcing people through other fees and charges to go on processing especially when they know sometimes they would get pushed one way then another on some of the interpretations. He stated he did find some of these were supportive of what he thought but he did not think they all were.

Ms. Kirkman stated the details were very important because they were performing an administrative function and as charged by statute their role was to make a determination as to whether or not the plan was in compliance with the entire ordinance. She wanted to say she believed compliance with all aspects of the open space was particularly important and the reason for that was if they had to go back and look at why the cluster provision was created in the first place, it was created in order to allow developers flexibility in exchange for good useable open space. That was the theory behind this particular land use and that was why it was particularly important that they comply with all of those. She stated she was very, very concerned about the Stormwater Management particularly given that one of the drainage divides emptied right into somebody's house on an adjacent property.

Mr. Fields asked if there were any other comments. Hearing none, the motion to deny passed 4-2 (Mr. Rhodes and Mr. Mitchell opposed) (Mr. Howard was absent). He stated that took care of the primary business and asked Mr. Harvey and Mr. Nugent if they had any reports they needed to be aware of. He officially welcomed Mr. Nugent to his role on the Planning Commission and stated they looked forward to working with him. This was Mr. Nugent's first actual session and they were very happy to have him there.

Mr. Nugent stated at some point he would like to address the language that related to the proposals for the establishment of time limits for plans.

Mr. Fields stated they could take care of that now.

Mr. Nugent stated with the document he had, Section 22-61, he had addressed those items that were proposed as changes. On page 2 section 22-61(c)(1)(a)(5) his recommendation would be to eliminate that phrase which said "which are effective immediately". Without some mark in time it would be very difficult for any administrator to determine exactly when that would be applicable and how. The revised section should read "Revisions to state/federal regulations which require a change in the plan" and nothing more. He stated it was his understanding that both of the proposed paragraph 6s immediately there under were going to be deleted so any changes he would make were immaterial. He went down to paragraph (e) and stated the revised language would read "The applicant is entitled to three reviews by the agent and three reviews by each appropriate review agency. If plans are not in a form that can be approved at the completion of these reviews the plans shall be rejected. A new application and fee for plan approval shall then be required for approval thereafter." He stated in paragraph (f) his recommendation would be in line 2 to change "one year" to "365 days", in the same line between the words "the application" he would put "submission of the" so it would read "…within 365 days of the date of the submission of the application…". He would add the word "thereafter" to the end of the sentence following the word "approval". He stated on page 3, number (1)(v.) he would delete "which are effective immediately" so the revised section would read "Revisions to state/federal regulations which require a change in the plan." The changes on the same page to paragraph (d) were identical to the changes made on the previous page to paragraph (e) so the revised version would read

"The applicant is entitled to three reviews by the agent and three reviews by each appropriate review agency. If plans are not in a form that can be approved at the completion of these reviews the plans shall be rejected. A new application and fee for plan approval shall then be required for approval thereafter." He stated those were his suggestions.

Mr. Fields asked for consideration if they were ready to move to public hearing. He asked before they did that if there were any discussion.

Mr. Di Peppe stated his only question was procedural, would they all have to vote to agree to his changes before he read his motion.

Mr. Fields stated they should vote to approve essentially that they agree on what they were going to move to public hearing.

Mr. Nugent stated one of the Commissioners would need to make a motion to do that.

Mr. Di Peppe stated so moved to accept the attorney's changes in Sections 22-61 and 22-77.

Mr. Fields stated that was for the version they had that was dated January 21, 2009.

Mr. Di Peppe stated they should note they were in the full meeting and not in any ordinance subcommittee.

Mrs. Carlone seconded.

Mr. Fields asked if there were any discussion on those changes or the language before them. The motion passed 6-0 (Mr. Howard was absent).

Mr. Di Peppe made a motion for approval for a public hearing with the Planning Commission for an ordinance to amend Sections 22-61 and 22-77 of the Subdivision Ordinance. The amendment establishes regulations pertaining to time limits for preliminary subdivision applications. The Planning Commission finds that public necessity, convenience, general welfare, and good subdivision practice requires the governing body to consider an ordinance to amend the regulations. Ms. Kirkman seconded. The motion passed 5-1 (Mr. Mitchell opposed) (Mr. Howard was absent).

<u>Work Session Item number 8 - 2009 Calendar Year Work Plan</u>

Mr. Fields stated work session item number 8, the 2009 Calendar Year Work Plan, had a bulleted list of items staff had thrown out as possible items for the Commissions' consideration. He assumed the reason staff used bullets was there was no particular ranking on this.

Mr. Harvey stated the one thing to keep in mind was many of those items were predicated on the Comprehensive Plan being adopted by the Board and the timeline associated with those items to get completed during the rest of the year would be impacted upon when the Comprehensive Plan was finished.

Mr. Fields stated what he would like to do was to go down the line and give each Commissioner a couple minutes to throw out what their feelings were about what they would like to see. These were just general ideas and nothing what they said was binding but he thought getting a sense of what they

all felt was important and then trying to pull together as a team to their best of their ability was always a good start and a good thing to resolve to do.

Mrs. Carlone stated the Transportation Corridor Plan would be one thing.

Mr. Fields stated they did not have to pick from the list and anything they would want was on the table.

Mr. Mitchell stated before he could comment he was concerned about the Resolution direction to the Planning Commission and he would leave it at that.

Ms. Kirkman stated the most important thing to get done as quickly as they could was the revisions to the subdivision plan and the Zoning Ordinance. The Zoning Ordinance was much more closely tied to the policies in the Comprehensive Plan and she felt they could probably go ahead and get started on the changes to the comprehensive revisions of the Zoning Ordinance. She stated since the Subdivision Ordinance really had much more to do with the technicalities around the subdivision and creation of lots rather than land use policies, what she would suggest was right now go ahead and get started on the comprehensive revision of the Subdivision Ordinance and not be dependent upon timelines regarding the Comp Plan.

Mr. Fields asked if she meant by comprehensive revision, starting at page 1 and going down each paragraph and saying was this working or not working.

Ms. Kirkman stated in her experience on the Planning Commission and the Board of Zoning Appeals there were many inconsistencies in their ordinances. They had things that were not concurrent with state statute, they had unclear and ambiguous statements in the ordinances, in the definitions they had things that should have been ordinances and in the ordinances they had things that should have been definitions. She thought staff had already done a substantial amount of work in terms of identifying technical changes that ought to have been made. She suggested a top to bottom house cleaning.

Mr. Fields stated these ordinances would get added and subtracted over the years and they could get, with all good intentions, pretty much of a mish-mush.

Mr. Di Peppe stated he agreed with the things that had the bullets, but all of them that end with the word Comprehensive Plan he thought they needed to see what Comprehensive Plan that the Board of Supervisors pass. He did not know what changes the Board might make to the Commissions' recommendations and he really believed they needed to find out before they spend a lot of time on those they needed to know what they were going to do in that area and then move forward. He understood and totally agreed that the Commission would need to take a page by page look at the Subdivision Ordinance. He stated his one wish for this year, and he did not know if it would happen at all, was they started working on it and he would like to see the Planning Commission write a letter to the Board of Supervisors as it had been over a year on it before the latest controversy about whether they could write their own ordinances or advertise their own, they needed to write and pass a very good comprehensive Reservoir Protection Ordinance. This was about clean drinking water for everybody in the community. It was not a controversial ordinance and they were not going to downzone anybody, they were just going to use common sense approaches that had been used across this country that many localities had used to protect their water supply. He stated that was his one wish before the end of the year, to see that not only would the Commission get it through, but that the Board would vote on it.

Mr. Rhodes stated there were three areas that really stood out to him. The first was touched on by Ms. Kirkman which was the technical fixes they needed to do and staff had a bit of a list and had some things identified. A plan to be able to attack those and really get a lot of those fixes in there that have stood out and caused challenges to staff or just stood out as disconnects. The second was the action plan associated with prioritizing the work that would follow the Comp Plan once it was adopted. Almost getting a little ahead and laying out a strategy towards how they would tackle that he thought would be positive. He did not know what it would look like but they could still get some work together in developing a strategy they could execute once it would get in its final form. He stated lastly, if they had an opportunity to spend a little time on a, for lack of a better word, communication plan. He stated he was excited about the potential work on the transportation corridor and where that could take them.

Mrs. Carlone stated the Reservoir Overlay District was important and there was so much already on the books. The other thing was media information. They had brought up having more contact to work with the Board of Supervisors and they needed to better communicate with them as a group. She stated the environmental plan was essential along with the transportation corridor.

Mr. Fields stated these were all good items and the Commission was converging on similar foci. He agreed with everything everyone had said. He stated he was particularly interested in the transportation corridor plan and the Transportation Committee had their first meeting the other night. He, Mr. Rhodes and staff basically took a map and put lines on it and there were four basic layers of ranking of how significant the corridors were. He hoped that not only would the County come up with a transportation plan based on that but he thought that ultimately the most successful plan for Stafford County was one that would get into an extremely localized form. He stated the transportation corridor was a great springboard. He asked Mr. Harvey in terms of starting on the subdivision did he have a thought on how to launch into that process-wise.

Mr. Harvey stated the best starting point was for staff to work with the County Attorneys to work with getting the ordinance identified so the county could comply fully with State Code. The Subdivision Ordinance last had an overhaul in 1984 and had been amended piecemeal since then. He stated from there to take a look at the definitions with the Commission and how the mechanics of the subdivision ordinance work. There was not a lot of personalization in the ordinance and it would have to follow a process dictated by the state code. He stated staff should start working with the County Attorneys to put together identified issues from the State Code and then come back with a timeline for the Planning Commission on how to attack different articles in the ordinance.

Mr. Fields asked when Mr. Harvey thought would be a reasonable timeframe to get back to the Commission.

Mr. Harvey stated staff could shoot for a timeline to the Commission in two meetings.

Mr. Fields asked if at the second February work session the Commission could have their first open topic.

Mr. Harvey stated they could set out a timeline and figure out how staff would attack it. He brought to the Commissions' attention on the list of bullets staff provided there were two items if the Commission were to prioritize would need to be listed at the top. The Implementation Plan for the Comprehensive Plan which most of the bullets fell into and also the Dam Break Inundation Zones. There was a change to the State Code that required the county to adopt local ordinances to deal with that issue. He stated there had been discussion at the state level of maybe delaying implementation because of the budget

situation for localities as well as the state government. That may be something staff and the Commission may have to talk about as one of the first items on the list to make the county comply with state code.

Mr. Fields asked, as far as the implementation, could staff report to the Commission at the next meeting at where they would need to start with that.

Mr. Harvey stated staff could start working on short, long and mid-term projections over the next five years on where they would fit into that schedule.

Mr. Fields asked if the Reservoir Ordinance was still in committee.

Mr. Harvey stated the Reservoir Ordinance had two components, the Utility Code Amendment and also the Zoning Code Amendment. Staff wanted to know if the Commission wanted to forward a communiqué up to the Board about proceeding with the Reservoir Overlay Ordinance or how the Commission would want to deal with that.

Mr. Fields asked if this fell into the category where the Commission would have to get the Boards' permission.

Ms. Kirkman stated this was referred back to the Planning Commission by the Board and asked if that was correct.

Mr. Harvey stated that was correct.

Mr. Fields stated they could technically start working on it then. On that issue, he reported that he met with Mr. Crisp and Mr. Brito on the issue of the Planning Commission. He did not know what the outcome was going to be at the Board level but he did know that, in general, what was suggested at the meeting was that a reasonable course of action would be used to repeal the resolution that the Board enacted that required the Planning Commission to essentially channel everything for approval to the Board of Supervisors. There was also a plan to address what he thought was legitimate concerns of the Board of Supervisors and he stated he would report back to the Planning Commission what he discussed. He stated the Commission was enabled through the Code of Virginia to originate ordinances and the Board agreed that they did not want something as problematic as currently existed. Two of the things that came out of the meeting were an increased level of communication with the Planning Commission and the Board of Supervisors and on a formal system having joint meetings sounded good but was cumbersome with fourteen people. He suggested that the Chair and Vice-Chair of the Planning Commission and Chair and Vice-Chair of the Board of Supervisors meet once a quarter to discuss officially what was going on between the two bodies. He stated the other suggestion was that instead of the Planning Commissions' budget being buried into the Planning Department budget that the Board would actually ask the Planning Commission, with the assistance of staff, to actually prepare its own separate budget. The Planning Commission would actually look at their budget, talk about their budget and vote and approve their budget. He stated they did not have budgeting authority but they did have the Planning authority to say this was what they would need. The Board would like the Commission to be publicly accountable for their own budget and he thought it was a very reasonable request. He asked if any of the Commissioners had any comments though he did not want to debate the issue.

Ms. Kirkman stated she thought everything he said was wonderful. She thought the Planning Commission did have a budget and a separate line item as they received a copy of it in their January

orientation. She stated that might be something to ask Mr. Harvey to bring to the next meeting to review with the Commission in terms of what existed now. She suggested that because of the bleak situation of the county's finances she would like them to spend some time in their next work session to come together with some kind of plan or suggestions the Commission could make to the Board about where money could be saved.

Mr. Fields asked if the Commission was tasked with creating their own budget and tasked with quarterly meetings between the Chairs and Vice-Chairs and making sure to keep open communications, if the members were comfortable with that and all agreed. He stated what he had was staff was going to come up at the second meeting in February with a timeline for starting the subdivision review and they were going to give the Commission a recommendation on what things they would need to get started on for the Implementation Plan of the Comprehensive Plan. He asked what the next step was on the Reservoir Protection Overlay.

Mr. Di Peppe stated he thought the Commission should bring it back up and have staff do a brief presentation of where they were to refresh everybody's memory.

Mr. Fields stated they had the subcommittee of Mr. Di Peppe, Mrs. Carlone and the County Attorney and asked if they had met.

Mr. Di Peppe stated they stopped everything and Mrs. Carlone was the Chair of that subcommittee.

Mr. Fields asked if they needed to meet one more time before they went to the Board.

Mrs. Carlone stated she would like to.

Ms. Kirkman recommended they bring it to the next work session and have staff do a presentation that would identify the issues that need to be resolved.

Mr. Fields agreed with that.

Mrs. Carlone stated they did address some of the concerns and the former County Attorney, Steve Judy, did respond to some of them.

Mr. Fields stated the Transportation Committee was working on the corridors and they would move forward as things develop.

Ms. Kirkman asked if it was about time for the SSYP to come back up.

Mr. Fields stated yes, it was working its way through the system and moving forward.

2. Amendment to Zoning Ordinance - Amendment to Section 28-35, Table of uses and standards, of the Zoning Ordinance, pursuant to O09-04. The amendment will permit clubs/lodges/fraternal organizations as uses by-right in the B-1, Convenience Commercial, Zoning District. **(Time Limit: February 4, 2009) (History - Deferred at January 7, 2009 Regular Meeting to February 4, 2008 Regular Meeting)**

NEW BUSINESS

None

MINUTES

Mr. Fields stated the Commission had the work session minutes for June 4, June 18 and July 2.

Mr. Mitchell made a motion for approval for work session minutes for those specific dates.

Mr. Di Peppe seconded.

Ms. Kirkman abstained from the vote on the minutes. She stated the minutes were so old and she read through all of them. She could not, in good conscience, say they were correct because too much time had lapsed between now the times of the meeting.

The motion passed 5-0 (Ms. Kirkman abstained and Mr. Howard was absent).

June 4, 2008 Regular Meeting

June 18, 2008 Regular Meeting

June 25, 2008 Special Meeting

July 2, 2008 Regular Meeting

July 16, 2008 Regular Meeting

Mr. Mitchell made a motion for approval of the regular meeting minutes.

Mr. Rhodes seconded.

Ms. Kirkman abstained.

The motion passed 5-0 (Ms. Kirkman abstained and Mr. Howard was absent).

Ms. Kirkman stated along those lines she understood staff was working hard to catch up but what she would suggest, if the other Commissioners agreed, was that as they were doing the catching up that they get their current meeting minutes in a timely manner. Their By-Laws specified thirty days so within thirty days they would get the minutes from the last meeting and then whatever else could get done. She stated that way they could be caught up with what was recent and be able to review those in a timely manner.

Mr. Fields asked if there were any objections and heard none.

Mr. Di Peppe stated he would like to personally welcome Mr. Nugent. He had had the opportunity to work with him on a number of occasions and he found Mr. Nugent to be very articulate and dedicated and very accessible. He thought it was terrific that Mr. Nugent had joined them and personally welcomed him.

PLANNING DIRECTOR'S REPORT

No Report

COUNTY ATTORNEY'S REPORT

No Report

SECRETARY'S REPORT

No Report

STANDING COMMITTEE REPORTS

No Report

SPECIAL COMMITTEE REPORTS

No Report

CHAIRMAN'S REPORT

No Report

ADJOURNMENT

With no further business the meeting was adjourned at 9:52 p.m.

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Peter Fields, Chairman
Planning Commission