

STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
March 4, 2009

The work session of the Stafford County Planning Commission of Wednesday, March 4, 2009, was called to order at 5:40 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, Howard and Kirkman

Members Absent:

Staff Present: Harvey, Nugent, Roberts, Stinnette, Stepowany, Schulte, Schultis, Lott and Waslov

3. Declarations of Disqualification

None.

4. Review of Proposed Ordinances

a. Elimination of the Preliminary Subdivision Plan Process

Mr. Fields: First up is review of proposed ordinances. The first one on the list is the elimination of the preliminary subdivision plan process. I assume at the last meeting staff does not have anything to add to that that I know of, right?

Mr. Harvey: We are awaiting direction from the Commission on how to proceed.

Mr. Fields: Okay. Well, we only have five of us here today. Anybody have any comments or anything they want to discuss about it or anything they want to bring forward? We need to kind of decide. We sort of thought about it and looked at it, we need to make a decision on it but I would like to wait until all seven of us can make a vote on it. Unless somebody would like to just move it now and vote it forward. I guess we need to decide, is this a road that we want to continue to pursue or do we want to not pursue it. We are sort of at that decision point on this. Anybody have any thoughts?

Mrs. Carlone: I just do not think we should eliminate the preliminary subdivision plan and that is just my (inaudible).

Mr. Fields: Mr. Di Peppe? Your thoughts on it? You do not have to answer, I am not trying to put you on the spot.

Mr. Di Peppe: No. I appreciate that. If you could find a way to do it, my big problem with preliminary plans has always been that I thought it was easy vesting, that you could do a number of things and could get vesting and you might leave it there for a long time before anything happens. I would just like to see more involved with having a project vested. And so, when this was first proposed, I was interested in seeing this develop and what the discussions were, if it were possible. So I am still open for that discussion because right now I think we spend an awful lot of time working on plans that just vest against any future ordinances and I am concerned about that.

Mr. Fields: Ms. Kirkman?

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Ms. Kirkman: Mr. Chair, I fully support the idea of doing away with the preliminary subdivision plans, particularly given some of the movement in the General Assembly to extend vesting forever apparently. And I do think one of the things that has made our conversations a little difficult is that we have not been given a concrete example of what the subdivision process could look like without preliminary plans and so I actually would recommend that as the next step before we make a decision is that we have staff line up for us what the process would look like without the preliminary plans because one of the things we did determine through having other departments here was that there was a way to go about getting the information they needed without preliminaries. So, rather than making any decision about whether we go forward or not I think it would be helpful to see a concrete process laid out for what it could look like without the preliminaries.

Mr. Fields: Okay. Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, I have never supported the elimination of the preliminary subdivision plan. My fear here is that if we eliminated it and then something was presented the first thing we would be asking was could you give us more information, could you give us more information and now we are back to a preliminary subdivision plan.

Mrs. Carlone: What happened to that bill, the extension? I was following several of the other bills about the vesting time being extended. Does anybody know how that (inaudible)?

Mr. Fields: Do we have a read on that?

Ms. Kirkman: I think that the last time I looked at it, it had passed both Houses and was waiting on the Governor's signature.

Mr. Fields: And that is extending from the current regulations that stipulate five years to approximately ten years. Was that one of them?

Ms. Kirkman: It extends any plan vested as of January 1, 2009. It extends their vesting to 2014 I believe it was.

Mr. Fields: Just by virtue of that?

Ms. Kirkman: Just by virtue.

Mr. Fields: They still have to comply with certain regulations. Because the five year vesting, because I remember that bill, Jeff, you and I were down there when they were working on that vesting bill, there are certain minimum requirements and certain requirements of renewal, etc., right, that you had to keep your preliminary subdivision plan vesting under the current statute?

Mr. Harvey: No, the current statute depends on when you record your subdivision plat, your first subdivision plat if it is a multi-phase section. If it is not a multi-phase project, if you submit your record plat within one year, your preliminary is valid for five years.

Mr. Fields: Right, and this extends that same process or does it supersede even that minimum requirement. Do you know?

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Mr. Harvey: From my understanding it extends the date of the validity of any vested plan an additional five years.

Mr. Fields: With no extra requirements for anything other than you just get a free five-year pass on it?

Mr. Harvey: Correct.

Mr. Di Peppe: One difficulty we are going to see as we move forward, and I guess this is in defense of staff because I know Jonathan has put a lot of work into this, in eliminating a preliminary plan I do not believe there is any examples of any other localities that have done it so we are going to be creating it as we go along. I am not saying we should not do it and I am not saying we should not explore it, and I understand the concept and agree with the concept, so not nay saying it at all, I am just saying that one of the difficulties is there is no other locality that has done away with it. And to try to look for some kind of model or to look to see how that would change subdivision ordinances and things is a little bit difficult. So, we are just going to have to have a little patience as we (inaudible).

Mr. Fields: We figured out how to implement the Transportation Impact Fee ordinance which is a lot weirder than this. I have a lot of confidence in our ability to, in Stafford's abilities... remember, it says progress since 1664. We are a progressive county and our leaders are (inaudible).

Mr. Di Peppe: We are, in many ways.

Mr. Fields: Jeff, what would it take to kind of walk us through this sort of different scenario? Is that clear when Ms. Kirkman asked to kind of give us an example of how it would work? Is that clear on how you would proceed with that?

Mr. Harvey: Yes, we can prepare some flow charts. I guess Jon was going to interject with some comments.

Mr. Schultis: I knew that this was going to come up eventually. So during my drives to and from Richmond I was penciled on the subject and I have an idea, certainly nothing concrete, but something I will float by the County Attorney's office and see if that idea can come to fruition. Here are a couple of examples of different things that I have thought of and we can go from there realizing I would be trailblazing as we go. So, it is not out of the realm of impossibility for me to put something together, I am not sure it would be the standard, but I have put some thought to it.

Mr. Fields: With the indulgence of the rest of the Commission I think we owe it to at least explore that idea, if you do not mind. Particularly given the passage which is what I would fear of these extensions of vesting. It is a tough thing, it is like so many land use decisions, the dominance of the development industry to control the legislation in Richmond forces localities to do things that are not optimum in a perfect planning universe. Sure, in a perfect planning universe the preliminary subdivision plan is the way to go but we have not been dealt that hand. If staff could prepare that, that would be good.

Mr. Harvey: Mr. Chairman, could we bring that back to you at the first meeting in April?

Mr. Fields: That is fine.

b. Electronic Signs

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Mr. Fields: And the Board got my letter on electronic signs so we are waiting on legal (inaudible).

Mr. Harvey: Mr. Chairman, I have a report on that. It was added to their agenda last night and the Board took action. They granted the Commission a 120 day extension.

Mr. Fields: Okay. Are you okay with that Mr. Nugent?

Mr. Nugent: Mr. Chair, we will not need that long. I expect that within a month's time, five weeks at the most, we will have it together.

Mr. Fields: That is great. So we are all good on that.

c. Agricultural Districts Lot Yield

Mr. Fields: All right, agricultural districts lot yield. We were going to look at sliding scale concepts, correct?

Mr. Stepowany: Two things were asked from staff to provide so we went to the Fauquier County Zoning Ordinance which is what is provided. On page two is the sliding scale which is the size of the parcel. The larger the parcel the more lots are permitted for the higher yield based on the size. For those who do not have this, I will read it. Up to 9 acres you are allowed 1 lot, 10 to 19 acres – 2 lots, 20 to 34.99 acres – 3 lots, 35 to 54.99 acres – 4 lots, 55 to 79.9 acres – 5 lots, 80 to 104.99 acres is 6 lots, 105 to 129.99 acres is 7, 130- 154.99 acres is 8, 155 to 179.99 is 9 lots, 180 to 204.99 is 10 lots and 205 acres and above you are allowed 11 lots plus one additional lot for each additional 50 acres. So as the tract gets larger the more lots that they allow. That is the sliding scale, whereas our proposal is a 10 lot yield.

Mr. Fields: If I am reading this right, they have the minimum lot size as 2 acres, right? Is that correct?

Mr. Stepowany: Yes.

Mr. Fields: While limiting the overall build-out they actually allow for an even more, actually like a clustering concept, a more dense use of the permissible build-out area than we do.

Mr. Stepowany: Correct.

Mr. Fields: This has been in place in Fauquier for a long time, right? As of May '81 I guess? It looks like the parent parcel of record as of May 21, 1981, I am assuming that is when they probably adopted the ordinance then? Do you know Jeff?

Mr. Harvey: I do not know the specifics but I believe they did go back in time instead of made it effective (inaudible).

Mr. Fields: So they may have adopted this later on?

Mr. Harvey: I do not know how many years they went back.

Mr. Fields: Ms. Kirkman?

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Ms. Kirkman: What are the RA and RC zones?

Mr. Stepowany: I would have to go look but those are the two rural zoning districts. I would have to go see what the normal minimum lots sizes are.

Ms. Kirkman: And are those the only rural or agricultural zoning districts for that county?

Mr. Stepowany: This applies to maximum density in the RA and RC zones shall be as follows.

Ms. Kirkman: Right, but I am asking if those are the only zones that are rural or agricultural in that county.

Mr. Stepowany: When I looked I Fauquier that was the only two zoning districts that had this sliding scale type of (inaudible).

Ms. Kirkman: That is not what I am asking. What I am asking is what other rural or agricultural zones are in the county, in addition.

Mr. Stepowany: I would have to look that up.

Ms. Kirkman: Okay, thank you.

Mr. Fields: I believe that the A and C stand for agricultural and conservation, I think that is what that means, Rural Agricultural and Rural Conservation. If they have other agricultural zones it is pretty minimal. I mean, you can look at Fauquier, you can look at a map of it, you can drive through it, you can see how compact their development is. Part of it is they have towns. That is like a lot of counties that have been more successful, they have existing towns to help focus their initial growth and to define their water and sewer service area. Does anybody else have any questions for staff on this? This is something we initiated on this so I think this is our ballgame.

Mr. Stepowany: And the others are just proposed amendments to the Comprehensive Plan which was recommended and staff did prepare two policies as amendments to the Comprehensive Plan.

Mr. Fields: That is what is below, 28-25 and 28-35, the changes to those too?

Ms. Kirkman: Why are we recommending a cluster ordinance in ags? What does that have to do with anything?

Mr. Fields: The sliding scale is not really a cluster ordinance, a sliding scale is another way of looking at dealing with agricultural, the lot yield districts. So I just wanted to have it all on the table so instead of just the flat 10 you could look at some of the different ways at counties that have been successful in preserving their rural areas have done it with other ways of doing it. We just wanted to consider is that a different way to go that we would be more interested in than doing the flat 10 subdivisions or would a sliding scale be more germane.

Mr. Stepowany: In response to the cluster ordinance in agricultural, the Board of Supervisors does have a subcommittee that is discussing ordinances for cluster in the agricultural zoning district. So

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they are currently actively working on such an ordinance for cluster in an agricultural so this would be consistent with that too.

Mr. Fields: By this you mean the sliding scale versus (inaudible).

Mr. Stepowany: No, the amendments to the Comprehensive Plan for agricultural that the policies would be for both proposals, cluster in the agricultural that the Board is working on and this proposed ordinance that the Planning Commission is working on.

Mr. Fields: Is the cluster subcommittee considering all of these things as it is looking at the cluster?

Mr. Stepowany: Yes, they are discussing all these.

Mrs. Carlone: Jamie, when do they meet or when are they going to meet next?

Mr. Stepowany: The next meeting is at the beginning of April.

Mrs. Carlone: If you could let me know the day I would like to be there.

Mr. Stepowany: Okay.

Mr. Fields: If we decided to pursue some version recommended, either the 10 subdivisions or the sliding scale, am I correct in assuming that it is likely that, because of time limit factors, that the Board is going to be sending the Comprehensive Plan back the Planning Commission for a second hearing to look at revisions and changes? Because they only have two more weeks on it without it coming back, right?

Mr. Harvey: Well, we have had discussions with the County Attorney's office and if the Board does not meet the timeline it is going to have to come back for a public hearing. It is likely that is not going to occur because of the level of discussion they are currently having. They discussed it in work session last night and they voted to have another work session but that date has not been set yet. It is likely it will be another few more weeks before the Board will have its final recommendations to refer back to the Planning Commission.

Mr. Fields: That would necessitate it coming back here for another public hearing.

Mr. Harvey: Yes.

Mr. Fields. Okay. At that point, of course I am not saying the Board would be completely happy with that, but at that point we are drawing in some sort of a plan for changing the lot yield of the agricultural district as part of amendments to the Comprehensive Plan being re-advertised. Would that be a possibility at that point?

Mr. Harvey: When you re-advertise the Comp Plan you are advertising the plan itself, so whatever you put in it would be...

Mr. Fields: Is reasonable.

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Ms. Kirkman: Mr. Harvey, do you think we can get the notice done correctly on that one?

Mr. Fields: I think so.

Mr. Harvey: We will be working with the County Attorney's office on the correct format.

Ms. Kirkman: That would be great. But Mr. Chair, I actually think we do not need an amendment to the Comprehensive Plan to go to a lot yield ordinance. I believe we have enough objectives in there currently regarding managing growth in the ags that we could do that under the Comprehensive Plan if those objectives are still in there when it gets sent back to us. I do not think we would need to add any amendments.

Mr. Fields: Staff's analysis last time was that this is not necessarily completely congruent with the Comp Plan. So, that is the only reason I am bringing that up.

Mr. Harvey: Yes Mr. Chairman. Staff's concern was that the Comp Plan as drafted contemplates the 3 acre lot development or build-out was based on that. So if we are going to make some adjustments potentially to the density in the rural areas we may need to take a look at that and the policies as well as the build-out numbers.

Mr. Fields: That is the only reason I was bringing that forward Ms. Kirkman. Just to make sure that we have a Comprehensive Plan where everything... Your concern is having a Comprehensive Plan where all different aspects of the plan link up and are logical with each other, right?

Mr. Harvey: Yes.

Mr. Fields: If you are recommending an ordinance that recommends 10 lots but your Comp Plan has build-out numbers based on 3 lots, you have got something of a policy disconnect, right?

Mr. Harvey: Yes, to make your ordinances as most defensible as you can, you should have a good underpinning in your plan that supports it.

Mr. Fields: All right, any thoughts on this? Questions? Comments? This is the information we need in 28-25 and 28-35, right, that would be the recommended ordinance changes, correct? If we wanted to implement it as is.

Mr. Stepowany: 28-25 and 28-35 is a 10 lot yield ordinance. We have not prepared an ordinance for the sliding scale if that is the direction.

Mr. Fields: Would it make sense to ask that the Board, on their next rural cluster, include a couple representatives from the Planning Commission to sort of see if we can kind of conference a little bit on this so that there is some congruency between the things? Because obviously, if you are contemplating a rural clustering thing that has everything to do with this, the two would probably have to be forged into something compatible.

Mr. Stepowany: I can ask Mr. Harvey to get in touch with the subcommittee and include a couple members of the Planning Commission.

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Mr. Fields: Okay.

Mr. Harvey: Yes, Mr. Chairman, I will make that request to the subcommittee also. I am not sure exactly when the two Chairs of the Board and the Commission are scheduled to have you quarterly meeting but that would be a good topic of discussion.

Mr. Fields: I talked with Mr. Crisp today. We are looking at the first of April for the Chair to Chair meeting. But this would be different and I would recommend myself and Ms. Kirkman be the Planning Commission Committee to meet with Mr. Crisp and Mr. Brito on how all of these possible things are going to be achieved. It was very clear from the discussion, personally, that you look at the Comprehensive Plan, you look at the UDA's, you look at all of that, and of course, if you do not have some way, and it can certainly include a TDR mechanism, but if you do not have some way of reducing the by-right density in the A-zones you will never make that Comp Plan even as we envisioned it amount to much of anything.

Mr. Di Peppe: I think that is the big difficult problem we face all along with the Comprehensive Plan. If you are trying to incentivize growth in a certain area how do you disincentivize it somewhere else. We always have all sorts of ways to incentivize but we do not have anybody who really wants to bite the bullet on protecting the agriculture. A lot of people in the county want to see our agricultural areas stay open but when it comes down to the actual making the ordinances so they will, it is difficult.

Mr. Fields: Believe me, I have been fighting this battle ever since I got on the Board in 2000. It is not an easy equation.

Mr. Di Peppe: And the tools they say that we have do not work.

Ms. Kirkman: Mr. Chair, the one thing I beg to differ with on my colleague is we actually have a number of tools that we do not use.

Mr. Di Peppe: I would agree with that.

Mr. Fields: We have the tools, we have lack of political will to use, of course.

Mr. Di Peppe: Lack of political will, thank you.

Mr. Fields: Or some would say the political courage not to use them, so it all depends on which side of the issue you are on. Okay, so we can move forward.

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

Mr. Fields: Reservoir Protection, that is still in committee?

Mrs. Carlone: Yes, this morning I talked with Dale Allen to see what the latest was with the definition of, they were going to look at the definition for the...

Mr. Stepowany: Mean high water line.

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Mrs. Carlone: Yes, thank you. Anyway, they have not come to an agreement on the definition for one thing. They are going to meet Tuesday so we should know hopefully.

Mr. Stepowany: Mr. Chairman, as I informed Mrs. Carlone and Mr. Di Peppe, we have invited Mr. Critzer, the Director of Utilities, to speak to the Planning Commission and he has agreed to come to the next work session. Mr. Howard asked about the measuring or testing of the reservoirs and contamination and what contaminations and Mr. Critzer will be more than happy to join us. And I am hoping to have other questions that we forward to the Utilities Department/Utilities Commission that is all tied to this proposed ordinance also. I would request that we hold off until the next meeting and we might be able to handle a lot of the questions.

Mrs. Carlone: Do you think at this next meeting and then for his presentation that they will have a definition?

Mr. Stepowany: Well, like I said, they have to discuss it with the Utilities Commission and see how that affects a lot of their legal documents and a lot of their maps and a lot of their plans. The Planning Department and Planning Commission is recommending that they change their definition and does that affect their documents? Are they basing a lot of lines on high mean water line and if they change the definition what is the unattended circumstances. That is what they are looking at right now. I cannot guarantee if the Utilities Commission will have an answer, I can just say they are discussing it.

Mr. Fields: So next work session we will probably have him come?

Mr. Stepowany: Mr. Critzer has agreed to come to the next work session and I am hoping we might be able to have the other answers and maybe get Mr. Di Peppe and Mrs. Carlone and Ms. Roberts together before that meeting and maybe go over the questions that we never finished up discussing. And have a little subcommittee meeting again. That is staffs' recommendation.

Mr. Fields: Okay. Is that okay with you guys, the other Commissioners?

Mr. Di Peppe: It is Mrs. Carlone's committee but just let me know when, I will be happy to meet.

- e. Rappahannock River Overlay District (Deferred to subcommittee - Peter Fields, Ruth Carlone, Friends of the Rappahannock and Rappahannock River Basin Commission)
(Request sent to Board of Supervisors for indefinite postponement)

Mr. Fields: I sent a letter to the Board on the Rappahannock River Overlay District and talked to Mr. Crisp. I think he related that the Board was happy to have this postponed indefinitely awaiting the other things, is that correct?

Mr. Harvey: That was also added to the Board's agenda last night. They took no action.

Mr. Fields: So, technically, they have not taken action on it yet.

Mr. Harvey: Correct.

Mr. Fields: Everybody saw the letter we sent. We said given the litigation on the Potomac River, there is really no reason to move forward on this for the foreseeable future, there is no compelling

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reason to fast track this. Do we need to keep having it show up on the agenda or until the Board takes an official resolution or action on it?

Mr. Harvey: My assumption is yes since it was referred by the Board.

f. Establishment of Time Limits for Plans

Mr. Fields: And times limits for plans?

Mr. Harvey: Brenda will give an update.

Mrs. Schulte: Good Evening. The memo in your package included some of the ordinance proposed. You might recognize that it is actually the version that was presented to you January 21. It does not include some of the recommended changes you requested at that meeting and that is partly due to the fact that it was decided to be put on the agenda the night before final preparations for your package was underway and I was not in the office those two days that that was happening. The best that they could do was pull together the latest version that you did see in its entirety. I apologize for that, it does not include some of those changes that were discussed at the January 21 work session and regular session because it was referred to regular session where conversations did continue on waiver procedures and the like. In saying that, also the County Attorney's office also has requested to look at the ordinances again because there have been some issues and changes that have happened since that last time that we met and so they have requested additional time to review the documents and make their recommendations to staff and the Planning Commission.

Ms. Kirkman: I thought on January 21 we voted 5 to 1 to send this to public hearing.

Mrs. Schulte: Yes, that is true, but there were also some recommended changes to the version that you were sent in the memo.

Ms. Kirkman: We voted on an ordinance to send to public hearing. Has that ordinance been scheduled for public hearing? It was a 5 to 1 vote of the Planning Commission.

Mr. Harvey: The ordinance has not been scheduled because the Commission later on rescinded its motion to send to public hearing. Because of the way the ordinance was written, the county code is written it has to be referred to the Board first and the Board has to refer it back to the Commission.

Ms. Kirkman: I guess we can discuss that in closed session. I thought there had been some rethinking about zoning ordinances in that regard. Thank you Mr. Chair. I do not know what else to ask at this point.

Mr. Fields: So, you are planning to have that document as we left it for us soon?

Mrs. Schulte: I am waiting for the County Attorney's office. They had some comments and concerns and we would like to address those in the revision.

Mr. Harvey: Also, Mr. Chairman, we melded in the zoning provisions as well because that was taken off the table for discussion back in December so we would look forward to any comments that the Commission would have on the whole concept.

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Mr. Fields: So it is back to where we tried to get it in the first place, zoning and subdivision.

Mr. Harvey: Yes.

Ms. Kirkman: But I do not understand. The attorney did review this and had already made comments on it.

Mrs. Schulte: There has been additional staff now that has looked at it and also has comments.

Ms. Kirkman: Additional staff or additional attorneys?

Mrs. Schulte: Additional attorney staff.

Ms. Kirkman: When are we going to get the final form of this?

Mrs. Schulte: I am waiting to hear from the County Attorney's office, whenever they can have appropriate time to review it.

Mr. Fields: Soon?

Mr. Nugent: Ms. Roberts and I looked at the document this morning and a number of things raised some concerns and Ms. Roberts expressed those concerns to Mrs. Schulte. I suppose as soon as we can get the time to sit down and put our heads together to figure out the right way to accomplish what needs to be accomplished it will get done. I cannot give you a definitive timeline at this particular juncture because my involvement is essentially what I just explained, that one night in January when I first saw the document, I made some recommendations and then today, seeing it for the second time, thinking about some other issues that need to be addressed.

Mr. Fields: I guess I would suggest, and I understand your work load, I would suggest since we did actually, the Planning Commission obviously did feel that it was ready to go to public hearing, we understand your reservations but obviously we felt that it was pretty high priority and pretty important on it so, please, I know you always do the best you can but just we would like to move that forward since we already thought we were moving it forward it would be good to get that wrapped up and on track. That takes care of that.

Ms. Kirkman: Particularly, Mr. Chair, I might add we have been discussing this since the middle of November so I am quite puzzled that it was not until this morning that the concerns were raised. It is really time to get this moving.

Mr. Fields: Maybe we should discuss having an ordinance about having a time limit for the discussion of ordinances about the time limits.

5. Review of Pending Rezoning/Conditional Use Permits

None

6. Review of Pending Subdivision Plans

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- a. SUB2800611; Woodstream V, Preliminary Subdivision Plan - A preliminary subdivision plan for 124 single family attached residential units and an area reserved for future multi-family dwelling units, zoned R-2, Urban Residential, consisting of 28.8 acres of the total 142 acres of the Woodstream subdivision, located on the east side of Staffordboro Boulevard approximately 2,400 feet north of Garrisonville Road on Assessors Parcel 21-8F within the Aquia Election District. **(Time Limit: May 13, 2009) (History - Deferred at February 18, 2009 Regular Meeting to March 4, 2008 Work Session)**

Mr. Fields: We looked at this in our last meeting and now it is before us in work session. Do we have a staff presentation? From the looks of you standing there I am guessing the answer is yes.

Mr. Schultis: Indeed I do have a staff update Mr. Chairman.

Mr. Fields: I know there is a concern at some point we want to go into closed session and discuss some legal issues surrounding this with the attorney so, for everybody here on the discussion, at least let us hear the presentation, let us talk about technical issues and whatever and at the time appropriate we will go into closed session.

Mr. Schultis: Yes sir. The last time we were together speaking on this topic, there were three issues brought up by the Commission that I would just like to expand upon. The first issue brought up was whether or not lots should provide reverse frontage on Woodstream Boulevard due to the traffic count that was proposed with this project.

Mr. Fields: Forgive me, I need to interrupt you one minute there. In my mind it is essentially a certainly that we do need to discuss certain aspects of this with the attorney in closed session. Ms. Roberts or Mr. Nugent, do we have the necessary language so we can make that motion? I am not going to make it now but just while we are doing this I did not want to suddenly get and then sit around waiting for that to happen. All right, go ahead Jonathan, I apologize.

Mr. Schultis: No problem sir. Section 22-151, Reverse Frontage of the Subdivision Ordinance essentially sanctions that lots along a collector road or arterial as identified by the Virginia Department of Transportation shall provide reverse frontage. Woodstream Boulevard is not classified as either one of those designations by the Virginia Department of Transportation and thus they do not need to provide it.

Ms. Kirkman: Excuse me, could you tell me what is the classification of that road?

Mr. Schultis: VDOT does not have a classification for it.

Mr. Harvey: It is believed to be a local road.

Mr. Schultis: It is not an arterial or collector. I will correct myself, it would be classified as a local road.

Mrs. Carlone: Excuse me for interrupting. There are vehicle units per day that determine some of these roads and I am just curious if we might be able to find out the different VPDs per day to see

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where that places it because we have a small road that is now considered a minor road because of over 500 cars a day in our little area. I am just curious about that criteria.

Mr. Schultis: Yes ma'am. I can see out VDOT's methodology behind why they have classified this as a local road and I can report that back to you.

Mrs. Carlone: Thank you.

Mr. Fields: When they classify something like this that is a road that still has yet to achieve its full build-out according to plans that are pretty much, according to some previous or existing plans, do they base their classification on current situations or on the potential future maximum use of the land feeding onto the road?

Mr. Schultis: To be honest with you sir, I can venture to guess but not being as familiar with how VDOT classifies it I do not want to say something that may be incorrect.

Mr. Fields: So what you are saying is our reverse frontage ordinance depends on VDOT's classification.

Mr. Schultis: Yes sir.

Mr. Fields: And we are not sure what criteria VDOT is using to make that classification.

Mr. Schultis: Well, somebody is sure certainly in the Office of Transportation.

Mr. Fields: I do not mean nobody is sure, I meant what you are pointing out, I am not getting at you here, I am not trying to shoot the messenger, but it seems we have a slight disconnect in a standard that we apply where the applicability of the standard is out of the hands of ourselves. If we have a standard, it seems to me we should be able to control the criteria of when the standard is applied or not. And here we have a situation where a state agency whose methodology we are uncertain of is determining whether we can apply our own standard. Am I getting that right? Again, I am not shooting the messenger here, I am just trying to get my head around this situation.

Mr. Schultis: I have, as far as the exact wording from the ordinance, I can read it and we can go from there. Essentially, any development of a residential subdivision adjacent to a public street that has been classified by the Virginia Department of Transportation as a primary, collector or arterial road shall contain reverse frontage. With that being the intent of the ordinance, I imagine that argument can be made, yes sir.

Mr. Fields: I know this is possibly out of the scope of this discussion but in some way it points out maybe would ultimately perhaps a better way of crafting that ordinance from a local standpoint be to find out what those criteria are and then identify whatever vehicle trips... I would assume it is primarily vehicle trips per day and peak capacity and stuff like that that are criteria that VDOT uses for local versus collector versus arterial and, if we could define those criteria in our own ordinance, then our own ordinance would not be dependent on VDOT's determination, correct?

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Mr. Schultis: My assumption would be that vehicle trips per day would probably filter into the equation as well as the road status as a primary or secondary state highway. I imagine that those are also factors but, as I said, I cannot speak with any certain clarity.

Mr. Fields: Please, I am not trying to beat a dead horse here.

Ms. Kirkman: Mr. Schultis, I would actually like clarification of the VDOT process because my understanding was there are thresholds for the classification of the type of road. I did not think that there was a concrete literal process where VDOT said today I am going to classify this road as this and road "b" as that, but that it was based on thresholds and criteria. So if we could just check out what the process is, I hope we are not making any decision based on something that is outdated or incorrect.

Mr. Schultis: Yes ma'am. Certainly I can get together that methodology and put it together, but if eases your mind at all, the Office of Transportation and the Virginia Department of Transportation have reviewed this and approved it.

Ms. Kirkman: Nope. It does not ease my mind at all.

Mr. Schultis: Well, it was a shot in the dark.

Mrs. Carlone: Just real quick. Looking at the eventual numbers per road so we would appreciate getting up to that 3200, almost 3300 VPDs.

Mr. Schultis: Absolutely.

Mr. Fields: I think you can understand that it has been obviously one of the major points of controversy both for the, from what I am getting from the residents of the communities around it and everybody that the undetermined number of units in a large section of that creates a very difficult problem when you are analyzing the validity of a traffic network whose ultimate capacity at one extreme termini meaning that that build-out of the undefined multi-family area of this creates an X-factor that ultimately affects the entire section of the road because it is at the very end. So, that is obviously why we are so concerned with this detail of it. I mean, how are we expected to say that something is valid when it is difficult, whether we or VDOT or anybody, how are they expected to say that is why we are concerned about the methodology that it is valid or invalid if we do not know what the final scenario is.

Mr. Schultis: Yes sir, absolutely. I understand.

Mr. Fields: Any other questions? I did not mean to interrupt, continue.

Mr. Schultis: No problem. Continuing onward, it was also requested of the applicant to include a tot lot. The applicant is here today and I imagine can expand on that topic if requested. They have not updated the plans since we were last together so no new tot lot has been added, though in the future they may add or go on the record as saying they would include a tot lot in a future expansion of the multi-family developments. Also, it was requested to include the minutes of the Woodstream IV hearing to get to the root of obligations that the developer may have made with regard to stream crossings. It was later brought to my attention there may have been obligations made as far as the construction of the recreational building. I have spoken with the developer and their agents and I have

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gone through the minutes of Woodstream IV, Woodstream III and Woodstream II and we were not able to find any such obligations. But, again, if there is any additional clarity that may be needed, they are here to answer those questions. Finally, I would like to mention for any other technical questions, I have brought with me Bob Waslov. He was the plan reviewer for Stormwater and Mike Lott, the Environmental Planner for our office who may be able to touch on those areas that I cannot quite capture. So, with that, Mr. Chairman, that concludes my presentation and I would be happy to answer questions.

Mr. Fields: Any more questions?

Ms. Kirkman: Yes Mr. Chair, I have several. Where is the Ches Bay environmental on this?

Mr. Schultis: Ma'am, the Ches Bay environmental is not included on this plan. I have included in the packet they were vested from Ches Bay in 2003 by the Zoning Administrator and, in addition, they are vested, from the current standards in the Zoning Ordinance, they are vested to the 1978 code and those did not have any Ches Bay regulations and thus have not been included on the plan.

Ms. Kirkman: Mr. Schultis, were you aware that the County Attorney's office last year argued in front of the BZA that there is no such animal as vesting in the Ches Bay?

Mr. Schultis: I was not aware of such argument, however, I have been in concert with the County Attorney's office prior to bringing it here and I am confident that the plan that I am bringing before you fulfills the needs and obligations of the ordinance and state codes.

Ms. Kirkman: I did have a question. We have a letter dated here, it is stamped from 2004, and it references Woodstream, a project of 540 lots. It is an exception for Section 22-190 of the Subdivision Ordinance, Street Access. What is the 540 lots that are referenced in that letter?

Mr. Schultis: At the time in 2004 it would probably have referenced the most current preliminary plan or the most current design. And that would be, I believe, project, and I have the project number over here, I believe it was the first Woodstream preliminary plan when that was included.

Ms. Kirkman: So this exception for the access connections, was this based on a plan with 540 lots?

Mr. Schultis: As written in the letter, yes ma'am.

Ms. Kirkman: And is there any additional exception that has been obtained by the applicant?

Mr. Schultis: No ma'am.

Ms. Kirkman: And how many total lots are we up to on the Woodstream?

Mr. Schultis: I believe we are up to 445.

Ms. Kirkman: Including this plan in front of us?

Mr. Schultis: Including this plan.

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Ms. Kirkman: And with the multi-family units that are in there, what does it bring it up to?

Mr. Schultis: Well, there are 350 dwelling units that are proposed in there, however, that has not come to fruition so I cannot answer that as they are not built or proposed yet.

Ms. Kirkman: Okay. I noticed you included the old Subdivision Ordinance. Why is that?

Mr. Schultis: The old Zoning Ordinance ma'am.

Ms. Kirkman: No, you also included the Site Plan Ordinance from 1974.

Mr. Schultis: That I included because it was part of the 1978 Code of Ordinances and I included that all for your own edification and a look over the plan because those Code of Ordinances are not exactly easy to get your hands on. So I did that for your own convenience.

Ms. Kirkman: Okay. Which subdivision ordinance did you use to review the plan?

Mr. Schultis: The most current 2009 version.

Ms. Kirkman: Okay. Thank you. And then, on the plan itself, our Stormwater reviewer, I had some questions. There is a note in the stormwater narrative... I am sorry, for the record could you introduce yourself and you are the Stormwater reviewer for the county.

Robert Waslov: Yes I am.

Ms. Kirkman: Usually we have Rishi here that is why I am trying to figure out. On the note it says due to site constraints some of the uncontrolled drainage have been proposed upstream to control existing offsite areas that are currently uncontrolled in order to compensate for the uncontrolled site drainage. So, is there drainage coming off of this project that is not controlled by the Stormwater Management plan?

Mr. Waslov: Yes there is, that is correct.

Ms. Kirkman: And where is that drainage? Where is it getting dumped into? It is not controlled, where is it going?

Mr. Waslov: It follows whatever stream channels that are downhill from the site, it eventually leaves the site into culverts that go under I-95.

Ms. Kirkman: And our Stormwater Management Ordinance allows that to happen?

Mr. Waslov: If overcompensated in other areas and that is what that narrative states. There is overcompensation in other parts of the plan so that the net affects at a point of study where water leaves the site meets the requirements of the Ordinance.

Ms. Kirkman: On sheet 10, it references phosphorous removal credits. Where in our Stormwater Ordinance does it allow for trading of credits?

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Mr. Waslov: I am not sure exactly what you mean by that.

Ms. Kirkman: On page 10 it says phosphorous removal credits have been taken for treatment of offsite uncontrolled areas draining to the site to the trailer park therefore a 100 percent credit has been taken for the treatment of these areas.

Mr. Waslov: Our Ordinance requires a certain amount of phosphorous be removed from a development and that is calculated based upon impervious area. Again, using the same analysis and discussed about your previous question, downstream from the site at a study point we measure pre-versus post-development conditions. This upstream area from the trailer park drains through the Woodstream site and through this point of study. A Stormwater Management device was put upstream of the Woodstream project to treat an existing impervious area that is currently, or was previously, untreated. We removed phosphorous from that, we give them credit for areas that they cannot treat due to topography on the Woodstream parcel so, again, the net affect leaving the site and to the existing streams that eventually go to our Bay is in compliance with current requirements.

Ms. Kirkman: So, you are saying because they treat the phosphorous coming off of the trailer park they get a credit on their site for what they do not treat.

Mr. Waslov: Correct.

Ms. Kirkman: But where in our ordinance does it, I mean they are not fully treating what is coming off of their site and you are allowing them a credit for treating somebody else's that should have been treated in the first place.

Mr. Waslov: No, it should not have been treated in the first place because when that trailer park was constructed there were no requirements for phosphorous treatments.

Mr. Fields: (inaudible)

Ms. Kirkman: That is all the questions I have for Stormwater Management.

Mr. Fields: Are those credits in quantifiable units? How do you quantify the give and take on that?

Mr. Waslov: We calculate the amount of phosphorous that is generated from the site based on impervious area, roughly 2.2 pounds per acre per year. And, depending on the intensity of the development, state and our county requirements require a certain percentage and it is on a sliding scale that was discussed on a different project. The more intense the project, the higher percent impervious, the higher percent of phosphorous removal. So, it can be easily calculated. If you have an acre of impervious, you have 2.2 pounds of phosphorous. You have to remove a certain percentage of that. Stormwater Management quality control devices remove based upon criteria established from DCR this device will remove X percentage of phosphorous. So a certain amount of phosphorous enters the device, a certain amount of phosphorous is removed, the rest is discharged. You give it a weighted average, you add everything up and we compare that with the requirements. In this particular site (inaudible).

Ms. Kirkman: But that is still treating phosphorous from another site so it is essentially allowing trading of credits.

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Mr. Waslov: Yes.

Ms. Kirkman: And can you show me, in our Stormwater Performance Manual, where it allows for that?

Mr. Waslov: I do not think there is that particular ordinance. It is our interpretation of the ordinance that says at the point of discharge at the point of study on this site the allowable phosphorous discharge must be X. At this particular site it meets that requirement. There is phosphorous that was not treated before this project. If we had done it all on Woodstream, what is coming off of Woodstream would be the same as if we did some here and let this go. The net result to the downstream environment is the same.

Mr. Fields: So at your downstream from Woodstream, the end of the whole chain, you are still measuring, you are still requiring a very specific amount of phosphorous in the discharge?

Mr. Waslov: Correct.

Mr. Fields: So whether it is accomplished by Woodstream having a structure towards the low point of their thing that is treating a larger stormwater structure that is treating all the phosphorous coming from the mobile home park and coming from Woodstream, or whether it is possible to treat it in chunks, the point is is at the downstream site the discharge finally occurs and goes into the watershed it is meeting a specific phosphorous level.

Mr. Waslov: Yes, that is correct.

Mr. Di Peppe: What is it about this site that does not allow them to treat their own site and why can they not treat what they produce? You eluded to it a little bit. You said further down they were not allowed, were not able. What is it about, is it topography?

Mr. Waslov: Most topography, some steep areas and the desire to develop the site as intensely as they desire. There just was not room enough to put a bigger facility.

Mr. Di Peppe: So, because of the intensity of the development then is what you are saying. Because they are trying to get more units we are losing on the environment end. If they were doing less units we might be in more space in order to do the types of environmental things that might get this a better result. And we are locked into that because of prior arrangements, I am not saying this is your fault. I am just saying because of existing conditions. But, essentially that is it. There would be more room if there were less density.

Mr. Waslov: That is correct.

Mr. Di Peppe: Thank you.

Mr. Howard: If downstream at the end of the two developments you discovered or your tests revealed that the phosphorous content or contaminant was greater than allowable, what action would you then recommend to be taken?

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Mr. Waslov: There would have to be an additional stormwater facilities installed or the ones that are designed upgraded to meet the current requirements.

Mr. Howard: So there would be a way to go back and perhaps retrofit the existing unit to have greater capacity or do something different in order to allow the downstream impact to be within the zoning ordinance. Hypothetically.

Mr. Waslov: Without looking specifically I am sure there is technology and the design engineer can offer some suggestions. There are techniques, there are methodologies, there are other (inaudible).

Mr. Howard: And just for clarity, you are indicating at this moment that the county, from their perspective, does not have any concern that there will be additional contaminants that we would be subjecting the reservoirs to and the other waterways that these streams will actually feed into. There is no concern on the county's part that what is currently in place will be in place will have a negative impact.

Mr. Waslov: Based upon the numbers the design engineer presented and my knowledge of available methodologies and techniques and structures that is correct.

Mrs. Carlone: Number one, any rectifying of say perhaps too high of levels that would be done by the HOA, correct? Also, who would do periodic testing to make certain that there were not any contaminants?

Mr. Waslov: I do not know who is responsible for the testing. There is a maintenance agreement for every stormwater management facility that is installed in the county requiring the owner or representative of the owner to maintain these devices, as far as the testing criteria or monitoring.

Mrs. Carlone: Okay, because I was looking at the back. There is a lot of wording back there and a lot of coverage and I just wanted to have someone say that yes, it would be done periodically. So is there some type of timetable that is normally required or written into?

Mr. Waslov: Into the maintenance agreement, yes. There is an agreement that binds the owner to do certain things and there is an attachment that gives specific directions as to when, where and how maintenance is to be performed.

Mrs. Carlone: Okay, so then it would be the HOA.

Mr. Waslov: Whoever signs that maintenance agreement.

Mrs. Carlone: Thank you.

Mr. Fields: Has it been your experience that all of those maintenance agreements with all of those HOAs in the county are functioning well?

Mr. Waslov: I do not have any data on that. I have my personal opinion.

Mr. Fields: I have been a proponent since I got on the Board. I was never successful of getting the county to create a stormwater utility because it has been my experience as a member of the Board of

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Supervisors looking at the various structures in the various subdivisions that I represented that most of them were in a dismal state of disrepair because most small HOAs have neither the expertise nor the financial resources to properly monitor or maintain very complex stormwater structures. But that is still the current code of the county, that we require that they are built correctly and as to if they function correctly or not we trust that this agreement with the HOA is going to work. That is currently what our mechanism is, correct?

Mr. Waslov: That is my understanding, yes.

Mr. Fields: Some of them are better than others. I do not want to cast all HOAs in a bad light. Some of them do an okay job, some of the do not. We are kind of (inaudible), we want to take a dinner break and we probably want to go into closed session.

Ms. Kirkman: I do have one other question for Mr. Schultis. On sheet 3, it says the zoning district is R-2 and R-4. What part of this is R-2 and what part is R-4?

Mr. Schultis: On the larger, specific to the Woodstream V subdivision plan, it is all R-2.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Remembering that R-2 vested to 1978 standards and density determined by consent decree.

Mr. Schultis: Yes sir.

Mr. Fields: Whatever our current R-2 ordinance says is relatively insignificant on this plan.

Mr. Schultis: Well, to answer that I did do a couple comparisons between the two, where they are at, and with the R-2 in the '78 and the R-2 currently and there are some obvious blaring differences between the two with the Ches Bay and whatnot but densities and parking requirements that are provided on here are not too far off of what we (inaudible).

Mr. Fields: What would be normally done under our current R-2.

Mr. Schultis: Yes sir.

Mr. Fields: Any more questions for staff before we go into closed meeting? So, we have a resolution to whereas the Commission desires to consult with counsel and discuss in closed meeting regarding legal advice and pursuant to Section 2.2-3711 of the Virginia Code such discussions may occur in closed meetings. Now, therefore, be it resolved by the Commission that we hereby authorize discussion of the aforesaid matters in closed meeting. The aforesaid matter, I guess I need to articulate that is legal advice regarding the Woodstream subdivision. Is there a second?

Mr. Di Peppe: Second.

Mr. Fields: Second. All right, all those in favor signify by saying aye.

Mrs. Carlone: Yes.

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Mr. Rhodes: Yes.

Mr. Di Peppe: Yes.

Ms. Kirkman: Yes.

Mr. Mitchell: Yes.

Mr. Howard: Yes.

Mr. Fields: Yes. All those opposed? All right. Those of you who are here, we are going to go into the back room and have a closed meeting where all we will be discussing is Woodstream.

CLOSED MEETING: 6:41 p.m. until 7:12 p.m.

Mr. Fields: We have a resolution to certify that actions of the Stafford County Planning Commission in a closed meeting on March 4, 2009. Whereas, the Commission has on this 4th day of March, 2009, adjourned into a closed meeting in accordance with a formal vote of the Commission and in accordance with the provisions of the Virginia Freedom of Information Act, and whereas, the Virginia Freedom of Information Act, as it became effective July 1, 1989, provides for certification that such closed meeting was conducted in conformity with law, now, therefore, be it resolved that the Stafford Planning Commission does hereby certify, on this the 4th day of March, 2009, that to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were discussed in the closed meeting to which this certification applies, and (2) only such public business matters as were identified in the Motion by which the said closed meeting was convened were heard, discussed, or considered by the Commission. No member dissents from the aforesaid certification. Second?

Mr. Di Peppe: Second.

Mr. Fields: All those in favor signify by saying aye.

Mrs. Carlone: Yes.

Mr. Rhodes: Yes.

Mr. Di Peppe: Yes.

Ms. Kirkman: Yes.

Mr. Mitchell: Yes.

Mr. Howard: Yes.

Mr. Fields: Yes. Opposed? All right, we stand recessed until probably maybe about 7:40 because we ran a little late and we are going to try to get our dinner without gulping it down and will be back with not a whole lot to deal with at the end.

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Ms. Kirkman: He needs to make a motion. Are you concluding the work session?

Mr. Fields: Yes, we will come back...

Ms. Kirkman: Are we coming back to the work session or the regular meeting?

Mr. Fields: Actually we will come back to the work session. We will take the public comments and continue the work session.

- b. WAV2900031; Woodstream V, Waiver of Section 22-143 of the Subdivision Ordinance
- A request for a waiver to modify lot width to lot depth ratio requirement of Section 22-143 of the Subdivision Ordinance related to certain townhouse lots in Woodstream (lots 247-250, 253-256, 260-262, 265-268, 272-275, 278-281, 272-275, 278-281, 284-287, 290-293, 306-309, 312-315, 318-321, 338-340, 343, 344, 353-356, 359-362, 365-368, 371-374, 377-380 and 383-386). **(Time Limit: May 13, 2009) (History - Deferred at February 18, 2009 Regular Meeting to March 4, 2008 Work Session)**

7. Review of Proposed Comprehensive Plan Amendments

None

8. Other Unfinished Business

9. Approval of Minutes

None

10. Adjournment

The meeting was adjourned at 7:13 p.m.

Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES
March 4, 2009

The regular meeting of the Stafford County Planning Commission of Wednesday, March 4, 2009, was called to order at 7:43 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, Howard and Kirkman

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Nugent, Roberts and Stinnette

DECLARATIONS OF DISQUALIFICATIONS:

None.

PUBLIC PRESENTATIONS:

None.

PUBLIC HEARINGS:

Mr. Fields: We adjourned out of a work session. We were still in the process of discussing the Woodstream Preliminary Subdivision Plan. We came out of closed session for legal advice and so we are still in the work session at this point. Is there any questions or comments on the part of the Commission for staff or for the applicant or does somebody want to make a motion or what do we want to do?

Mr. Di Peppe: Were we going to allow the applicant to make a statement before we move any further or is that going to be in the regular session?

Mr. Fields: Let us see where we get with the work session. We usually do not move it to the evening session unless we are ready to dispose of an issue so I am not sure that we are quite that far yet. Mr. Mitchell, this is in the Aquia district. Do you want to hear from the applicant at this point?

Mr. Rhodes: I apologize, I am slow with the switch here. I had inquired last time of the minutes as we recalled back in '07 we were doing a more generalized, not verbatim, minutes and in the generalized statement it did not have any commentary concerning the crossing of the stream. The other element I had asked staff about, I just wanted to acknowledge that to the other members and what I found out, concerned the community center, the pool and the community center. As I had recalled, and maybe not correctly, I recalled Ms. Kirby had a lot of commentary on this one when she was serving and there was a discussion about it being on the end of that far road that crossed a stream. I thought I recalled that she had concerns about it developed at the very last, after every single lot was filled up, and that was when at that undefined parcel it was going to be lots. Part of moving it up was to not have it so far away from everybody, have it a little closer to center even though it was a little further than center, and to have it done earlier. I know it is not done and so I had asked them to check to see if there was any reference to that in the minutes and they could not find that. But I was curious, if it would not be appropriate, curious from the applicant when that was going to be developed. That is not specifically about this portion they are wanting to redo, but I think it does apply in general to the overall plan. Though I cannot find it in the generalized minutes, non-verbatim minutes, I did recall some discussion as to getting it done a little earlier and not after every single lot was built out. If we could indulge, that was one open question I did have.

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Mr. Fields: Is that all right Mr. Mitchell?

Mr. Mitchell: Of course it is.

Mr. Rhodes: I would just like to throw that at the applicant. When is the development of that community facility? I may be mistaken but I thought I recalled you were moving that over closer to the front, to let it be developed and let it be available earlier to some of the community.

Ty Lawson: I am here on behalf of Brookfield Homes. I believe you are correct that there is no reference in any minutes for the timing of the construction of the pool or I think it is a bathhouse-type structure. There is a place on the plan for the location of it and I think we talked about that the last time. It is in a concentrated area, it is where a tot lot is currently installed and also a sport court. Also, as I understand, under the submittals for this plan there is no defined timetable for the building of that pool. But certainly it is part of this project and Brookfield is committed to build those.

Mr. Rhodes: After all the lots are developed or after lot 200 or after lot 180? Is there a point at which time they are going to build that?

Mr. Lawson: We have actually had some discussions with the management group that works with the Homeowners Association about a timetable to put that in. One of the concerns is not only the construction, that can be done. The key is to have a certain number of families in the community so that it can be maintained and kept up. And so that is one of the issues that Brookfield is working through.

Mr. Rhodes: So there is no defined time until it is built and there is no recollection of (inaudible) to when it would be developed.

Mr. Lawson: There clearly is nothing of a requirement, either per the ordinance or by any filings that go with this development. There are discussions that Brookfield has had with the management authority that is going to take over the management of the Homeowners Association and the community as a whole for the delivery of the pool. And again, that is tied not to time such as a calendar but it is tied to the actual number of homes that are in the community and again the reason is to make sure that there are enough there so that the ongoing maintenance can occur. There would be nothing worse than to install it and then not have enough families living in the community and the funds that come along with it to keep that very nice facility up.

Mr. Rhodes: And certainly many times there are a defined number of units that are developed and once that number of units are developed that would trigger. But they have not come to that determination as of this time?

Mr. Schultis: If I may say real quick, the community center/pool house came in as a major site plan and was approved in March of 2008, bonded and signed off. I believe that a major site plan must obtain a building permit within five years of its approval.

Mr. Rhodes: So there is five years, but there has not been determinations in the subsequent discussions as to when that... I know that we could not find a specific thing in the minutes as to number of units or any other frame and...

Mr. Schultis: Not to my recollection. I listened to the minutes too in addition to reading them and I could not find anything to that.

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Mr. Rhodes: Thank you.

Mr. Di Peppe: How many families do you have living in the development now?

Mr. Lawson: I do not know but I will tell you we have engineers here, numerous disciplines that have worked on the project and I can get you that answer right away. Between 150 and 160 families.

Mr. Di Peppe: I received an email on this and, I cannot quote the email exactly, but I seem to recollect that they said that they felt they had been promised this. And trying to remember, they thought it was coming this summer or something. Do you know anything about any promises made to the existing...

Mr. Lawson: I do not, but I did get an opportunity to review your records actually this afternoon and I did review that email and I believe it made reference to a promise to deliver and I do not know if it was the pool or something else by, and I think you are right, I think it was sometime in '09. Our records do not reflect that. I believe the Commissioner's questions and his review of the minutes is accurate as well. We have not made such a promise. We do not have such a thing in any of the submittals that we have ever made. Honestly, I do not know who it was who allegedly made that promise but it did not come from us. We are committed to building this amenity and as staff has pointed out to you that is part of the plan and it is bonded and it will be delivered. But as far as the specific email that you are referring to I have no idea where that came from.

Mr. Di Peppe: Do you have any idea since of how many families you would need to support this kind of facility? Say we have 150 families now. How many more before you would think there would be enough to support the kind of facility you would like to build?

Mr. Lawson: My recollection is that that number is somewhere between 300 and 350. But again, that is just my recollection.

Mr. Di Peppe: Thank you.

Mrs. Carlone: Right now at 151 we have about 300 plus people. If you go to 300 then you have 900. I think this is despicable that these people are doing without because there is nothing that has been promised other than what we saw in an email that said the last they were told it might be two years from now or even later. I think this is extremely wrong. Also, in some of the later subdivision plans they do say okay by the 15th permit or the 39th permit, but what sells properties are the amenities in place. So these people will have to wait. The ones that were told there would be a pool or would be a recreation center, they are going to have to wait until you get around to selling 300 more or up to 900 people on site. I really think you should consider doing something about those dates. Thank you.

Mr. Lawson: Would you like me to respond?

Mr. Fields: If you would like to.

Mr. Lawson: Thank you. We are committed to delivering those amenities. As you are well aware, the ordinance actually requires lesser amenities but this developer has chosen to commit to build a much higher level of amenities. And, again, that is part of the plan, that is part of what has been bonded and that will occur. Again, as far as what has been promised, and what someone's recollection of what was promised, it did not come from us. And so we are living up to our commitments and we are more than meeting, in fact we are exceeding the requirements of your ordinances.

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Ms. Kirkman: Since your client is so committed to living up to these amenities, providing these amenities, is your client going to be willing to come back with a date for the Planning Commission as to when these amenities will get built?

Mr. Lawson: The short answer is no and consistent with what we have already discussed, the concern about delivering an amenity of such a thing like a pool is to have a certain number of families living in the community so that it can be maintained. There is nothing worse than to have such a thing, build it but it cannot be kept up and it will deteriorate and become a detractor and more of a detriment to the community. So, what we are trying to do is tie it to that critical mass or certain number of families that are living in the community and then we can go forward with it. We have already installed in that recreational area the tot lot and the sport court and we have the land set aside for these other things. But again, we do not have enough families living in the community at this time.

Ms. Kirkman: Could you explain what you mean by that? Are you talking about the maintenance costs? How much does it cost to maintain a pool?

Mr. Lawson: I will be happy to get that information. I do not have that. But again, this is a full-size pool and much goes into maintaining a pool.

Ms. Kirkman: I have worked as a lifeguard for years so that is why I am wondering exactly how much it does take. And so I think it would be helpful to, since this does seem to be a particular interest issue for the residents of the community, it would be very helpful if your client to put together some information for the Planning Commission so that we could understand what exactly your client is facing in terms of trying to make this manageable. I assume you are saying so that the association fees will not have to go so high that they are unaffordable and those kinds of things. But to see that and also since you are saying it is really about the number of people rather than time, some kind of commitment by the issuance of "X" occupancy permits that the amenities will be built. So that the current residents can be assured that this will happen at some point in the future.

Mr. Lawson: Let me make sure. As far as what our fee structure would be and things of that sort, that is an ongoing dialogue that occurs through a management company who is working with the Homeowners Association now and we do in fact do do that. As far as occupancy permits and working again with the management company, we are looking at that and what it would take in terms of a certain number of families so that the per capita charge or per household charge is not to excessive. As far as providing that to the management company and to the members of our community, the residents in our community, we can certainly do that as well. But, for the purpose of what we are here for in front of the Planning Commission, as I understand it we are trying to satisfy the requirements of the Stafford County ordinances and I am having a hard time reconciling how those two requests fit in with the ordinances.

Ms. Kirkman: So, you are correct. The issue here is meeting the requirements of the ordinance, however, your client certainly has the opportunity, and it is certainly lawful for your client to go above and beyond the minimum requirements of the ordinance, and I think we would all appreciate a good faith gesture here from your client that is above and beyond the minimal technical compliance with the ordinance.

Mr. Fields: Mrs. Carlone, you had a question?

Mrs. Carlone: (inaudible)

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Mr. Lawson: I do not believe it has.

Mrs. Carlone: (inaudible)

Mr. Lawson: Thank you.

Mr. Howard: Let me ask some more questions that might probably annoy you. Who is the management company?

Mr. Lawson: May I get that information?

Mr. Howard: Is it Landmark?

Mr. Lawson: CMC.

Mr. Howard: Where are they located?

Mr. Lawson: Fairfax.

Mr. Howard: Is there by-laws for this HOA?

Mr. Lawson: Yes.

Mr. Howard: Where are the by-laws on file?

(Inaudible)

Mr. Howard: And is there a name for the Homeowners Association? It is Woodstream Homeowners Association?

Mr. Lawson: We believe that is correct. Again, it is recorded in the land records.

Mr. Howard: To your knowledge, is Woodstream Homeowners Association collecting fees from the homeowners today?

Mr. Lawson: I believe they are.

Mr. Howard: What are the fees for? What do those fees cover? Is it trash pick up? What are the amenities that they are paying for? Do you know the answer to that? I am sure it is listed in the by-laws.

Mr. Lawson: I believe it is and I believe, for example, for streets that have not been turned over to the state, there is maintenance and upkeep and I am sure pushing snow just recently for example and so on.

Mr. Howard: Which all fall to the developer now to make sure that that occurs if the streets are not turned over. And then the developer takes the money, whatever money is allocated for that. And is there trash pick up?

Mr. Lawson: No, the developer does not take the money. The money is paid into the Homeowners Association funds.

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Mr. Howard: Okay. Is the HOA running in the red or is it revenue neutral?

Mr. Lawson: I do not know that and I would guess that, given the amount of homes that are in this community, there is a deficit and the developer is making that up.

Mr. Howard: Okay. Do they have HOA meetings even though it has not been turned over? Is there an annual meeting? Is that required by the by-laws?

Mr. Lawson: Yes.

Mr. Howard: Where are those meetings? Where do they take place?

(Inaudible)

Mr. Howard: And is it an annual basis?

(Inaudible)

Mr. Howard: So it is once a quarter?

Mr. Fields: Sir, I guess if you are going to be part of the dialogue I need you to come to the mic please.

Mr. Lawson: I think they just need to get your name on the record.

Mr. Fields: Yes, for providing information we just need to know who we are talking to.

Richard Dangler: I am with Brookfield Homes.

Mr. Howard: Mr. Dangler, it is once a quarter is the HOA meetings?

Mr. Dangler: Yes. And usually what we do is once we have enough homeowners we usually bring in a homeowner on the board. We do not need to do that by the by-laws and the conditions but we bring them on because we believe it is their community.

Mr. Howard: How many members on the board today?

Mr. Dangler: Right now I believe there are five of us, but three we have show up at every meeting.

Mr. Howard: So you need three for a quorum?

Mr. Dangler: Yes, I believe that is what it is.

Mr. Howard: One of those members actually owns a home in the development?

Mr. Dangler: No, what we do right now is it is controlled by the developer.

Mr. Howard: So the five members are all...

Mr. Dangler: Right. And what we do is once we assemble a mass of people we usually invite one to come on to represent and we also establish the architectural control committee which I believe in this

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community is established and it is comprised by the homeowners and they regulate the fences and the decks and the things like that and we have architectural controls set up and they do that.

Mr. Howard: As governed by the by-laws of the HOA.

Mr. Dangler: Which we created to keep the values.

Mr. Howard: In the by-laws, is there an indication as to when the pool and the pool house (inaudible)?

Mr. Dangler: Not to my knowledge.

Mr. Howard: When estimated, whether it is the number of units?

Mr. Dangler: What we are experiencing right now is that in a lot of our homeowner associations, that you have defunct mortgages and so forth like that, we are finding a lot of people are... usually the percentage rate on HOA dues runs three to five percent deficit. They are exceeding twenty-five percent.

Mr. Howard: So they are twenty-five percent in arrears right now in collecting the fees.

Mr. Dangler: Yes, if not more. And your question earlier, the fees that we collect are for the private roads and townhomes. That is where the fees go but on the public road maintenance, like the snowfall we had, we actually have the management company, which is a third party so it is arms length, is that we specifically have invoices split out that we pay the maintenance on the public road which would be Woodstream Boulevard so that there is not any mixture of the HOA funds perceived that the developer is using.

Mr. Howard: Do you also make a financial statement available to the homeowners?

Mr. Dangler: Yes.

Mr. Howard: And is that during the annual meeting?

Mr. Dangler: I believe it is online. They can have the request if they call the HOA manager, it is there.

Mr. Howard: Okay, thank you.

Mr. Di Peppe: How much are the yearly dues?

Mr. Dangler: I do not know off the top of my head.

Mr. Di Peppe: Ballpark?

Mr. Dangler: I would say \$100... \$62 a month.

Mr. Di Peppe: And so you have an HOA that has five members but nobody on your board actually lives in the...

Mr. Dangler: That is correct.

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Mr. Di Peppe: And you allow one person.

Mr. Dangler: What we do is we usually get a mass of people, we get them involved and have them sit on the board. Many developers do not do that. We do that. We entertain and bring the committee. Just like the architectural, it is already established of homeowners. We do not sit on that committee. The board authorizes them and empowers them.

Mr. Di Peppe: What I am asking, when you have a meeting somebody that lives in the development cannot come sit in on the meeting or ask questions or make a statement, you send one person.

Mr. Dangler: No, it is open to the public. We send notices to the whole community and they come. And we encourage participation. And unfortunately you do not get much.

Mr. Di Peppe: That is what I did not understand. Thank you.

Mr. Fields: Are there any other questions for the applicant or staff? I know we are still sifting through a number of these things. Mr. Mitchell, did you want to move this to another work session?

Mr. Mitchell: Well Mr. Chairman, what I would like to do, and again I think there are several questions that we need to look at, what I would like to do is ask for a deferment for thirty days and I would ask Ms. Kirkman to see if she could assist me on this and we will get together and try to come up with some ideas that we think would be applicable and some possibilities. So, with that said, I would like to defer it for thirty days with the Boards' permission if you would let me and Ms. Kirkman be the front-runner on this thing.

Mr. Howard: Second.

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

Mrs. Carlone: Yes.

Mr. Rhodes: Yes.

Mr. Di Peppe: Yes.

Ms. Kirkman: Yes.

Mr. Mitchell: Yes.

Mr. Howard: Yes.

Mr. Fields: Yes. Opposed? All right, so the work on this is deferred for another thirty days which means it is not on our unfinished business for this evening so we are moving right through that. And we have no new business. So actually we are at the Planning Director's Report by 8:07.

Mr. Howard: We have to close the work session.

Mr. Fields: Right, close the work session. I call the regular meeting to order. So now we are in the regular meeting.

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Ms. Kirkman: We just had a bunch of people come in. Do you want to explain to them?

Mr. Fields: I noticed we just had a bunch of folks come in. We were continuing the work session and we did, at the start of our meeting which was a little bit later, about 7:40, we allowed public presentations. We did not have any. I do not usually do this, but we do not have a lot of people here. Did anybody just walk in want to address the Planning Commission on any topic? If you were here for the discussion of the Woodstream issue, we just finished that and deferred it. And we have really nothing else I would see members of the public would be interested in. So, we know some people just walked in. I am trying to be fair and let everybody have their say. You did not have any comments?

(Inaudible)

Mr. Fields: We were fighting for you, do not worry. We spent the last half hour talking about the pool. If you want to make a public presentation, I am not going to have a back-and-forth dialogue with people from the audience. I will allow briefly if there is another public presentation. Again, three minutes, not a dialogue, we are not talking back-and-forth with each other. If you want to make a three minute presentation I will allow that. State your name and address for the record, you have three minutes.

Thomas Galluch: I just want to address the issue of the pool. We were promised by the sales person. My wife and I and our two kids, we just recently relocated from Michigan and the first words out of their mouth, you are going to have a pool by the summer of 2009. Showed us the picture, showed us everything. That is about it. I understand we do have a tot lot. There are a lot of kids in the neighborhood and the tot lot has four swings and two slides and that is about it. No benches for anybody to sit on and, as for our athletic court, it is basically a basketball court. So there are amenities, definitely not what was promised or what was told, the picture that was drawn for us is definitely not what is there. And not to mention that the tot lot and the sport court are surrounded a wrought iron fence which has a lock because of the location people who do not live in the neighborhood have been using it. And we are charged in our HOA for pool maintenance even though we do not have a pool. Thank you.

Mr. Fields: You are welcome. Like I said, I do not usually do this but I am just trying to be fair.

Thomas Boyle: I would like to thank you all for your interest in our community as we have an interest in our community. In our last HOA meeting, which we do meet every quarter, we were quoted that we only had four percent delinquency on our HOA fees. So, if I could clear that up that was what was said last time. And it is the sales people. It is Ryan Homes, it is Brookfield Homes sale people and if you go in and you ask them these questions why would they be telling us these half-truths that they needed to get in touch with the people in the know as Neal and Ty they just kind of look at you, shake their head and say nobody told us. That is lance-corporal does not know, carry on. Thank you all for your interest in our community.

Mr. Fields: Thank you sir. Close the public presentation then and we will move on with business.

Ms. Kirkman: Mr. Chair, just as a point of order. I believe in addition to the deferral on the subdivision plan we probably also need...

Mr. Fields: A deferral on the waiver request. Absolutely, thank you for pointing that out.

Mr. Mitchell: Mr. Chairman, I make a motion for deferral of the waiver.

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Mr. Fields: Mr. Mitchell moves for deferral on the waiver.

Mrs. Carlone: Second.

Mr. Fields: Second by Mrs. Carlone. All in favor signify by saying aye.

Mrs. Carlone: Yes.

Mr. Rhodes: Yes.

Mr. Di Peppe: Yes.

Ms. Kirkman: Yes.

Mr. Mitchell: Yes.

Mr. Howard: Yes.

Mr. Fields: Yes. Opposed? Motion carries 7 to 0.

Mr. Harvey: Mr. Chairman, for the public's information and the applicant's information, your first work session scheduled in April is April 1st.

UNFINISHED BUSINESS:

1. SUB2800611; Woodstream V, Preliminary Subdivision Plan - A preliminary subdivision plan for 124 single family attached residential units and an area reserved for future multi-family dwelling units, zoned R-2, Urban Residential, consisting of 28.8 acres of the total 142 acres of the Woodstream subdivision, located on the east side of Staffordboro Boulevard approximately 2,400 feet north of Garrisonville Road on Assessors Parcel 21-8F within the Aquia Election District. **(Time Limit: May 13, 2009) (History - Deferred at February 18, 2009 Regular Meeting to March 4, 2008 Work Session)**
2. WAV2900031; Woodstream V, Waiver of Section 22-143 of the Subdivision Ordinance - A request for a waiver to modify lot width to lot depth ratio requirement of Section 22-143 of the Subdivision Ordinance related to certain townhouse lots in Woodstream (lots 247-250, 253-256, 260-262, 265-268, 272-275, 278-281, 272-275, 278-281, 284-287, 290-293, 306-309, 312-315, 318-321, 338-340, 343, 344, 353-356, 359-362, 365-368, 371-374, 377-380 and 383-386). **(Time Limit: May 13, 2009) (History - Deferred at February 18, 2009 Regular Meeting to March 4, 2008 Work Session)**

NEW BUSINESS

None.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. Some of my report was taken up in the earlier discussion about the Rappahannock River Overlay and the Electronic Signs. Also, the Board held public hearings on the clubs and lodges in the B-1 zone as well as the ordinance pertaining to major and minor site

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plans and securities issues. Both ordinances were passed last night. I also passed out to the Commission the latest update on the budgetary funds. Based on the work that we have been able to do on the buildable area, we have been able to cut down on the number of parcels by eliminating duplicates, so we dropped the number of potential notices from 15,000 to 12,000. That means that we have some funds to continue on for the rest of the year without having to, at the present time, as for additional appropriations.

Mr. Fields: Okay, good work.

Mr. Harvey: That concludes my report.

Mr. Fields: Any questions for the Planning Director?

Mr. Di Peppe: So, lodges are by-right now?

Mr. Harvey: In the B-1 zone.

Ms. Kirkman: And that definition, as I recall, includes gun clubs.

Mr. Fields: We could do what we did last time where we debated an ordinance that the Commission had already disposed of.

Mr. Howard: For the record on the gun club issue, because that was discussed. I was actually present.

Mr. Fields: Okay, very briefly Mr. Howard. I remember when we got into this last time and I swore we were not going to re-debate issues that we have disposed of.

Mr. Howard: A gun club does not allow you to have a firing range. There is a special permit required by the State of Virginia and the parcel in question would not meet the requirements under the Virginia Code.

Mr. Fields: We stand edified on that issue, thank you sir. Mr. County Attorney?

COUNTY ATTORNEY'S REPORT

Mr. Nugent: Thank you Mr. Chairman. I have nothing to report beyond what has already been provided to the Commission.

SECRETARY'S REPORT

Mr. Fields: Mr. Secretary?

Mr. Mitchell: Mr. Chairman, I have nothing to report other than what has been provided.

COMMITTEE REPORTS

Mr. Fields: Are there any Committee reports? The Transportation Committee met, we are continuing our corridor study work and I think that is going well. We should have some information by the next meeting, I think, relating to vehicle trips. I would like to thank the Transportation staff again, both Fulton deLamorton and Sara Woolfenden. They are really working hard on this. We are starting with

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our primary corridors. The data we asked for at first is the vehicle counts on the primary corridors and then typical sections and profiles of the primary corridors which are being obtained primarily by Transportation staff going out and visually analyzing the different sections and coming up with the reports, so that is a lot of work. I appreciate them doing it and taking the corridor work seriously and thank you very much.

Ms. Kirkman: I have a question for the Transportation Committee. Where are we in the, I know that some appropriations issues were looked at at the last Planning Commission meeting but when will we be looking at the SSYP? Because is that due about now?

Mr. Fields: Not quite. We had a preliminary on the primary and interstate and that has a little ways to go.

Mr. Rhodes: (inaudible)

Mr. Fields: And, of course, the CTB appropriations have already dropped down from where they had already dropped down to before they had been cut previous to when they had been lowered. So, there is just less and less and less and less money. At this point I think we said everything is just proceeding, it is just running out of money. We have not run out of money yet. We have not changed priorities yet. I understand the Board may be looking at re-prioritizing or re-examining bond projects at the current funding level but we do not know anything about that yet. Are there any other committee reports that need to be heard?

Mrs. Carlone: Well, as far as TRC we did not have one last week and we do not have one next week.

CHAIRMAN'S REPORT

Mr. Fields: I have nothing to report as Chair. We will be, probably the first of April we will start the quarterly meeting with the Chair and Vice-Chair of the Planning Commission with the Board of Supervisors tentatively, we do not have a date set like that. We are getting that in the works. No minutes approval. Is there any other business we need to look at?

OTHER BUSINESS

APPROVAL OF MINUTES

None

ADJOURNMENT

With no further business the meeting was adjourned at 8:18 p.m.

Peter Fields, Chairman
Planning Commission