STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
March 18, 2009

The work session of the Stafford County Planning Commission of Wednesday, March 18, 2009, was called to order at 5:37 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, Forestier, deLamorton and Woolfenden

3. Declarations of Disqualification

None.

4. Review of Proposed Ordinances

a. Elimination of the Preliminary Subdivision Plan Process **(Deferred to April 1, 2009)**

b. Electronic Signs (Awaiting revisions from County Attorney) **(Time Limit: July 1, 2009)**

c. Agricultural Districts Lot Yield

Mr. Fields: Into proposed ordinances. We have a deferral of the elimination of the preliminary subdivision plan to April 1, electronic signs we are awaiting revisions from the County Attorney, so the next one on this is the Agricultural Districts Lot Yield. Do we have a presentation from staff? We have been looking at lots of different options and ideas about this. I noticed in our packet we had basically everything that Fauquier has, right?

Mr. Harvey: Yes, Mr. Chairman, and Mr. Stepowany will give you a briefing.

Mr. Stepowany: Two meetings ago we were asked to present the sliding scale options and there were other discussions about also adding some language in the proposed Comp Plan to make this a goal or an objective as a policy and this memo is continuing with that discussion. We are presenting two options as how it would appear in Stafford County's ordinance. Option 1 is the lot yield modeled after Spotsylvania and Option 2 is the sliding scale. The reason why the staff report is so thick is because we have included the pages of the Spotsylvania Zoning Ordinance and the pages of the Fauquier County Zoning Ordinances that pertain to both the lot yield regulations and the sliding scale regulations. Ms. Kirkman wanted to know about all the rural agricultural zoning districts in Fauquier and were there others besides the RC and RA. They have three rural zoning districts, RC which is conservation district, RA agricultural district and they also have the RR-2 which is rural residential district, but the sliding scale only pertains to the RC and the RA which is one reason why we included the whole rural district part of their ordinance. So that was one of the questions.

Ms. Kirkman: So, what does Fauquier allow as the density for RC? What is the minimum lot size in RC?

Mr. Stepowany: They are both the same.

Mr. Fields: RA and RC.

Mr. Stepowany: RA and RC. Let me double check. I know it is in their table. I believe the minimum lot size is 2 acres for both zoning districts. It is near the back, page 14 of 19. The minimum lot size for RC and RA are both 2 with a small "a" so it is 2 acres for conventional. And then cluster, the minimum lot size is 30,000 square feet. So both zoning districts are the same lot size, 2 acre minimum.

Ms. Kirkman: Thank you.

Mr. Fields: It looks like they are all that, even the RR-2. They keep 2 acre lots, they just define how many and how you can orient the 2 acre lots through the sliding scale.

Mr. Stepowany: Correct.

Mr. Fields: Spotsylvania does a similar approach. They have a minimum lot size of what, 3 or 5 acres?

Mr. Stepowany: 3 acres, 5 acres and 10 acres.

Mr. Fields: Depending on what the zoning classification is?

Mr. Stepowany: Yes.

Mr. Fields: But all three of those are subject to the 10 subdivisions from the parent parcel?

Mr. Stepowany: Correct.

Mr. Fields: So, on a 10 acre minimum lot size you can have 10 subdivisions and the best you could do, you probably could not get all 10 lots. If you had 100 acres, let us say, and under the simply 10 subdivision rule they have, you might be able to get 9 or let us say in a perfect universe 10 lots but you would have to carve up the entire 100 acres into relatively equal sized lots. Whereas, if you had the 10 subdivision rule but a smaller minimum lot size you could actually create more of a conservation-type of zoning where you had 9 of the lots 2 acres and one at the remainder parcel, right?

Mr. Stepowany: Correct.

Mr. Fields: And has Spotsylvania looked at the implications of that? Either you are using a sliding scale or a fixed number like Spotsylvania. It is interesting to note that Fauquier has two acres minimums across all those because it seems like if you are achieving conservation, theirs is more geared towards preserving maximum open space it seems. Across the board, regardless of minimum lot size, is okay in the 3 acre perhaps but even with the 2 acre zoning in Fauquier you are really creating a much better use of the land even though you (inaudible).

Mr. Stepowany: I cannot speak on behalf of Fauquier but I also know that they have a very aggressive and very successful PDR program with thousands of acres. I believe that came up in an article in the Free Lance-Star just recently.

Mr. Fields: Do you know how many acres have actually been purchased in Fauquier through the PDR?

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

Mr. Fields: I am trying to remember. We looked at that when we were looking at the PDR program. Jeff, do you remember or do you remember how they… and what is their funding mechanism for PDR? Do they just use general fund money for that or did they have a dedicated revenue?

Mr. Harvey: I do not recall.

Mr. Stepowany: As I said, there was an article in the Free Lance-Star and I know I might be speaking out of turn because I know Spotsylvania wants to go with general funding because they said that is what Fauquier County does. And I know when I was involved in the PDRs, that is what Fauquier and Albemarle County I think both do, certain percentages of their funding every year through their general fund for their PDR programs. But I am thinking thousands of acres, 6,000, 7,000.

Mr. Di Peppe: It might have been 6,000 or something.

Mr. Stepowany: Somehow 6,000 plus acres stick in my mind for Fauquier County that has been placed in conservation easements through their PDR programs. You may be absolutely correct, they are more conservative.

Mr. Fields: I do not want to be a nay sayer either but I have to admit 6,000 acres in conservation easements in Stafford would be a gigantic thing. Fauquier is 610 square miles, that is three times the size of Stafford County, most of which is already in farmland. So it would be interesting to see. I am not saying it is bad, I am just saying it is quite a bigger deal in Fauquier to do that as it would be in Stafford. If you could preserve 6,000 acres in Stafford, that would be remarkable. I did not mean to sidetrack you, we are just kind of chewing through this. We need to come to some kind of conclusion on this.

Mr. Rhodes arrived at 5:45 p.m.

Mr. Stepowany: The other item that we also included in this staff report that we had done before because I know there was… staff is recommending additional language in the Comp Plan so we included what Objective 1.5 and the policies of 1.5 are. The Objective "preserve rural and agricultural areas of Stafford County and establish mechanisms for ensuring their continued protection from development" and policy 1.5.1 is "establish the TDR programs", 1.5.2 is "continue support of PDR programs", 1.5.3 is "encourage private landowner dedication of conservation easements" and then 1.5.4, "calculations to establish the number of development rights for a parcel shall exclude areas located on slopes of 25% or greater, critical resource protections areas, floodplains and wetlands, and shall take into account soil types". So, that is why staff has recommended the two additional with the "evaluate and adopt ordinances to discourage residential development in agricultural areas such as sliding scale zoning and establishing maximum lot yields" and then "adopt a cluster ordinance in

agricultural" as additional policies as specific policies. That was the other item we discussed briefly at the last meeting.

Mr. Fields: It was interesting, I was just at the CPEAV class in Richmond this week. Milton Heard gave one of the presentations and reminded us that the opinion of most people in planning that transfer development rights have only been successful where they have been compensatory for down-zoning. The idea that a TDR is successful without a down-zoning is probably doomed to failure according to folks like that. He is a pretty sharp guy as far as that goes. We moved without some type of change in the agricultural district lot yield system and none of these TDRs or PDRs or any of these things will really have, in my opinion, any hope of success. Nor will a successful reconfiguration of density in the places where it should be. Would we need to adopt a cluster ordinance? I mean, it seems to me if you went to a Fauquier-type model, and I am not saying that the densities in the Fauquier sliding scale, I know that you guys just sort of proposed these boiler-plate to just give us something to look at, I would suggest that in Stafford, because of the very much smaller configuration of rural land parcels that a sliding scale, the numbers would have to be readjusted to reflect the reality of Stafford land. The one on ten acres, I am not sure that is exactly how you would want to figure it in Stafford. To me, because you have so many small parcels, you might want to create a little bit higher yield at the lower end but phase it out towards the upper end. But it seems to me if you adopted either a sliding scale or a Spotsylvania-style fixed number of subdivisions but kept the minimum lot size at two or three acres, you would in effect be creating a cluster concept. I am a little reluctant, I understand where you are coming from and I think it is good work, I am not being critical of what you did, I think it is good to have this before us, I am a little concerned about us recommending language about adopting a cluster ordinance until I would have to see what the nature of that cluster ordinance is first. To me the cluster is a very, very, very tricky thing. It is kind of like the PDR. Believe it or not, even though I have advocated PDR since the day I got on the Board in 2000, I voted against our Purchase of Development Rights because, unlike Albemarle and most of the other places, it does not give any waiting towards preserving family farms. It simply allows any large landowner to sign up and get in line including which in Stafford is a huge number of speculative and corporate interest who own lots in these large parcels. And our PDR allows the Silver Companies to stand in line for Purchase of Development Rights which I found untenable. I am a little concerned about our language in the Comprehensive Plan advocating things, PDRs, TDRs and other things where we have not really tweaked out how all this interacts yet. I am not saying you are suggesting that, I am just saying you are offering that. Ms. Kirkman, you had something?

Ms. Kirkman: Yes, Mr. Chair, I was actually going to suggest that we pull from consideration at this time making these proposed amendments and I was going to make that suggestion for a couple of reasons. First, we are talking about amending a plan that has not even been passed yet and that does seem premature. Secondly, if we move forward this zoning ordinance, we are doing it under the existing Comprehensive Plan, not the proposed Comprehensive Plan, so any changes we make to the proposed Comprehensive Plan will not relate to the ordinance we are moving forward. And then, lastly, having served on the committee that help develop the draft of the Comprehensive Plan, we were really clear that when something like this level of specificity came up the appropriate place for that was actually in the implementation plan that would be developed once the Comprehensive Plan would be adopted. So, these may be good suggestions. I just think, for a number of reasons, it may be premature to have them on the table.

Mrs. Carlone: Jamie, do we know how many actual parcels are under a conservation easement at this time?

Mr. Stepowany: I know that that is a separate entity that staff is looking at and I do not think we can provide an answer at this time. It is being discussed for other issues and I do not know if we have an answer. Do we have an answer on that? No, we do not have an answer on that yet but it was asked for other (inaudible) but right now, no.

Mrs. Carlone: How far along is it? Is it far enough to…

Mr. Stepowany: I know it is at GIS stage and then we have to get into the ownership stage because there is a lot of lots out there where the surveyor just drew a conservation easement without any entity or ownership or the servient-type of ownership of the actual easement and that is being researched also. So that is all in the preliminary stages right now and we cannot answer that.

Mr. Fields: One little piece of housekeeping, I am sorry. I just want to ask a process question. I should note this for my own records. When we have people arriving after roll call, we still note that they are present in the minutes? So, whenever people arrive we are covering that. I realized after all this time I had never asked that question. So you get credit even if you are delayed by unavoidable…

Ms. Stinnette: Yes, we still note they are present. We note the time they arrive, especially if the Commission has already voted on an item.

Mr. Fields: Okay, thank you Stacie. Now, Mr. Di Peppe then Ms. Kirkman.

Mr. Di Peppe: Since we may not be dealing with this for a while it may not matter. Getting back into this doing a cluster in the agricultural area, we talked about this before, it is somewhat problematic with drainfields anyway, right?

Mr. Stepowany: I really cannot answer that. It is being discussed at a subcommittee level with the Board of Supervisors. Also, when you start allowing smaller parcels for lots then you can concentrate the lots on a more suitable area. When you have 3 acre and 5 acre lots, that spreads everybody out, so that means if this is where you want to have your 5 acre parcel, you have to have suitable area there. Whereas if you concentrate all the lots in the most suitable area of the property then you do get drainfields that way.

Mr. Di Peppe: I just thought maybe since the further we get out in the type of land we have been developing the harder it is sometimes to get drainfields.

Mr. Stepowany: And that is, again, it becomes an option and it has to be… I will not say incentives but you are reducing the infrastructure of the subdivision with hopes that you can still meet your number of lots that you can only obtain by traditional A-1 type subdivision, but closer and compact. But that is being discussed and so far that has not been considered an issue to be worried about. The subcommittee has talked about that.

Mr. Fields: Ms. Kirkman and I will be meeting with them on I think April 2nd. We have already set that up as our subcommittee or liaison committee on that. But you are right, I served on the committee on the Board with Mr. Snellings to look at the clusters and we did run into something of a stone wall when you finally get down to onsite disposal.

Mr. Di Peppe: You have to have an alternative drainfield too.

Mr. Fields: It really depends on the soils which really get down to what the cluster is designed to do, is to permit people with the most suitable land to be developed and the people with the least suitable to not have the same windfall. Ms. Kirkman.

Ms. Kirkman: Well, what I was going to point out, although in theory you might think that what Mr. Stepowany had to say is so in fact, in some ways the notion if you have a cluster then you can do drainfields. And with smaller lots you can get more houses on the suitable area and leave the unsuitable area alone. But, in fact, we have a number of areas in the agricultural that are zoned A-2, which is one house per acre, and we have yet to see with our requirements around drainfields those come out platted at one house per acre. There simply are not large enough pieces of suitable land to get, for instance, five houses in a row on one acre each on drainfields. At least where we have got the A-2s in the county, what we have seen is more lot sizes around 3 to 5 acres and where it sort of ends up being a cluster is that the road frontage is a little narrower in width, so you can do the front of the lots a little closer together so you have got a little less road surface. But, in terms of the overall lot size, we are not seeing that. In some ways A-2 becomes a cluster within the agricultural zoning district and we are not seeing that they can get those small lots on drainfields. We are just not seeing that as a matter of fact.

Mr. Fields: That is kind of what I concluded. It is difficult with the Chesapeake Bay requirements.

Mr. Stepowany: On preliminaries I know the way the Board has done and hopefully is, the way they look at A-2 they are talking public water and public sewer on the A-2 as a cluster and if it is not on public water or public sewer, then again realistically you are not going to cluster on A-2 if you do not have public water and public sewer.

Ms. Kirkman: You misunderstood what I said. What I was saying was in essence we now have a cluster zoning district in the agricultural and it is called A-2. And even though we do allow for one acre lots in the agricultural district through the A-2 land use, they are not able to get one acre lots with drainfields. It is just not possible.

Mr. Fields: So, where are we with this? Was there any… I know we have been just jumping in on top of you Jamie, is there any other salient points you want to make sure we had?

Mr. Stepowany: No, I was just bringing you up-to-date on items you had discussed in the past.

Mr. Fields: A lot of good work. It is a complicated thing. There are a lot of different variations. It is interesting that we have two neighboring counties that we are looking at, each of which with a different approach to it. I hate to be on a soapbox, but it has been a point I have made all along. We are surrounded by counties that have both, we have not looked at King George and Caroline because they have been a little bit less under the same pressure, but they also have 10 and 25 acre zoning in those counties. I think it is always worth pointing out that we are the only county that allows 3 acre zoning, or only 3 acre zoning throughout its entire ag area in the entire planning district and certainly probably for miles around. I do not know where you have to go to start getting not having some type of rural conservation zoning in the agricultural areas. Maybe Orange County, but certainly Hanover does and certainly on down the line does.

Ms. Kirkman: Mr. Chair, there area couple of pieces of information that, since we are comparing Stafford, Spotsy and Fauquier, that I think would be helpful to have. And if staff could put together

what the mean and median parcel size is for those three counties, I think that would be really helpful because that is going to influence in some ways.

Mr. Stepowany: For Spotsy and Fauquier, for those that were…

Mr. Fields: For the rural areas, right?

Mr. Stepowany: (inaudible)

Ms. Kirkman: For the rural agricultural areas. No, not for what has been developed. The unimproved parcels what the mean and the median parcel size is.

Mr. Fields: Is that a gettable piece of information?

Ms. Kirkman: Yes, you would have to see if the other localities can…

Mr. Stepowany: We would have to get in touch with them, I cannot make guarantees or promises that it will be here by next meeting because that information has to be done in the next couple days. I would be more than happy to research it.

Ms. Kirkman: If you could just see if they have that available.

Mr. Stepowany: So, undeveloped parcel sizes, mean and median.

Mr. Fields: We are using about what, 4 ½ acres has been the average A-1 parcel in Stafford?

Mr. Stepowany: 4.3 acres per lot and the A-2 was 3.3 acres per lot.

Mr. Fields: The reality is we have never been able to get consistently less than, only under fairly exceptional circumstances were we able to get 3 in A-1 or even less than 3 in A-2. Has is primarily been because of drainfields, is that the primary factor that drives that?

Mr. Stepowany: I would have to look.

Ms. Kirkman: Mr. Chair, it is and if you look at some of the preliminaries that were subdivided out and vested prior to our drainfield ordinances you can really see a difference. You can see a huge difference between what is on the preliminary and then what actually gets platted.

Mr. Fields: All right, well do your best with that. Is there anything else? Or do we just want to put this on the table until we get that information?

Mr. Stepowany: Would the Chairman also like us to look at the sliding scale with your suggestions and see what different numbers (inaudible)?

Mr. Fields: Let me ask this, I asked to see that because it is a different and alternative system from a county that probably has the most successful approach to preserving ag land. However, again, I will be the first to admit that Fauquier is a very different county than Stafford. It is three times the size, does not sit astride 95 and has a massive amount of land ownership in the hands of a very, very elite group

of very wealthy landowners and that has helped. It is my understanding, at least we were always told, 30 percent of Fauquier is in voluntary conservation easements to begin with. That is a whole big difference. I do not want to go Fauquier has been successful but then again they have a different paradigm. Does the Planning Commission as a whole think it is worth pursuing a version of a sliding scale for Stafford or do we just want to pursue refining the numbers on the 10 subdivision. This is not really a vote but I would like to hear what everybody has to think on it.

Mrs. Carlone: I would like to have us look into that. I know that this was an issue that we had several years ago.

Mr. Fields: You would like to look into the sliding scale?

Mrs. Carlone: Yes.

Mr. Fields: What we need is a committee…

Ms. Kirkman: I would suggest we do it in conjunction with our liaison work with the Board on the cluster because I think they are related.

Mr. Fields: Yes. Ms. Kirkman and I, in conjunction with that, will look at what some potential sliding scale numbers might look like. Like I said, I appreciate staff bringing that forward. I certainly had no intention to simply boilerplate Fauquier's numbers on Stafford because it is a very different place in that sense.

Mr. Rhodes: Just as you were asking, I was very interested in the sliding scale as well as an approach to be considered since you were asking of the views of the members.

Mr. Fields: Okay. Mr. Di Peppe?

Mr. Di Peppe: No, that is fine.

Mr. Fields: Keep it on the table. I just put it out there so we had some choices. I hope I did not complicate things, I did not mean to do that. I just want to give us a shot at something that has some liability.

Mrs. Carlone: Mr. Chair, this is directed towards Jamie. Will it be fairly simple to pick up the actual properties that I asked for earlier, the conservation easements?

Mr. Stepowany: I cannot answer that right now.

Mrs. Carlone: I would think they would be recorded.

Mr. Stepowany: It is being researched right now.

Mrs. Forestier: We have a slight issue with the conservation easements in telling apart the ones that we asked to put on RPAs versus the conservations easements that were deeded appropriately. I think I looked at the GIS layer they have created and they show just the parcels that have conservation

easements on them. We would have to sort through and figure out which ones were actually deeded easements and which ones were just placed on RPAs.

Mrs. Carlone: Okay, I was just thinking in terms of there being this neat little handy-dandy list.

Mrs. Forestier: Not yet.

Mrs. Carlone: Mr. Chair, what do you think? I hate to put that workload but…

Mr. Fields: What is the reason you want to see the number of conservation? Do you want to see how many acres are in conservation?

Mrs. Carlone: Yes. But if it is that hard… you mentioned it was difficult to differentiate the two. So, there would be no sign-up type documents where they have signed up for the voluntary conservation easement?

Mr. Stepowany: I hope I am not speaking out of turn. I think that is what Mrs. Forestier was pointing out. There was a time when staff was asking subdividers to place their RPA in a conservation easement without an identified servient who would control or take responsibility of a conservation easement. And that is what they have to determine now, is it voluntary, was there a third party, was it on the Corps of Engineers, is there somebody who is actually responsible for the conservation easement, or was it just a line shown on a plat. And that is what is going to take time to research and determine basically the status of that conservation easement. And that is what Mrs. Forestier was just mentioning.

Mrs. Carlone: I will talk with Pete and Cecelia later. I had spoken with Piedmont Environmental and we were discussing the conservation easements and they mentioned they would like to see more but I do not want to… we will talk separately Jamie. Do not do anything right now.

Mr. Harvey: Mr. Chairman, for clarification for the staff, I know there was discussion about the Comprehensive Plan and whether we should have any reference to lot yield or similar types of things in the Comprehensive Plan. I want to get clear direction from the Commission and also again make my pitch that from all of the training I have had, you try to have your Comprehensive Plan reflect as a policy what you should be doing with your ordinances. I would recommend, whether it is the current plan or the future plan, we have something in there that explicitly says we are doing the right thing here, we are following our long-range plan for the county.

Mr. Fields: Any thoughts from anybody on that?

Ms. Kirkman: Well Mr. Chair, I agree and I think the most appropriate place to do that is in the Implementation Plan because there are many ways to go about preserving land in the ags and cluster is one of many mechanisms. So I really think when we are talking about the exact mechanism is going to be that the most appropriate place for that is in the Implementation Plan of the Comprehensive Plan.

Mr. Fields: Okay, any other thoughts on that? So you are saying both of the two proposed such as sliding scale zoning, minimum lot yields and cluster should not be… you do not want to consider those right now as part of the Comp Plan? Or would you say one of those or all of those, is that what your preference is?

Ms. Kirkman: Yes, my preference would be to not make… Well first off, my preference is not to amend something that does not exist, and we do not have the Comprehensive Plan yet to amend. So, I am not sure how we would go about amending anything that does not exist.

Mr. Fields: But if we were creating a change to the existing ordinances in the existing Comp Plan, however short-lived, we would need to have some reference to it as well.

Ms. Kirkman: Well, I think that is just a matter of staff going back and looking at if we have something broad enough in our existing Comprehensive Plan which I believe we probably do. I see to remember some pretty general things in there about preserving land and that sort of thing. Again, given the level of specificity of these mechanisms, that is really best left to the Implementation Plan once we know what we have got for a Comp Plan.

Mr. Fields: Well, maybe once we know what we have got for a Comp Plan. We do need to visit it because I do think Jeff has a very important point and we want to make sure that any of these things are consistent with the broad vision.

Ms. Kirkman: Just to remind folks, around the mechanics of the Comprehensive Plan, the Implementation Plan is part of the Comprehensive Plan. It gets added as an amendment to the Comprehensive Plan and we had hoped to have that in the draft that we sent to the Board but it was clear delving into that level of detail around specific mechanisms did not make sense until we had a clear sense of what direction the Board wanted to go in. So it would still meet the concern raised by Mr. Harvey because if it is in the Implementation Plan it is an amendment to the Comprehensive Plan.

Mr. Fields: All right, any other thoughts?

Mr. Harvey: Mr. Chairman, may I suggest that we will provide the Commission with language in the existing plan to see where we are and then, if the Commission wants, we can take some adjustments to that and have that move forward in concert with this. We do have a bit of an issue with the Comprehensive Plan and the old plan versus the new plan, how this fits into that timeline.

Mr. Fields: Certainly, that would be good. So if you could do that for us I would appreciate your thoughts and your energy on that. Anything else on this? Moving on then. The next thing is Reservoir Protection Overlay and I understand our esteemed Director of Utilities has agreed to spend some time with us today, which I greatly appreciate. Mr. Critzer is here, he is the Director of Utilities and he is my neighbor as well. I am not implying that the intellectual gravity of Stafford is in the George Washington District but you will just have to draw your own conclusions.

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

Harry Critzer: I am Director of Utilities. I have been provided with four questions and I am going to do my best to answer them. The first two questions, I really did not try to overwhelm you, but I have provided you with handouts of Abel Lake Reservoir and Smith Lake Reservoir testing for the last four years. Keep in mind it is finished water treated, it is not reservoir sample. And I will talk about reservoir sampling now. The categories that we monitor for are regulated inorganics/metals, regulated and unregulated synthetic organic compounds which include herbicides, pesticides and insecticides, regulated and unregulated volatile organic compounds, some carbamates which are organic compounds

found in some insecticides, unregulated contaminants monitoring rule additions, each year EPA gives us a list of chemicals to monitor and they use that data to determine whether to regulate additional chemicals, and then there are secondary contaminants that are more related to aesthetics than health like iron, manganese and color. The daily raw water testing, the raw water is the reservoir, and we test every day and on some of these parameters every two hours during the day for alkalinity, hardness, pH, iron, manganese, color, carbon dioxide, turbidity. We do periodic raw water testing. Believe it or not, there is no requirement that we do any testing other than total organic carbonate and alkalinity on our raw water reservoirs. We test for two types of alkalinity, chloride, sulfate, various categories of dissolved solids, fluoride, silica, corrosion index just to tell us how corrosive the water is and how to properly treat it so it will not be corrosive out in the water distribution system. We test for sulfide, calcium hardness and conductivity. I do not think you want me to go through all these, but these are the various categories and specific inorganics and metals that we test for. They are indicated in the finished water sampling that you have and I think the first or second column tells you what category of contaminant it is. The bold PMCL contaminant levels set by the EPA, that is also shown on the handout and then there are some secondary maximum contaminant levels such as the iron and manganese. We test for a variety of herbicides, synthetic organics, volatile organics, pesticides, insecticides and one termiticide. Like I said, the secondary contaminants include aluminum, chloride, iron, manganese, silver, sulfate, things that are aesthetic-related. I would be glad to answer any questions you might have on this or the finished water test results, if you have had time to take a look.

Mr. Howard arrived at 6:13 p.m.

Mr. Di Peppe: How acidic is the untreated water?

Mr. Critzer: The untreated water is in the maybe 6.4, 6.8 range. It is somewhat acidic but not tremendously. But we do have to add alkali to it to raise the pH for treatment.

Mr. Di Peppe: Is it getting more acidic over time? They have obviously been keeping these records for years.

Mr. Critzer: I would need to go back and compare, but I am not aware that we have seen much change at all in raw water pH.

Mrs. Carlone: Mr. Critzer, do you have a copy of what you just presented?

Mr. Critzer: The slide show? Yes ma'am, I do and you can have it. I also might point out that over the last 24 months we have been testing for cryptosporidium and giardia in the reservoirs. It is a parasite that can cause severe gastrointestinal problems. We have had to monitor that for 24 months just to satisfy the EPA or to determine whether we need additional treatment, and we have not had any problems show up in that 24 months of testing.

Mrs. Carlone: Are there any particular site that had an elevated, you said there was not a problem, but did one of the treatment plants have an input?

Mr. Critzer: Well, we have had beaver problems at both reservoirs but primarily at Smith Lake. I believe we have had giardia show up once but it was like one microspore and usually it is not detectable.

Mrs. Carlone: Just a spike there or something. Thank you.

Mr. Fields: On these charts, these spreadsheets, a lot of these are very small numbers and then occasionally there is a bold number. What is the bold number value?

Mr. Critzer: Bold numbers are items that were actually detected. The others are less than the minimum quantification level of the test procedure.

Mr. Fields: So they are actual detections. So, where would we find what the… say Abel Lake just for example, I am looking at Abel Lake Reservoir, page 1 at the very bottom line, bromodichloromethane is 3.8. Is the standard up there at the top at the bromate, does that apply to all those bromo-type things? Because I see it is 3.8 but where do I know if that is good or bad?

Mr. Critzer: Which reservoir?

Mr. Fields: Abel Lake.

Mr. Critzer: Which page?

Mr. Fields: Very first page, very bottom line.

Mr. Critzer: See how some of them have PMCL after them? The one above says equals 200 and then to the right of that it says ppt. That is the limit in parts per trillion. If there is no bold PMCL or SMCL there is not a limit for that.

Mr. Fields: There is no standard for it?

Mr. Critzer: Right. The one you are talking about is a disinfection byproduct; it forms with organics after we chlorinate the water.

Mr. Fields: Okay, so bromodichloromethane forms with the chlorides after you treat the water.

Mr. Critzer: With the organics.

Mr. Fields: And it is perfectly okay to drink it. You have to give us a break here, we are not use to seeing this kind of stuff. And the idea that this is treated water, we are just trying to get our heads around it so you will have to forgive us.

Mr. Critzer: We have limits for it. There are four components of what they call trihelamethanes. You add all those up and you have a limit that you cannot exceed and we are below half of that limit. The others are halo-acidic acids and there are five of those that show up as chlorine disinfection byproducts and the same applies, we are half of what the limit is.

Mr. Fields: I would assume you have some ballpark, what would typical well water look like if it had this same set of tests done to it?

Mr. Critzer: Typically we will see iron, we will see sulfate higher than we see in the surface water. Depending on the proximity to a septic system we sometime will see fecal (inaudible) from bacteria in wells.

Mr. Fields: So all of these, this whole battery of chemicals that do show up, do those tend to be not present in well water? Are these a product of reservoir water? Or are they a product of water treatment?

Mr. Critzer: The specific ones that are chlorine disinfection byproducts would not show up in well water.

Mrs. Carlone: I have a question. On page 2, this is on the same one, Abel, it shows that chloroform at 26 in 2008 and then it shows 15 and 23 in 2007, 2005 it was 24. Is there some significance here seeing we have not really figured this out yet?

Mr. Critzer: There is significance that I did not put anything for 2006. We run those tests every quarter and the quarterly tests are not shown on here but these are specific tests that were done on the water. Chloroform is the largest component of trihelamethanes. The limit is 80 for that and you add the 26 and there is a couple, bromomethane at the top is one, bromoform underneath that is one, and as you can see they are less than the detection limits. Like I said, chloroform is the highest of the four components.

Mrs. Carlone: I was just interested also in the fluctuations from 15 in 2007 even though it is still low.

Mr. Critzer: We measure total organic carbon in the raw water and we like to see that as low as possible in the treated water because the organics have to be in the water in order for the chlorine to react with it so we try to get all the organics we can out. I believe when we had the 15.1 in 2007, we must have been doing a better job of treatment that day or something.

Ms. Kirkman: I was just going to say I also have a well and typically what you see when you test your water is you will get minerals. If you see any of these things in your well water, these organic chemicals, it is usually an indication that you have some kind of contaminant in your water. But typically, when you do well water, it is going to have minerals but not these chemicals.

Mr. Critzer: We have a lot of people call in and they have water softeners because of the mineral content in their well water.

Mr. Di Peppe: Any trends in any of these chemicals that we need to watch or is there any rise in any of these things or are we up near a level where we should not be?

Mr. Critzer: No, we are well below all the contaminant levels that they have set. All the unregulated monitoring we did last year and this year were non-detectable. As long as we see that less than sign before them we are happy. We do not want to see any of these in the reservoir or in our finished water.

Mr. Fields: Any other questions? Mr. Critzer?

Mr. Critzer: Do you want me to go on to the other questions?

Mr. Fields: Go on, please.

Ms. Kirkman: I did have one question. On your slide show I could not quite catch to what extent do you test for the presence of these chemicals in the raw water?

Mr. Critzer: We typically, almost everything on here we do not test for. There are maybe twelve parameters that we test for every day, some every two hours. But all these exotic compounds with the long names I cannot pronounce we do not test the raw water for that. If they do not show up in the treated water, our plants right now have the capability to feed carbon which would remove some of these but we do not feed carbon so, if it shows up in the finished water, then we would be concerned about the reservoir.

Ms. Kirkman: Thank you.

Mr. Critzer: So I took care of the first two questions with that. I was asked to talk about the use of mean high water line. If my understanding is that you are looking for a point from which to measure 200 feet from the reservoir, or 1,000 feet, I would suggest something on the order of expected maximum pool elevation or just maximum pool elevation. We have an elevation above sea-level that we can specify for all three reservoirs of what the maximum water level should be. If we had 24 inches of rain in three days, more would come downstream than could go out and those levels might be exceeded but that would be very rare, a 100 year flood maybe. But we could specify a level above mean sea-level that would be the maximum pool elevation we expect to see. I do not think you would want to use the normal pool elevation because the water level can increase 10 or 15 feet above that.

Mr. Fields: So, you want to use the maximum pool elevation?

Mr. Critzer: I am concerned about the expected. You might just want to use maximum pool elevation.

Mr. Fields: And, say that again, that refers to the level of the water above sea-level versus a relative (inaudible).

Mr. Critzer: Right. Smith Lake, the water goes over the principal spillway which is almost the same elevation as the dam so that would be that level. At Abel Lake we have a principal spillway out in the lake that the water goes into the concrete structure, but we also have an emergency spillway where it starts going around the dam and I would suggest that would be the level that you pick for that. And Rocky Pen Run is going to be elevation to 30 I believe.

Mr. Fields: Okay.

Mr. Critzer: The last question was how many abandoned houses remain within the Rocky Pen Run pool and still need to be demolished. There are seven homes standing out there. There are two that are within the pool and will definitely be demolished. They are being used by our resident inspector right now, one house, and by the contractor for the dam in the other house. The other two are, I would say, right now are maybe probably going to be demolished but that is not a certainty now. We have been asked to look at them and make sure they have no value before we proceed with demolition of those two. Out of the seven homes, four will or may be demolished, three definitely will not be. And I think that is what the memo in December referred to also, three homes also, so that has not changed. The two that I have the maybe by are not in the pool.

Mr. Fields: How is the work on the dam proceeding?

Mr. Critzer: The Board authorized last night some more geotechnical work on the dam foundation. They also authorized us to purchase just under 100 acres right where the water treatment plant will go and we are doing some soil exploration to determine if there is clay present, suitable soils that can be used for the dam construction. So, that is where we are right now.

Mr. Fields: Do you have an expected finish date yet, when water starts moving, coming out of it?

Mr. Critzer: I have told them that I need to have it today but I definitely need to have it by May 2012. I have gone indoor three summers right now without it. (inaudible)

Mr. Fields: I know, of course, even with the complete virtual non-existence now of home building but I know that even as of 2007 we were starting to run pretty close of not having available taps before the reservoir came online. Is that still possibly the case or has the slow-down really changed that dynamic quite a bit?

Mr. Critzer: We do that every month, we come up with the available EDU's for water and wastewater. I do not have those numbers but I think water is 2000, maybe more than that. We are not critical right now, it is just the summertime when the peak demand goes up to, it averages 1.6 times our normal water demands. We have periods when everything is running, including back-up equipment.

Mr. Fields: I assume the reservoirs are pretty much full right now, right?

Mr. Critzer: They are full right now. If it rains every two or three days we will be happy.

Mr. Fields: Has the process of, we instituted a sliding scale of fees that tend to discourage excessive personal irrigation of treated water, has that had any impact you feel on the demand in the summertime?

Mr. Critzer: We only got one month to compare but we did see about a 6 ½ million gallons over a month reduction which is 250,000 a day give or take.

Mr. Fields: That is not significant.

Mr. Critzer: It will be interesting to see what happens this year. But for use over 20,000 gallons a day the rate tripled.

Mr. Fields: Okay. Are there any other questions for Mr. Critzer?

Mrs. Carlone: Just a comment. I noticed that, I follow in the paper because of our pond is disappearing right now, so I noticed that we are about four inches below average. Does that concern you right now at all or we just get through April and May to see what happens?

Mr. Critzer: What pond are you referring to?

Mrs. Carlone: I mean our pond. It is so low right now when you said you were full at both reservoirs but I notice that the rain gauge that we are about four inches below normal in the Free Lance-Star.

Mr. Fields: Four inches below normal for total rainfall this year?

Mrs. Carlone: Yes, four total compared to previous.

Mr. Critzer: I thought you meant level of the reservoir. In Abel Lake, there is the principal spillway, the concrete structure out in the reservoir, the level is up to the top of that and discharging. As long as we have rain, like I said, every three or four days we are doing well.

Mrs. Carlone: I was just concerned. Thank you.

Mr. Fields: Are there any other questions? I know we are specifically talking about the overlay (inaudible). The reason I ask some other questions is we do not, on the Planning Commission we do not, obviously unlike the Board, we do not have periodic updates so it is a good opportunity for anyone on the Planning Commission. We have got a couple of minutes, we are not under a critical time pressure. If there is any questions about the operation of utilities or how that water supply, wastewater treatment, etcetera, since we are charged with making some very critical long range decisions or at least recommendations, the more we understand them collectively the better off we will be because utilities drives a great number of those decisions. I think Mr. Critzer, I am sure, would feel comfortable fielding questions as long as they are of a general nature and not asking for specific data that he does not have in his pocket. But, does anybody have any questions about the utilities system or about the long range planning of the utilities system?

Mr. Di Peppe: One of the major threats usually to reservoirs is fecal contamination with wildlife and things like that. What are we seeing there with the untreated water? Do you test it for the fecal contamination before it is…?

Mr. Critzer: We are doing, along with the cryptosporidium and giardia, they do e coli and I believe the report also provides fecal coli form data. We do show some fecal coli form, a lot less e coli, in the raw untreated water. There is deer, beavers, whatever, any warm-blooded animal is going to show up. But after chlorination we are sampling all the time in the distribution system and at the treatment plant and we do not have a problem, the chlorine takes care of it.

Mr. Di Peppe: And as time goes on, I was reading that human viruses showing up in water is a problem in some reservoirs and raw untreated water.

Mr. Critzer: I just cannot speak to that. We do not test for it. I do not even know of a lab in Virginia that does test for it.

Mr. Di Peppe: Thank you.

Mr. Howard: In the untreated water, obviously we are looking at the proposal of a Reservoir Protection Overlay for the county and one of the concerns we always have is unintended consequences. So, in your expert opinion or assessment, in the untreated water pieces, not the treated water treaments that you went through, are there any major issues in the county today, and I know Mr. Di Peppe just brought up the e coli issue, but is there any other issues? Or what do you treat the untreated water for? And is there an issue today that we should know about?

Mr. Critzer: If I had to pick an issue, I would say pharmaceuticals. We need a way for people to discard medicine other than flushing it down the toilet, unused medications, because it ends up at the treatment plant. We are not set up to treat for it, it does not cause us necessarily a problem but it gets discharged out into the stream and they are seeing deformed fish and all that kind of stuff. We have talked a little bit, I think I mentioned it last year in our annual water quality report but we are trying to work out something with maybe the landfill folks or I think we contacted the free clinic in Fredericksburg just to see if there was a possibility they could take the medication but I guess there is some liability not knowing for sure what you are being handed and then prescribing it to patients. But that is a major concern. There is a lot of study, research going on about that now. We treat the water for color, iron removal, manganese, bacteria. We do not have any specific contaminants that have shown up other than the general things you would expect to come from soil.

Mr. Howard: Thank you, that was good clarification.

Ms. Kirkman: Without Rocky Run, how many taps do we have left remaining?

Mr. Critzer: That is what I was talking about. I think the number is right at 2,000 but if you need to know I will check.

Ms. Kirkman: A ballpark is fine. And once Rocky Run is added, how many taps will there be?

Mr. Critzer: We are starting the plant up at 5 million gallons a day but it is expandable in increments up to 25 million, so it just depends which of those numbers…

Ms. Kirkman: But it is maximum capacity?

Mr. Critzer: Whatever the number is divided by 283 and that is how many equivalent domestic units, dwelling units.

Ms. Kirkman: So the range was how many gallons to how many gallons?

Mr. Critzer: 283 is one EDU.

Ms. Kirkman: No, I got that one. That was the easy number.

Mr. Fields: (inaudible)

Mr. Critzer: Five million a day and in three or four years we will probably go to ten and eventually we will be at 25. But it will probably be done in five mgd increments.

Ms. Kirkman: So that is adding capacity for up to… close to 100,000 additional taps, somewhere between 80 and…

Mr. Critzer: I was thinking 35,000 but I do not have a calculator.

Mr. Fields: That sounds like a more logical number to me.

Ms. Kirkman: I am looking at the 283 in relationship to the 25.

Mr. Fields: Five million gallons a day would be around 18,000?

Ms. Kirkman: So 25 million is more than 80,000 taps.

Mr. Fields: (inaudible)

Mr. Harvey: Mr. Critzer, planning for the reservoirs, do you use a longer time horizon than our Comprehensive Plan? The Comprehensive Plan is typically 20 years.

Mr. Critzer: We are hoping it is going to last until 2040 and maybe 2050.

Mr. Fields: It takes a long time to build one.

Mr. Critzer: I might have just told you wrong, too. I think the 283 is what we use for sewer and 360 is what we use for water, so that would bring it down some. (inaudible)

Ms. Kirkman: But we are still talking tens of thousands.

Mr. Critzer: Exactly.

Mr. Di Peppe: Do you think a public service campaign would be good to talk to residents about the simple thing of not flushing pharmaceuticals? I think if more people were aware they would not do it. I know there are some people that do not care no matter what you say but I would think the majority of our citizens, if we made them aware that it was a problem, and I think it would be a relatively inexpensive thing to do.

Mr. Critzer: The problem right now if you do not flush it you are going to throw it in the trash, trash is going to go to the landfill, we accept the (inaudible) from the landfill at our freshwater plant and it is going to come back. It is going to be incinerated or something.

Mr. Di Peppe: So really we need a place at the landfill where they will accept it and then do something else with it.

Mr. Critzer: Right.

Ms. Kirkman: It is my understanding that the pharmaceutical issue is that the flushing of excess medications is only a small portion and the real issue is your body excretes the pharmaceuticals and that right now we are mixing solids and fluids and if you separate solids and fluids you have a better ability to remove the pharmaceuticals.

Mr. Di Peppe: So, it is not actually the flushing.

Ms. Kirkman: It is not the flushing that is the biggest part of the problem, it is when your body is excreting it.

Mrs. Carlone: We have a CVS representative down at the other end so maybe he can come up with some statement.

Mr. Howard: Not in this capacity, no.

Mrs. Carlone: No, not in that capacity.

Mr. Di Peppe: I think he should chair the subcommittee though.

Mr. Fields: Well, really the water capacity is one issue and my understanding is that with the discharge limits for the Chesapeake Bay Act, the real limiter more in the future is going to be the number of wastewater taps, sewer taps, because of the very tight limits of nitrogen and phosphorus discharge from our wastewater.

Mr. Critzer: We are in the process of upgrading both treatment plants. They have new limits they have to meet by January 1, 2011. So Little Falls is being upgraded to 8 million gallons a day and Aquia to 10, which is the flows we expect to see in about 20 years. And they will be able to meet the nitrogen and phosphorus loadings that were allocated to those facilities.

Mr. Fields: At the expanded capacity? Even though the nitrogen and phosphorus has really ratcheted right up?

Mr. Critzer: It is a little unusual because the waste load allocations for nitrogen and phosphorus were based on 8 million gallon a day facilities but because we expect 10 million, if growth continues like it has, in 20 years at Aquia, we are expanding it to 10, we do not expect to reach 10 mgd until 2021. After that, when we exceed the 8 million gallons, we have to offset any additional pounds we might discharge and we can do that by water reuse, not discharging it but watering a golf course if you could get a golf course put in next to Aquia, improve technology. By then we are hoping we only have to meet a 2 milligram per liter nitrogen instead of a 3 so if technology over the next 10 years, 11 years, improves we should not have a problem. Otherwise, we could go to another locality that discharges into the Potomac Basin and purchase pounds from them if they were willing to sell them, but that would probably be the last thing we would want to do.

Mr. Fields: Any other questions?

Mr. Di Peppe: Are there any issues that you would like to say to us on the horizon as a Planning Commission that we need to be aware of that, just from your position, you wish people were aware of and anything within our realm?

Mr. Critzer: I cannot think of anything. It sure would help if I had an approved Comp Plan and a definite Urban Services Area. That would make a lot of my life easier.

Mr. Di Peppe: We told them, we did that.

Mr. Fields: Very good. Thank you very much Mr. Critzer. We really appreciate you taking the time to answer this and many, many wide-ranging questions and we hope to have a, I think it is one of the things we would like to make sure we do is have a continuous, very engaged process between the Utilities Department, Utilities Commission and the Planning Commission, so we look forward to talking with you in the future.

Mr. Critzer: Just let me know and I would be glad to come back.

Mr. Fields: Thanks a lot, I appreciate it. We are moving on. The Overlay is deferred, time limits for plans we are awaiting revisions. So we are really at the SSYP, right?

Mr. Harvey: Yes sir.

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)

f. Establishment of Time Limits for Plans (Awaiting revisions from County Attorney)

5. Review of Pending Rezoning/Conditional Use Permits

None

6. Review of Pending Subdivision Plans

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, 2009 Work Session) (Deferred at March 4, 2009 Work Session to April 1, 2009 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, 2009 Work Session) (Deferred at March 4, 2009 Work Session to April 1, 2009 Work Session)**

7. Review of Proposed Comprehensive Plan Amendments

None

8. Other Unfinished Business

a. Virginia Department of Transportation (VDOT) Secondary System Six-Year Improvement Program (SSYP) for FY2010-FY2015

Sara Woolfenden: Mr. Chair, members of the Planning Commission, I am with the Office of Transportation and I am going to be discussing the SSYP tonight for 2010 to 2014. I do not have a presentation so I am just going to speak to it.

Ms. Kirkman: Excuse me, we did not get a copy of the plan in our packet and I had sent an email requesting that. Do we have those tonight?

Ms. Woolfenden: We do not. Let me speak to that in just a moment if you do not mind. The 2009 to 2014 SSYP was reduced by the CTB on February 13. Due to the changes both with that and the continuing issues with VDOT and funding, the allocations remain in flux. As a result, we have spoken with David Stanley, the Residency Administrator, trying to get the latest SSYP allocations and we have been unsuccessful in so far getting a current one for an estimated projection for FY2010 to 2015 as a result of their budget issues. And so we do not have access to it at this point. We do however have the…

Mr. Fields: Yes Ms. Kirkman?

Ms. Kirkman: I want to understand. We do not have access to the allocations but we do have access to the potential projects. So, there are unfunded projects on the SSYP, there have been unfunded projects on that before. So, I do not understand why the allocation issue keeps you from bringing the full plan here tonight.

Ms. Woolfenden: I do have the ’09 to 2014 plan if you would like to see that.

Ms. Kirkman: But we are here for the ’10 plan.

Ms. Woolfenden: Correct. But we do not produce the plan. That document is produced by VDOT. That is not produced in-house by our staff. And so the document that you are used to seeing, that we are used to seeing, is produced by VDOT and while we have requested that, again they have not provided that at this point.

Ms. Kirkman: So, tonight is just to inform the Planning Commission because we cannot make recommendations on something we do not have.

Ms. Woolfenden: Well, here is the issue. This last year we financed the bond and in the bond the financing was predicated on the SSYP going towards two projects, those are the Courthouse Road projects. And the FY2009-2014 reflects that policy. While certain aspects of the allocations remain in flux, the Board’s financing of the Transportation Bonds drive the SSYP allocation. We brought this policy to the Planning Commission Transportation Committee and they endorsed the continuing allocations to Courthouse Road for FY2010 to 2015 for the SSYP. This is also the staff recommendation that we continue to fund these two projects through the SSYP. The reduced allocations by the CTB gave Stafford approximately $3.5 million for FY ’09 and $2.5 million each year afterwards for the estimated in the revised ’09 to 2014 allocations. Because of the very constrained turnaround time and the statutory time limits, we had to bring this to the Planning Commission at this point. The CTB adopts the SSYP in June, we have a thirty day public hearing notification requirement in order to have the VDOT and Stafford Board of Supervisors public hearing. As a result, this was brought to you tonight. We recognize that while we do not have the document for you tonight, we are seeking your guidance on the policy and the Planning Commission recommendation will be brought forward to the Board for considerations. And while the specific allocation details are to be developed by VDOT in the coming weeks and will be included in the information presented to the Board. The previous SSYP allocations have been very limited. Again,

last year's had some on the Garrisonville Road project finalizing the financing of that project and then the remainder was allocated towards Courthouse Road.

Mr. Fields: But the problem is is that Ms. Kirkman very rightly points out that the SSYP contains projects, even though the funding may not be existing, the projects themselves constitute an endorsement of a certain vision of transportation planning. They also permit the potential financing of the road through other sources, different projects through other sources, which may or may not be exactly what the will of the Planning Commission or the Board of Supervisors is. So, not having the physical, even just the physical plan of what roads, what projects we are talking about, funded or unfunded, asking for a recommendation is, and I am not shooting the messenger here Sara, I know you are under constraints here, I think you see that that really puts us in a virtually impossible position. Conceptually, yes, whatever spare change is floating around I suppose we should try to build Courthouse Road with it, I think we all agree with that on the broadest, but that is not an official policy recommendation. That is just everybody knows that there is not a lot of money and we have all basically agreed that whatever money is available we want to put on Courthouse Road, but that is not a policy recommendation and an endorsement of a document we cannot see. Even if all of the numbers were question marks I am not sure how we are suppose to operate here. Again, I am not shooting you, I am not beating up on you, it is not your fault. But I think you can see our constraint and I do not know if you or Fulton or Jeff has some thoughts on what a potential course of action is here.

Ms. Kirkman: Mr. Chair, I do have a suggestion. What I suggest is we defer this to our next meeting so that the Transportation Department can come back to us with the spreadsheet that if they cannot get it from VDOT they can make it up themselves because I think they have done this before. I think we have been in this situation where all the potential projects, as they see them and as they are planning on recommending to the Board of Supervisors, that they present that to us so that we have something to review in terms of projects, understanding that allocations are in flux.

Ms. Woolfenden: As I previously said, I do have the '09 to 2014 project list and I am more than happy to give you that. And that has all of the projects that are currently in the SSYP and unless the Board and VDOT chooses to add any projects there are no projects that are not included in that list. I am more than happy to hand that out.

Fulton deLamorton: Mr. Chairman, members of the Planning Commission, Transportation Administrator. Ms. Kirkman, I am aware of the spreadsheet that you are speaking of and, in spite of the lack of the actual allocations, we can put that spreadsheet together. What I would also like to clarify, if you will from the Commission, is that what you are seeing is that there are projects in the SSYP that are zero funded that could be construed to still be transportation priorities. And what I believe we would recommend in that regard is that those projects be removed from the SSYP, that in actuality the only projects that would be shown in the SSYP would be the Courthouse Road projects and the Youth Driver Taskforce projects that were added, I believe, last year and since they would use revenue sharing state money that they are included in the SSYP. But you are speaking of the other projects now that have because of the bond financing mechanism are zero and to remove those in print from the SSYP.

Mr. Fields: Yes, that seems like the logical course. But, again, do we have time to do that next meeting? Can we look at that document and vote on it next meeting and be okay?

Mr. deLamorton: Yes sir, that would not be a problem.

Mr. Fields: That seems like the logical course then.

Ms. Kirkman: So, the Board has to do their joint public hearing in May, is that correct?

Mr. deLamorton: That is correct.

Ms. Kirkman: So, this is March so we have April. I was just wondering because we also found last year that it was very helpful to do a public hearing. There were a number of citizens that came out and, if we have time Mr. Chair, I would like us to be able to do that as well.

Mr. deLamorton: We have a special code section, there is a special code section in the state code, it is noted in your background report, that requires a thirty day notification.

Ms. Kirkman: For us this would be voluntary.

Mr. deLamorton: I understand. I am kind of back-timing if you will if the CTB is acting in June, the Board would act I would say at its first May meeting. It could act at its second May meeting which means we would advertise the public hearing and, by the way, we would have to have that VDOT document in place thirty days prior so we are talking late April.

Mr. Fields: We could advertise for our public hearing for the April 1 meeting?

Mr. Harvey: There is not enough time for April 1. There is for April 15.

Mr. Fields: Okay.

Ms. Kirkman: Let us do that. We could see the draft of the spreadsheet next time and then advertise.

Mr. Fields: April 1 we can see the draft and then we will go ahead and advertise it for April 15. Is that okay with everybody? We do not need an official vote on that, right? Okay.

Mr. deLamorton: Yes sir, thank you.

Mr. Fields: Thank you. All right. That brings us I think pretty much up to speed on the work session items, is that correct?

Mr. Harvey: One other item Mr. Chairman. We have minutes.

9. <u>Approval of Minutes</u>

October 15, 2008 Work Session

Mr. Fields: We have minutes, correct. We have minutes of October 15 work session. Are there any revisions, additions, deletions?

Ms. Kirkman: Yes Mr. Chair.

Mr. Fields: You said yes Ms. Kirkman?

Ms. Kirkman: Yes, I did. I do not know what the preference of my colleagues are. I just found some dropped words in a couple places so they are really not substantive changes, they are just technical fixes. But I can read each of them if my colleagues prefer that.

Mrs. Carlone: Maybe we can go ahead and vote on it with the changes because this does into files with the libraries and everything. So, can we go ahead and vote on it with the minor changes and then if you…

Ms. Kirkman: What I am trying to seek guidance from my colleagues on is do you want to hear like this word got dropped here, this word got dropped there.

Mr. Fields: Do any of the dropped words substantially change the meaning?

Ms. Kirkman: No. Well, one does because a "no" was dropped and so.

Mr. Fields: Okay, where is that?

Ms. Kirkman: That would be on page 27 of 38 of the October 1st minutes, line 1319, I mean 1320.

Mr. Harvey: Mr. Chairman, I think in the work session we need to focus on the work session minutes. You may be referring to the regular meeting minutes Ms. Kirkman.

Ms. Kirkman: Oh, I see. So we do this later.

Mr. Harvey: Yes ma'am.

Ms. Kirkman: Okay. I did not have any comments on those.

Mr. Fields: So we have work session minutes. Any additions or deletions to the work session minutes of October 15?

Mr. Mitchell: Motion for approval Mr. Chairman.

Mrs. Carlone: Second.

Mr. Fields: Approval by Mr. Mitchell, second by Mrs. Carlone. Any further 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, I think that brings us up to speed. We actually have six minutes until dinner. Of which everybody is cordially invited. We are not providing food for everybody but we are not keeping secrets there either. You can come listen to us talk about whatever we talk about.

10. Adjournment

With no further business to discuss, the meeting was adjourned at 6:54 p.m.

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Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES
March 18, 2009

The regular meeting of the Stafford County Planning Commission of Wednesday, March 18, 2009, was called to order at 7:31 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, Stinnette, Stepowany, Schulte and Forestier

DECLARATIONS OF DISQUALIFICATIONS:

None.

PUBLIC PRESENTATIONS:

Mr. Fields: As many of you know, we have two items for public hearing tonight but we also have the public presentation section which comes at this point. Just to make sure I am very clear on that, the public presentation you are allowed three minutes to speak on any topic that you feel is of interest to the Planning Commission except the two items scheduled for public hearing. So, just to be very clear, this time is for speaking on items other than the two public hearing items. So, with that being in mind, we have a light system, the green light indicates when your time starts, the yellow light comes on when you have one minute and the red light comes on when you are finished. And we ask when you speak, either on this or the public hearing, that you state your name and address for the record. With that, if anybody wishes to speak on a topic other than the public hearings at this time.

Dr. H. L. Barner: I did not plan to come in for this and since you have given it to me I am going to take it. My interest is a swimming pool and a multi-sports complex for Stafford. I am in the process of looking for designs and things of this nature, I will be looking for fundraising, I am looking for land, I am looking for everything that we can have a location where we can do any kind of sports that we want, not only outdoors but indoors. And I need about $100,000 from each one of you. Okay, I was just kidding. But I am doing that and there is going to be more to come and I figure this would be a good opportunity to just say it is in the process and you guys will be seeing more of me about this. Thank you very much.

Mr. Fields: Thank you. Anybody else? We will close the public presentations which brings us to our items for public hearing. Our first item is an Amendment to the Subdivision Ordinance, Amendment to Section 22-143, Shape, Elongations and Buildable Area of the Subdivision Ordinance.

PUBLIC HEARINGS:

1. Amendment to Subdivision Ordinance - Amendment to Section 22-143, Shape, Elongations and Buildable Area, of the Subdivision Ordinance, pursuant to O09-07. The amendment repeals Section 22-143(c) of the Ordinance pertaining to the arrangement, design and shape of lots within proposed subdivisions and requiring a lot to have a minimum contiguous building area equal to 10,000 square feet exclusive of any and all identifiable floodplains, wetlands, slopes equal to or greater than twenty-five (25) percent, critical resource protection area buffers, setbacks, and primary and reserve drainfields. It is the intent of the Board of Supervisors to remove this requirement from the Subdivision Ordinance and provide for a minimum contiguous building area in the Zoning Ordinance.

2. Amendment to Zoning Ordinance - Amendment to Section 28-38, Performance Regulations, of the Zoning Ordinance, pursuant to O09-09. The ordinance amends Section 28-38 of the Zoning Ordinance to require all proposed lots for single-family detached residential dwellings that are equal to or greater than one acre and zoned A-1, Agricultural, or A-2, Rural Residential to contain a minimum contiguous building area equal to ten thousand (10,000) square feet of the lot area. Such area shall be calculated exclusive of any and all identifiable floodplains, wetlands, slopes equal to or greater than twenty-five (25) percent (ratio of vertical distance to horizontal distance) as measured along a horizontal distance of twenty-five (25) feet, critical resource protection area buffers (CRPA), setbacks, and primary and reserve drainfields. The primary residential dwelling shall be constructed within this contiguous buildable area.

Mr. Harvey: Mr. Chairman, please recognize Amber Forestier for the presentation.

Mrs. Forestier: I believe because the two items were related we would cover them one after the other.

Mr. Fields: Absolutely, that is fine.

Mrs. Forestier: Items number 1 and number 2, O09-07 and O09-09, Amendments to the Subdivision Ordinance and the Zoning Ordinance. O09-07 repeals Ordinance O08-75 approved on October 7, 2008, which created Section 22-143(c), Buildable Area, of the Subdivision Ordinance. Ordinance O08-75 currently requires subdivision lots equal to or greater than one acre in size to have a minimum contiguous buildable area of 10,000 square feet. This buildable area shall be land exclusive of floodplains, wetlands, slopes equal to or greater than 25 percent, CRPA buffers, that would be Resource Protection Area buffers, setbacks, and primary and reserve drainfields. O08-75 was found to have not been adopted pursuant to proper public hearing procedures. The buildable area provision had previously been removed from Ordinance O08-38 and a new public hearing was not conducted. In addition, the County Attorney's office has determined that the buildable area requirements are better suited for inclusion in the zoning ordinance, rather than in the subdivision ordinance as originally adopted. Proposed amendment O09-07 was referred by the Board of Supervisors in Resolution R09-52 at its January 22, 2009 meeting. Proposed Ordinance O09-09 would add buildable area requirements in Section 28-38, Performance Regulations, of the Zoning Ordinance. Proposed Section 28-38(l), Minimum Contiguous Buildable Lot Area would require all lots for single-family detached residential dwellings zoned A-1 or A-2 and of one acre or more in size shall have a contiguous buildable area of at least 10,000 square feet, exclusive of floodplains, wetlands, slopes equal to or greater than 25 percent as measured along a horizontal distance of 25 feet, CRPA buffers, setbacks and primary and reserve drainfields. Primary residential dwellings shall be constructed within the contiguous buildable area. What properties will be affected by this amendment? This does not affect vested subdivision plans or platted lots in existence prior to the effective date of the ordinance, or plans pending approval, unless the plan fails to receive agent approval within 365 days of the effective date of the ordinance. The minimum 10,000 square feet would encompass approximately 23 percent of a one acre lot and the minimum 10,000 square foot would encompass approximately 7.6 percent of a three acre lot, leaving the majority of the lot available for any kind of setbacks and drainfields. The main differences between the two ordinances are that Ordinance O09-09 amends Section 28-38 of the Zoning Ordinance. It adds that buildable area provisions will apply only to lots zoned in A-1 and A-2 districts of one acre or more, it further defines a 25 percent slope and it requires that the primary residential dwelling be constructed within the contiguous buildable area. Staff recommends approval of proposed Ordinance O09-07 and staff believes that it is important to remedy the procedural defect that occurred when Ordinance O08-75 was adopted. Staff also recommends approval of proposed Ordinance O09-09. Are there any questions?

Mr. Fields: Are there any questions to Mrs. Forestier from the Planning Commission?

Mr. Rhodes: Is there any estimation as to what percentage… I am trying to figure out the impact of the 10,000 square foot buildable area. And so is there any assessment as to what percentage of the property or of the undeveloped properties right now that are out there in A-1 and A-2 for the rural residential fall into the categories that cannot be included into the 10,000 square foot buildable area. Or some type of an assessment as to the impacts and implications on properties or based on each of the properties that we have right now with property owners that are undeveloped or percentage of property that impacts or precludes to get a contiguous 10,000 square foot buildable area.

Mrs. Forestier: I do not believe that there have been any all inclusive studies but I do know that my colleague and I had gone over a few plans today looking at what possible effects this would have had on already approved plans in the A-1 and A-2 and I believe it would have minor effects on the A-2 moreso than the A-1.

Mr. Rhodes: From the GIS information or others, on those that are undeveloped right now without plans, we do not have some type of an assessment or sampling to get an assessment?

Mrs. Forestier: No sir, I do not believe that that study was done.

Mr. Rhodes: Thank you.

Mr. Fields: Any other questions for clarification from staff?

Ms. Kirkman: I just wanted to clarify, just to be consistent, if you could go back to which properties this covers.

Mrs. Forestier: A-1 and A-2?

Ms. Kirkman: No, your slide. I just want to make sure we make this clear prior to the public hearing that the intent is "plans that fail to receive Planning Commission or agent approval" because it would be Planning Commission in the case of preliminaries.

Mrs. Forestier: Okay. That was not in the original (inaudible).

Ms. Kirkman: So I just wanted to make sure that was clear prior to the public hearing.

Mr. Nugent: Mr. Chairman, if I may, I was looking at that also and would have a recommendation for the Commission if the Commission is so inclined. With regard to the applicability clauses, it is clear that this would apply to applications for the subdivision of land submitted for approval after the effective date of the ordinance. And the second one says also the applications that are pending approval but fail to receive agent approval. I am not sure that squares with the intent of the Commission when this was proposed originally because with regard to agent approval, that would only apply to final plats and minor subdivisions because that is where the agent's authority is for approval. And that restriction would be, I think, unfair and unreasonable for developers because it would be difficult for them to comply within the 365 days. But pursuant to Ms. Kirkman's suggestion, if we include Planning Commission approval in that clause, it would be much more reasonable for developers in their ability to comply and certainly more compatible with the Commission's original intent. So, my recommendation is that the language should read in clause 2 at the bottom "pending approval, but fail to receive Planning

Commission approval or agent approval within 365 days of the effective date of this ordinance". That is the extent of my recommendation. Thank you.

Mr. Fields: Are there any questions for the County Attorney regarding that recommendation? Is that clear to all the Commissioners? Mr. Howard, did you have a question?

Mr. Howard: I did. Could you just refresh my memory? I thought one of the original intents of this ordinance was to prevent odd-shaped lots which allowed, I guess, developers…

Mrs. Forestier: I believe it was a part of the original ordinance that was put through was a number of different things, shape, elongations and …

Mr. Howard: Right, but I thought we had an illustration. There was a visual illustration involved in this as an example at that time. Is that right?

Mrs. Forestier: I do not remember there being one.

Mr. Howard: So, was part of the purpose of this ordinance to prevent developers from being able to put primary and/or reserve drainfields in an area that would impact someone else's property? Is that your recollection?

Mrs. Forestier: For this section of the ordinance, I do not believe so. For the 10,000 buildable square feet I think it was just more of an interest in having the buildings placed on the land that was more suited to it.

Mr. Howard: So, your recollection is that it involved more of the slope, the 25 percent versus the 15 percent slope that we had in the original ordinance.

Mrs. Forestier: From the meetings that I was at, I was not involved in the original ordinance but from the meetings that I was at I believe so.

Mr. Howard: I think Mr. Rhodes asked the question about the potential impact and you looked at some plans that were already in the process on A-1 and A-2.

Mrs. Forestier: That have already been approved.

Mr. Howard: Right, and you said there would be minimal impacts.

Mrs. Forestier: Minimal impacts from what we could see but we do not have access to the 25 percent slopes in a sense because that is something we would ask for them to show on a plan so we had to kind of guess when we looked at the plans.

Mr. Howard: Right, so if there is minimal impact from your perspective as staff of the county, why would this ordinance be in the best interest of the citizens of the county?

Mrs. Forestier: In the sense that this is just to give us the minimum buildable area. It does not mean, from the way I stated it, it does not mean that they would not have to move a house location that they were proposing or something to that effect. It is just that the lots themselves were large enough to encompass a 10,000 square foot area.

Mr. Howard: Okay, thank you.

Mr. Fields: All right, any other questions for clarification? All right, if that is the case then Mr. County Attorney, do we need to make a motion to adopt that change in the language before we open the public hearing?

Mr. Nugent: That should be done after the public hearing Mr. Chairman, yes.

Mr. Fields: Thank you. With that, we will open the public hearing. As before, you need to state your name and address for the record. You have three minutes to speak and, as most of you know, many of you have been here before, in a public hearing we are receiving comments. There is not a dialogue. If you ask a question and we do not answer, it is not because we are not being respectful or responsive, that is just the process. We do not engage in a dialogue with people presenting. We listen to all the comments. All the comments will raise a number of questions and a number of thoughts and we will endeavor to do our very best with staff's assistance to answer any questions raised during the public hearings. At that point, when we close the public hearings, then the Commission will try to answer any of your questions and move forward. But, at this point, we will open the public hearing.

Ms. Kirkman: Excuse me, Mr. Chair? Could I just clarify the public hearing is going to be on… is it going to be on both ordinances?

Mr. Fields: The public hearing is going to be on both items because they are connected to each other. Yes, they are the connected items for public hearing.

Mr. Nugent: Mr. Chairman? The hearings for each have to be separate.

Mr. Fields: They have to be separate?

Mr. Nugent: Yes.

Mr. Fields: Because sometimes we have done them collective. I thought we have done collective issues before. So you want to open the public hearing on the first one.

Mr. Nugent: Yes.

Mr. Fields: Specifically as to repeal Section 22, the previous ordinance, right?

Mr. Nugent: Yes.

Mr. Fields: Okay, I am just making sure I have got that right so everybody understands it. Public hearing number one is to repeal the existing ordinance regarding the lot shape. So, with that, I will open that public hearing. Does anyone wish to speak? I hope that is not too confusing. If you wish to speak just come forward. You do not have to raise your hand. Just come forward. If there is a lot of you, it helps sometime just to have a line of people.

Otha Combest: It is not ever clear to me what the problem is and how this fixes the problem. In other words, both of these things, I sit here and listen to the comments, it is not clear to me what problem this thing is fixing. The first one is eliminating what had been there before in the amendment, so it is doing away with that so the second one can be inserted. But it does not say what the root problem is and it does not say how does this fix the root problem. So, I guess my question would be, if you want to talk

about it later, is what problem does this fix? What are we really addressing here? And I see that and everything I come up here. I wish that, when I used to go to meetings and stuff, that they would always say here is the problem and here is how we are going to fix it. I do not know what the problem is that we are fixing. We are changing some wording but what really are we fixing? Am I making sense here? Do you all understand what I am saying? That is it, thank you.

Mr. Fields: Thank you sir. Again, we will answer questions after the public hearings.

Dr. H. L. Barner: My concerns are similar the gentleman who just left. I currently live in a residential community and now my family and I plan to move into a piece of property that was zoned A-2 and I am not really familiar with the language. It is not clear to me exactly what the impact is going to be on me. I have enough property to build another home later down the road if I choose to and I guess I want to know would this impact my decision in the future to build another home on that same lot which is already perked and would there be any tax implications from this new ordinance. And any other type of impact on my property or anyone else on the street. They are the things I am concerned with. Thank you.

Mr. Fields: Thank you sir. Anybody else? Again, this is addressing the repeal of the existing ordinance. The next public hearing will address the implementation of it which I know is a little confusing, but it is a procedural issue that we are doing. Anybody else wish to speak? All right, I will close this public hearing. Now we will move on to the second public hearing which is to amend the Zoning Ordinance which the previous issue is to… Do we need to officially act on this public hearing now before we move to the next public hearing since they are so closely connected? I will take your advice on this.

Mr. Nugent: You could do it either way. Since the hearing on the first is already concluded, you could do that now or you could wait until after the hearing on the second.

Mr. Fields: I just as soon wait until we finish with all the public hearings if that is all right with the Commission. So, now we tend to implement this, basically what you saw which is the 10,000 minimum square foot buildable area as an amendment to the Zoning Ordinance. So with that, we will open the public hearing on that issue. Does anyone wish to speak for or against? On proposed Ordinance O09-09.

John Harris: It is good to see some of you again and thank you for letting us come by and talk to you tonight about this important issue. The ordinance, as it currently stands, with the subdivision ordinance I do not support. The revocation of the adoption of the Zoning Ordinance I do not support. I believe that Mr. Rhodes raised a relevant question as to what the impact and the assessment this would be countywide. We need some additional study and research to look into this. I believe the Commissioner of Revenue's Office, with an economic impact and with our GIS capabilities would be able to provide specific information and percentages as to how this would affect us countywide. In the agricultural community, I will tell you that it is not the desire of many to sell their property. But it is very important that they have the economic leverage to borrow money to continue their pursuits. The absence of information will have a dramatic effect on those who hold large parcels and I argue to you tonight that this is, in fact, a form of down-zoning and reduction of density, which is very important in the leverage of property. So, if it is the intent to maintain and promote open space and green space, this is not the way. I ask that you involve the two parties concerned, Commissioner of Revenue and the GIS office, and do further study before you pass this resolution. Thank you for your time.

Mr. Fields: Thank you Mr. Harris. Mr. Harris served the Hartwood District on the Planning Commission. It was good to see you. Anybody else wish to speak?

Bettina McWhirt: I really endorse the comments by my neighbor, Mr. Harris. I would also like to echo the concerns by Mr. Rhodes that were discussed regarding what is the positive benefits of this, and also some of the comments that Mr. Howard had made regarding how is this going to be impacted, what is the study of it. I really think this is a down-zoning and, do not forget, over the last several years the numerous proposed changes to the Zoning Ordinances, Critical Resource Overlay Districts and slopes have had a significant negative impact on the county because it prompted the selling and early development of large land tracts which is the very thing you say you are trying to avoid. In my opinion, this new proposed ordinance will again also backfire by creating another wave of land selling and premature development. And do not make the mistake again or have the unintended consequences of wastefully spending county money by having to defend against the lawsuits that this unjust ordinance will bring on if it is approved. Most importantly, I feel this ordinance is a violation of property rights because it unfairly takes away more of the land from the owner, it renders a section of their land useless and there is no compensation. The landowners have paid property taxes based on the prime developmental potential for years but this ordinance does nothing to compensate the landowner for the greatly diminished value and use of the land nor does it offer reparation for taxes that have been paid on the property. This ordinance offers the landowner nothing to compensate for the loss of the use of the land and the value of their investment. You should consider that if a landowner in the land use program has to pay back five years of real estate taxes when the land is sold, the same should hold true for this county if this proposal is adopted and the land is devalued. The county should have to compensate the landowners for five years of back real estate taxes of the devalued land to cover the diminished land value. I have not heard the staff mention in their briefing if they have coordinated the effects of the diminished land value with the Commissioner of Revenue nor have I heard how the Commissioner of Revenue will require the county's Assessor to greatly lower the land value of the properties that are affected by this ordinance. The county cannot have it both ways. You cannot approve this ordinance and still place a high real estate assessment on a property. This ordinance I feel causes something very serious, the erosion of landowners' property rights in America. As a landowner it is more and more dictated to what they can and cannot do on their land. Its victims are usually hard-working long-time county residents. That is what is going on with this proposed ordinance. The Planning Commission should target all county residents for slow growth and environmental protection measures and just not the remaining landowners. Thank you.

Mr. Fields: Thank you Mrs. McWhirt. Is there anybody else that would like to speak?

Otha Combest: I would like to just agree with this lady here. I do not know how to say all that stuff but I agree with what she said. Developers do not care whatever they do with land. Land is only valuable as what you can do with it. So a developer that comes in and tries to buy land, he does not care how much you devalue it. All he is going to do is try to turn around and say that is what the value is, that is the only thing I can do with it. So the only thing that any of these plans I see affect are the property owners. That is not going to stop a builder. It may stop him from putting a house on a particular piece of property but he is just going to build a house somewhere else. This does not affect builders, it affects property owners. And that is the only people it affects. Thank you.

Mr. Fields: Thank you sir. Is there anyone else that would like to speak?

George McWhirt: I do not approve of this ordinance and I would like for some of you people that moved in here to hop over on the other side of the fence and join some of us that have lived here a long time and then think about this thing again. Thank you.

Mr. Fields: Thank you sir. Anyone else that wishes to speak?

Dr. H. L. Barner: Now I have a little bit more insight to what this is all about. I agree with the lady that read the document and I support what they are saying. I have been in Stafford now for over twenty years, I served as the Transportation Safety Commission for Garrisonville, very active in the community with sports and the things of this nature. My family and I decided we are going to live here for long term, this is going to be our final home and we bought the property so that we can have a piece of estate property and build another home later for family members if they choose to do so. If this impact is what they say it is going to be, I am not happy with that and I hope that you do take all those kinds of things into consideration because there are a lot of people here in Stafford that own land and they like to pass it on from generation to generation. And even that if some point in time they choose to sell, they should be able to get that true value of what that land means to the property owners or to ourselves. Thank you.

Mr. Fields: Anyone else that wishes to speak?

Alaric R. MacGregor, III: I do not think a lot of people realize what the slope thing has already done to us. In my opinion, I do not even understand a whole lot about what this is. I am not sure anybody in here does. We did not get much of an explanation. I just feel like the noose is getting tightened a little bit more around my throat. Really, I think to be merciful, you might as well just condemn the land and take it. At least then we would not have to continue to pay property taxes on it. But as Bettina has said, we have been paying property taxes on it and, in my opinion, it is taking away the property rights from people. I do not even know whether we can even do a family division anymore with the slope stuff, I have never seen anything said that we could do that which would extremely constrict us on what we can do with our property. There is not many places in Stafford County that that slope does not affect. If you think about it very few places, and there are a lot of people that do not know that. A lot of people in this county do not know that. If they did, I think they would be down here hollering about it. And I think it is just trying to stop development and to me it is wrong to do that to the people that own the property and half have tried to make a living on it and may have to sell it. Most of the people that still have property in Stafford County do not want to sell it, that is why they still have it. They have had plenty of opportunity to sell it. And yet now you are just trying to choke us out. And that are my thoughts. I am against it.

Mr. Fields: Thank you sir. Is there anyone else that would like to speak?

Jerry Moore: I guess what I am trying to figure out is, like some of the people have indicated, is really what does this do. I think where I am headed with my property is it will become ag in the truest sense because you are taking it out of the Utility Service Area so (1) it will not have utilities and be rezoned and developed and you have imposed certain things already with the overlays and 25 percent slope and whatnot which probably will reduce the density pretty significantly. The lady from the staff said they reviewed some plans that had minimal impact on A-1, or minimal on A-2 and more significant on A-1, but I think you said you had not looked at any plans that had 25 percent slope overlays.

Mr. Fields: Sir, you have to address the Commission. (inaudible) So put your questions out there and we will answer them.

Mr. Moore: If that is the case, that would be my question, why has the staff not looked at any plans that have the 25 percent steep slope overlay on them with the RPA setbacks and everything else to determine what the impact of this truly is. I have some property that does have 25 percent slope on it and when you overlay that and the RPA setback and everything else, and then you say you have to have a 10,000 square foot contiguous pad, I know that I will lose density off my piece of property. What I am

probably going to wind up doing is just being an old farmer on my property. That means you have got to clear-cut timber, that means you have got to haul off the stumps and that means you have got to find something that makes economic sense. And a pig farm might make economic sense and if that is where you folks want to go, where you are putting more nitrates and other dangerous chemicals and things like that into the water system because you want to get two lots off of my property, then maybe that is where I need to go. If that is where we are headed, fine. But ask the lady, if you do not mind, whether or not they looked at a single plan that had the new 25 percent steep slope overlay and the wetlands overlay on it before they made the comment. Thank you.

Mr. Fields: Thank you sir. Would anybody else like to address the Planning Commission on the issue? This is your last chance. With that, I will close the public hearing and I will bring this back to the Commission. First of all, Mr. Harvey and staff, would you like to take a stab at answering some of the questions raised?

Mr. Harvey: Yes Mr. Chairman. I will refer to Mrs. Forestier to give you further clarification on plans she reviewed today.

Mrs. Forestier: The plans that we looked specifically at today were plans that were already approved. We have been reviewing plans for this buildable area that are in the pipeline and we have seen the plans with the 25 percent slopes on them. I think what we were referring to earlier was actually seeing a larger section of the county with the slopes and trying to see what the affect would be on a larger scale. From all the plans that I have reviewed so far, we have not lost a lot.

Mr. Fields: Okay. There were some other questions. There were questions regarding Commissioner of the Revenue and some of those things. Does anybody have a response to that?

Mr. Harvey: We have not spoken to the Commissioner of the Revenue about potential impacts to this project. Typically the Commissioner of the Revenue's comments on these types of zoning matters is we cannot give you a firm answer until after it has gone into effect to see if it has affected assessments and valuations.

Mr. Fields: Okay. Were there any other questions from the community that need to be addressed? Anybody remember things or write things down that we have not covered that staff needs to answer?

Ms. Kirkman: I had a follow-up question for staff, once we get there.

Mr. Fields: Okay, once we get there we will go back to follow-up questions before we have a motion. Is there anything else from the community that we took notes on? I want to make sure we have things squared away.

Mrs. Carlone: One of the gentlemen mentioned could you please give a reason, we know why, but could you please explain the why of this. Why it was necessitated because of the unfortunate inability to put garages in.

Mrs. Forestier: I believe one of the main reasons was given at the original hearings for the buildable area ordinance and it was also the lot lines and the shapes and elongations, I believe, at the same time, was to allow property owners an area where they could expand if they wanted to put a shed or expand their house or driveway or for a playground or whatever it might be.

Mrs. Carlone: Do we still have… is it available Jamie showing the lot lines?

Mr. Fields: Mrs. Carlone, just a second. I want to make sure we have got all the questions for staff and then we will get back to Commissioner questions. I understand where you are going, I just want to be really sure. If we feel that we have answered all of the publics' questions then Mrs. Carlone then Ms. Kirkman have questions for staff.

Mrs. Carlone: I was just wondering if we still had that diagram showing the irregular lot lines.

Mrs. Forestier: I looked through and tried to find some of the previous staff presentations and I could not find one for that one. Do you know where it might be?

Mrs. Carlone: I think it was on the original.

Ms. Kirkman: Although the first time this ordinance went through it did have language about lot lines. This ordinance does not so we are not considering anything about lot lines tonight. I do not know if that will help my colleague.

Mr. Fields: That part of the ordinance has remained in effect. So we are just talking about the minimum buildable area. Ms. Kirkman, you had a question for staff?

Ms. Kirkman: Yes. You said you had yet to lose a lot based on the buildable area, the requirements. Is that because this is primarily about where you locate the building area rather than the lot size? And related to that is we are asking for 10,000 square feet. How many square feet are there in a 3-acre lot?

Mrs. Forestier: 130,680 on a 3-acre lot.

Ms. Kirkman: So, on a 3-acre lot we are asking what percentage of the lot to be actually buildable?

Mrs. Forestier: Approximately 7.68 percent.

Ms. Kirkman: So, we are asking that somewhere between 7 and 8 percent of a 3-acre lot be buildable.

Mrs. Forestier: Yes.

Ms. Kirkman: Okay. Thank you.

Mr. Fields: Any other questions for staff?

Mr. Howard: Does that include the 25 percent slopes on the property? That calculation, 7.6 percent? To the best of your knowledge, you may not have that.

Mrs. Forestier: I am sorry, I do not understand.

Mr. Howard: You are saying 7.6 percent of the 3 acres would be the 10,000 square foot. If there are 25 percent slopes on the property thus reducing the buildable area and/or the amount of acreage available, how does that impact that 7.6 percent?

Mr. Rhodes: Or maybe stated, if I might Mr. Howard, maybe stated differently, out of our land to be developed in the A-1 and the A-3, what percentage of that land is floodplains, wetlands, slopes equal to or greater than 25 percent as measured along the horizontal distance of 25 feet, Critical Resource Protection Area buffers, setbacks and primary reserve drainfields in an estimation, leaving what amount.

So, if we have 10,000 acres that are out there but 9,000 of it falls in this percentage, we are down to only 10 percent of lots that are probably even available. So, again going back to some degree of depth in the assessment I think would be beneficial. Do we have any indication as to how much land falls in those other categories?

Mrs. Forestier: I believe we do have that information when we were doing the studies for the Potomac River Overlay District, for at least that section of the county. I could get that for you.

Mr. Rhodes: That might be helpful.

Mrs. Forestier: I do have that in my file. I do think, at least, the steep slopes portion of it will have a bigger effect to the east of 95 than to the west obviously.

Mr. Fields: Are there any other questions for clarification from staff? Hearing none, is there a motion?

Mr. Mitchell: I was sitting here just playing with some numbers while I was listening to my colleagues talking and I just did a quick tiny calculation. If you took a house that was 60 foot long and 30 foot wide, and that is I am guessing about what my house may be, I have not looked at my plans in years, but if you took a 60 by 30 house, that would be 1,800 square feet. So, what is being proposed here is 10,000 square feet. So, like my house, I am only taking up less than 2,000 square feet. I guess I could build five houses if you look at the footprint?

Mrs. Forestier: I believe the intent was to include the areas for the driveways and the garages and for a shed and for a flat back yard that many people want.

Mr. Mitchell: Okay, but if I double that, if I doubled my house which is a 3 bedroom, 2 bath, 2 car garage, it is probably average for my subdivision, but if I doubled that it would still be less than 4,000 square feet. If I just used the driveway calculation and used a back yard calculation, I really do not understand why such a massive amount of square feet is needed. And can you tell me how you came up with it or was it suggested by…

Mrs. Forestier: I was actually not involved in the original ordinance that was written, I was just asked to present (inaudible).

Mr. Fields: We are at the point here, I understand what you are saying Mr. Mitchell, I think we are at the point here where we need to get a motion so that I know we are all sort of ready to start into discussion of this but we wanted to make sure we had questions first. So, do we have a motion at this point?

Mr. Rhodes: Item 1 first?

Mr. Fields: Item 1 first, repeal of the first ordinance. Is there a motion for repeal?

Ms. Kirkman: I will make a motion to recommend approval of Ordinance O09-07.

Mr. Fields: Is there a second?

Mr. Rhodes: Second.

Mr. Fields: Second by Mr. Rhodes. Any discussion on the repeal of O09-07?

Mr. Rhodes: Or the approval of O09-07.

Mr. Fields: Right, the approval of O09-07 repealing the previous, it is essentially a pro forma because it is flawed and we are going to have to do that. Any further 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, now the new ordinance O09-09. Do I hear a motion?

Ms. Kirkman: Mr. Chair, I will make a motion to recommend approval of Ordinance O09-09.

Mr. Fields: Is there a second?

Mr. Nugent: Mr. Chairman?

Ms. Kirkman: With the amendment to clause 2 so that it reads "but fail to receive Planning Commission approval or agent approval".

Mr. Fields: Is that correct Mr. County Attorney?

Mr. Nugent: Yes.

Mr. Fields: Okay. The motion is on the floor. Is there a second?

Mr. Di Peppe: Second.

Mrs. Carlone: Second.

Mr. Fields: Dead tie as far as I can tell with Mr. Di Peppe and Mrs. Carlone. The motion is now made and seconded, it is on the floor. Is there any discussion?

Ms. Kirkman: Mr. Chair? I made the motion to recommend approval because this really is about consumer protection. It is about ensuring that when somebody purchases a lot in the A-1 Agricultural areas, that at least 7 to 8 percent of that lot is buildable for their future uses. Having served on the Board of Zoning Appeals where we have had to grant variances and special exceptions because of problems with the train, I really do think there is a need for this and I think it is good consumer protection.

Mr. Rhodes: Mr. Chairman, I think that probably before we take action on this, I will vote not to support it. I would actually, at most, think that we need to set it aside to do further research on it before

we send it up to the Board of Supervisors. There is a significant amount of information that I think would be important for them to make an informed decision. Given that granted the protection of others' opportunities, I think they can make some of those decisions themselves. Not everybody necessarily is concerned about a flat yard and so forth. More importantly, I think it will be just intuitively it has to have an impact on the net capability and availability and I think that impact we should have some assessment of. We heard several people asking what does this do, what is the benefit, what is the impact, and those have been some of our questions as well. When you take out all those portions that need to be excluded from what can be measured from 10,000 square feet, or conversely if we were just to do an assessment of how many areas can you get actually 10,000 square feet buildable out of how many acres, I think that is critical information you should have before you do anything further on this action. So I cannot support it at this time.

Mr. Fields: All right, are there any other comments? Mr. Di Peppe?

Mr. Di Peppe: I am about to make a lot of you angry and I will apologize ahead of time. But I hope you will at least allow me a minute to speak. No matter what we do we gore someone's ox. No matter what we do we gore someone's ox and I would like to explain why I believe we are doing this correct. I would like to use Mr. Mitchell's analogy. I have got an 1,800 square foot footprint. Why do you want 10,000 feet? And I would ask is there anybody here that wants a yard only as big as the footprint of your house? If you were to buy a lot to build a house and then to find out that once you put that house on it, you might only have 4 or 5 or 10 feet or whatever around that house as you move out, how big of a yard, if your yard is only as big as your house it might limit you. Is it oppressive to say that, and most of you are dealing with A-1 where we are talking 3 acres now, 3 acres of land to ask that whoever buys it, and you know as well as I do, the developer buys it. And this is what we have seen here. The developer buys your land and he puts together four or five parcels and he puts together 100 acres. What he tries to do is get as many parcels as he possibly can because that is his profit margin, because if he can build 20 houses versus 15 he can make more money. And so he tries to get every single parcel he can. So when we get preliminary plans in here, what we found out is that the people that eventually build on that land or get those houses on that land, they do not get the peaceful… Remember those property rights you were talking about? They get excluded from it because of the way that they build those lots, they cannot. They do not have much room because there is so little buildable land, they put so many together and they put it together with steep slopes and with all of the Chesapeake Bay regulations and everything. We have seen many times where the lines go across the back of the house where there is not 10 feet behind the house for a yard. So, a person that comes out and says gosh I own this land and I want to live on it until I die but I might want to sell it for investment, I might want to retire or I might want to do this or that. And I understand that, I understand your right. But I want you to understand that we represent the entire community and we also represent the people that buy those lots. And all of a sudden they find out they cannot put a swingset, the driveway they wanted, or a garage, a deck, because the developer, once they bought it from you, put it in such a way that limited them to such an extent that it causes serious problems on this end. They go why do you do that? So all we are saying to you is, is it unreasonable if somebody buys a 3 acre lot that we insist that 7.6 percent of it be buildable. And I do not think that is unreasonable. I am sorry I am goring your ox, because I am. I am goring your ox but if we cannot give them 7.6 percent of 3 acres, excluding the… I know the slopes. Do you know what the Federal government defines a steep slope as? Fifteen percent. That is the Federal governments' definition, 15 percent. We are talking over 25. So, anyway, but the main thing is the reason I am voting for it is because I think whoever buys that land eventually out of 3 acres ought to have 7.6 percent to be able to build whatever they need other than the house so that they can have peaceful enjoyment of their property rights. Thank you.

Mr. Fields: Everybody in this room just be clear. I understand everybody's position and, believe me, I respect everybody's point of view and everybody's right to have it. I will remind you, we have had two public hearings so every person in this room has had six minutes to articulate their feelings one-on-one with the Planning Commission. So I will ask you that we cannot have a back-and-forth dialogue here. Thank you. Mr. Mitchell.

Mr. Mitchell: Mr. Chairman, I will make a substitute motion that we defer this for thirty days until we can come back with some more information, especially from the Commissioner of Revenue, in reference to the impact that this could have on a number of different lots.

Mr. Fields: Substitute motion on the floor to defer for thirty days.

Mr. Rhodes: Second.

Mr. Fields: Second by Mr. Rhodes. Is there discussion on the substitute motion?

Mr. Howard: I guess I will chime in at this point. I do question what we are solving for. I appreciate Mr. Di Peppe's comments. Living on 3 acres myself and having land and being able to pick the lot myself, I would prefer the county not really help me in that process as a citizen. I think that this is a downsizing. It is a downsizing that there is little known awareness of why this should occur. We do not know what really the benefits to the citizens of Stafford County will be with this. I agree with Mr. Rhodes, we probably need to do some more homework on this. The rationale that has been presented I do not know that we can validate that today or from prior meetings that we have had about this. I do not see evidence that this will protect the Critical Resource Protection areas, I do not see evidence that this is going to protect the floodplains, I do not see evidence that it makes the drainfields more effective or even safer for the environment, I do not see how we can validate the hypothesis that 10,000 square foot is the right number. Where did that come from? Where did the 10,000 square feet buildable area come from? What other counties have a similar ordinance like that? And what is the impact? We need to take a look at how many acres have 10,000 square foot buildable areas that are in the A-1 and A-2 zoning which I think Mr. Rhodes has brought up. I have seen no evidence that 10,000 square foot buildable area gets you an additional garage or gets you an additional shed. There is no evidence of that. There has been discussion about that, it has been all hypothesis. No one has been able to prove that out, no one has given examples. So, I am in full agreement to postponing this until we have more information.

Mr. Fields: Any other discussion? Yes sir, Mr. Rhodes.

Mr. Rhodes: I would just follow on, it is somewhat of a repeat but it will just take a moment. Just that the Board of Supervisors referred this to ask us to consider having the public hearing which is important. But I think it is incumbent upon us to make sure we make an informed decision and that we provide the appropriate information should we be referring something forward for the Board of Supervisors to make that informed decision and, therefore, I think it is absolutely critical that we get enough information. Hopefully that can be done in thirty days. I do not know, it just remains to be seen that we get the information by then. I think it is critical we make an informed decision.

Ms. Kirkman: I am going to oppose the substitute motion. A majority on the Board voted to send this to the Planning Commission. Clearly they felt it was ready to move forward. In addition, we have already gone through a public hearing process on a very similar ordinance, both here and at the Board of Supervisors, at which we trotted out Mr. Mayauskey and did several delays to get more information. So

I really feel that there has been a thorough venting of this issue and for that reason I am going to oppose any further delay and oppose the substitute motion.

Mr. Fields: Is there any other further discussion? All those in favor of the substitute motion to defer for thirty days signify by saying aye.

Mr. Rhodes: Yes.

Mr. Mitchell: Yes.

Mr. Howard: Yes.

Mr. Fields: All those opposed?

Mrs. Carlone: No.

Mr. Di Peppe: No.

Ms. Kirkman: No.

Mr. Fields: No. The motion fails 3 to 4. That leaves us with the original motion for passage of O09-09 recommendation. Despite some apparent confusion about the limits of the authority of the Planning Commission recently, what we are voting here, just to be sure everybody understands of course, the Planning Commission is advising the Board, we are recommending to the Board our opinion on this vis-à-vis the long-time future of land use of the county. Like I have said, I would like to emphasize I certainly heard… I know many of you, I have talked to many of you one-on-one about this and related issues over the years and I certainly respect everybody's opinion and their passion on it. I would like to add that my support of this ordinance, the minimum buildable area, grows out of at least approaching ten years now of looking at these problems and again I would like to emphasize the Planning Commissions' advisory recommendation is based on our charge which is to look at what we think is really a very long-term, best interest scenario based on planning incentives. The Board of Supervisors may look at things differently or they may not. But they take into account other factors that the Planning Commission does not. So I always like to categorize the vote of the Planning Commission in that context. We are here to advise and recommend to the Board on issues related to planning. I understand peoples' concern about revenue, both tax liabilities and future developmental income from selling on a speculative basis. I understand peoples' concerns and I do not mean to say that I am not sympathetic to the nature of those concerns when I say that I do not know that, over the years, I have seen that there is a really very accurate and measurable way of making some of those estimates. I think it is a frustrating aspect of the business but I am not sure that it is always practicable because particularly when you get into the specifics of slopes and RPAs and identifying drainfields you have to do a fairly specific amount of site work engineering to really know what you have got on a parcel of land. I would remind those who want to try to get some kind of all-encompassing sense of impact that that may be fairly conjectural at best. It is very difficult to do that without some very specific work. That is always the problem in making land use decisions no matter what side of the issue you are on. To look at it both ways, you could say that we do not know the true impacts of passing this ordinance and you could also say we do not know the true impacts of not passing this ordinance. I would certainly hate to have guessed 19 years ago what land values would be today based on trajectories of land values over the last 20 years. I think extrapolating potential values as always bears with it some risks and some uncertainty. So I would bear in mind that at least my vote is based on what I consider a very pragmatic need to have a reasonable buildable area on a fairly large parcel of land, fully understanding that I know what you are saying that 7.6 percent is

out of the gross area, not out of the net area. But I would also say that since the average platted lot, as it works out, when you do all of the engineering, etcetera, and find drainfields in Stafford is more like 4.3 acres than… When you want to start bringing reality into the number 7.6 you also have to look at the fact that the average lot is not usually 3 acres, it is usually larger than that too. So those are all factors into it. So, again, I will be supporting this. This is my recommendation to the Board of Supervisors that they consider this ordinance. Are there any other comments?

Mr. Mitchell: I really feel that because staff has not presented enough information to me personally that would give us a better idea how this would affect a number of properties. And, no offense because I enjoyed your presentation, but one of the things I think you said, we took a stab at it. I would rather be able to vote with a clear conscience not on taking a stab at it but actually having the concise information required to know how this will affect numerous properties. So I really feel that a thirty day delay would not be a travesty, it would not affect anything. And if you look around there are very few people beating our doors down to build houses here, there are very few people that can finance a house. I bring slugs home from D.C. every day and I have talked to a number of them who have tried to refinance their house. They are working people with two incomes and they are being turned down by their banks. Getting houses financed, getting land financed, is not an easy scenario in this tight market. So I am just saying thirty days, a little bit more information from our staff which I think would benefit everyone's decision. I cannot support this amendment. Thank you Mr. Chairman.

Mr. Rhodes: Mr. Chairman, I appreciate the indulgence. We could go forever trying to request information, there is no doubt about that. And you cannot get everything you would ever want to, you cannot get it in detail, it is impossible. Staff could spend forever trying to accomplish those things. I do recall when Mr. Mayauskey was here last time. Basically he said when it is done I will tell you what I did, but I am not going to give you an assessment out of there. So I know that is probably not somewhere we are going to be very successful with. But the fact is, we could have some basic information. We do not even have basic information to provide an informed decision, or an informed recommendation, up to the Board of Supervisors. We do not have the basic information as to the percentage of the A-1, A-2, undeveloped that are 25 percent slopes. And I think we can get that estimation. We do not have the basic percentage as to how much of that property is CRPA. There are some of these things we can get. Yet we cannot get the too finite, we cannot find out what everything is going to perk and exactly where drainfields may or may not be and those things, but there is a degree of information we can get. And I think that basic information is just a basic requirement of us making a recommendation forward and giving some basis of information to the public as to how we came about that. So, from that I know we voted on the substitute motion so it is already done. But I would implore my peers here to consider withdrawing the motion and going back to holding this for a little further information before we make a recommendation forward. Thank you.

Mr. Di Peppe: In thirty days you will not have any more information than you do right now because we have already had Scott here before talking about this issue. So if you go to him and ask, he is going to tell you the same thing. I believe the question that is on the table is, and as Mr. Fields said, often times you do not build on 3. The actual figure is, even if you are in an area in A-1 and it says you can build a house on every 3 acres, the truth is it works out because of existing conditions that you end up it being the average is I believe 4.3. So then you find out that we are asking even less than 7 percent be buildable of the lot. And the question is, is that reasonable. And yes, this is going to affect some people on lot yield. I would remind you here in Stafford County, a high growth area, that we have three to five times the density in our A's that other high-growth localities have. Three to five times higher density than what most do, so yes, a lot could be shaved off, two lots might be shaved off in a large development, that is true. But we have three to five times the density already. So my overwhelming thought is, is it reasonable to ask the development community, and that is who we deal with in the end,

that when they finally buy this land and they finally plot it out and they bring in these subdivisions, excuse me not plot it out, that we ask them that whoever is going to build the house on this property have 7 percent, it is probably more like 5 percent, of the entire place that is flat and buildable so they can not only build their house but have enough yard and have a driveway and have a swingset, have a deck and have a garage and have a shed and have a garden, and I do not think five, let us just take the high number, 7.6 is unreasonable. And that is where I am saying we are unreasonable if we do not allow that final consumer who buys and lives on that land to have 7.6 percent usable out of 3 acres, that is not outrageous, that is not unreasonable, that is protecting the average consumer. It is protecting your child and your grandchild who buys that land and out of 3 acres they ought to be able to have 7 percent usable. I think that is reasonable and we can study it, all the economic implications forever and that is why I am going to support it. I apologize to all of you, I apologize that it is going to affect you but my thing is the greater good.

Mr. Howard: Mr. Chair, just two things to think about for my colleagues. I think we have had lots of discussion as Ms. Kirkman has pointed out but I wonder what the impact is to walk-out basements, as an example, with an ordinance like this. Do they go away all of a sudden on these types of property? And the second thing, when Scott Mayauskey did attend and speak, while he was non-committal to a certain extent he did indicate it is going to absolutely reduce the tax revenue collected on these properties in the future. So that was clear, it was in the notes although we, as a Planning Commission, indicated something different at one point and so we brought him in, he made that very clear. So I just wanted to remind everyone of that.

Mr. Fields: Okay. Any other comments? Any discussion? All right. All those in favor of the motion signify by saying aye.

Mrs. Carlone: Yes.

Mr. Di Peppe: Yes.

Ms. Kirkman: Yes.

Mr. Fields: Yes. Opposed?

Mr. Rhodes: No.

Mr. Mitchell: No.

Mr. Howard: No.

Mr. Fields: Okay, the motion passes 4 to 3. Thank you all very much for participating in this evening's process. We will take about a five minute break to let people clear out and then we will go with whatever else we have left.

UNFINISHED BUSINESS:

3. 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, 2009 Work Session) (Deferred at March 4, 2009 Work Session to April 1, 2009 Work Session)**

4. 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, 2009 Work Session) (Deferred at March 4, 2009 Work Session to April 1, 2009 Work Session)**

NEW BUSINESS

5. Virginia Department of Transportation (VDOT) Secondary System Six-Year Improvement Program (SSYP) for FY2010-FY2015

PLANNING DIRECTOR'S REPORT

Mr. Fields: Back to order. We have no new business. We deferred the Secondary Six-Year Improvement Program to the next meeting, so we are at the Planning Director's report.

Mr. Harvey: Mr. Chairman, at the Board meeting yesterday, the Board voted to vacate the Hills of Aquia subdivision plat open space restrictions for parcel F. Some of you may recall that in the deliberations about the rezoning application for that particular piece of property. The Board also held a public hearing on the rezoning and deferred action. Actually they continued the public hearing until a later date. Since the time the Planning Commission has held its public hearing, the developers had a number of meetings with the community and have made some adjustments to the proffers dealing with additional use restrictions, traffic calming and signage within the neighborhood, but there was still community concern expressed last night. The Board left the public hearing open so the developer can continue to work with the neighbors to try to ameliorate some of their concerns. The Board also referred the propane distribution ordinance back to the Planning Commission. Following our procedural process where the Commission refers items to the Board and says we think this is a good idea to hold a public hearing and the Board agrees and refers it back. So this is back to you all for scheduling a public hearing now.

Ms. Kirkman: Excuse me, could I just clarify Jeff? But that does mean now we have a time limit every time it gets sent down to us, unlike when we use to think we could, when we thought we could initiate ordinances and we could work on them as long as we wanted, right? Because our statute says there is ninety days.

Mr. Harvey: Correct. So, if the Chairman is okay, we will schedule that for the next available meeting (inaudible).

Mr. Fields: Let us move that forward since we have a time limit on that now.

Mr. Harvey: Also, to let the Commission know, for your next meeting we have two public hearings we are looking at scheduling. The CUP for the SPCA is proposed on Andrew Chapel Road. That was an

application initiated by the Board. And also there is a request for a Comp Plan Review for a neighborhood sewer project. And that concludes my report.

Ms. Kirkman: Who is the applicant on the subdivision?

Mr. Harvey: The proposal is from the Utilities Department for a neighborhood project to extend a low pressure sewer line to two homes. It has to go through a Comp Plan Compliance Review because it is a public facility and it is currently outside the Urban Service Area.

Mr. Fields: Is it two existing homes that are currently on well and septic?

Mr. Harvey: Yes.

Mr. Fields: Are they on pump and haul?

Mr. Harvey: One is on pump and haul but it is not county pump and haul. And there is long story to it and we can get to that at the public hearing.

Mr. Fields: Where are these?

Mr. Harvey: On Courthouse Road West.

Mr. Fields: I am sure there is an interesting story to that.

Ms. Kirkman: And when that is brought to us if we could get the information on whether or not those lots have been evaluated for suitability for the new on-sight disposal systems, the newer technologies.

Mr. Harvey: Yes, we will get that information from Utilities.

Ms. Kirkman: Okay, thank you.

Mrs. Carlone: This SPCA, this kennel, is this the one that was the former nursing home property?

Mr. Harvey: Yes. One more thing, Mr. Chairman. You probably noticed in your minutes tonight that you see numbers along the margin. That is something staff has proposed doing to ease the review so if the Commission had concerns about an item on the minutes you could say refer to line such and such. That, I think, helps. Also, staff has a proposal, and we wanted to get the Commission's feedback, is to change how we format the minutes. Presently right now we do summary minutes and we try to lump the discussion by paragraphs or topics but, I know in the past it has become cumbersome or problematic because there has been some debate as to whether we are capturing all the discussion. So staff has a proposal that we consider making the minutes look more like a transcript of basically saying Mr. Di Peppe and then what Mr. Di Peppe said, and Mr. Fields and what Mr. Fields said, rather than trying to contextualize the discussion.

Mr. Fields: Yes, a transcript or a very rambling screenplay.

Mr. Harvey: There are pluses and minuses to it. The plus side for staff is we can do the minutes much quicker that way because it is easier to transcribe them. We are not trying to interpret what is being said, we are actually putting down what is being said with the exceptions of ummms and ahhhhs and those types of things that we all say when we are speaking. Also, it does give a more accurate reflection of

what is said. Some of the downsides are that it does not summarize what the gist of the background is so if you are reading it in the future you may not understand all the contextual discussion of the particular issue.

Mr. Fields: Commissioners, any thoughts on that?

Ms. Kirkman: Well, I am concerned about anything that is going to lengthen how long it is going to take to get the minutes. We are five months behind and not making a lot of headway in catching up. So I am concerned about that and actually, if there is any discussion about altering how we do the minutes, what I would like us to see is if there is a format where actually we could put less in the minutes so that we can get them done in a more timely basis. I know it is important to convey what the reasoning of the Commission is and I have seen some bodies where what they do is they summarize the presentation by staff then they do the motion and then each member of the body clearly states why they are supporting or opposing the motion and then that sort of gets the thinking on the record but does it in a much more condensed format. I just say that because we are often in a situation where drafts of the minutes go to the Board before they have even been looked at by the Commission because of the delays. I would rather see less more timely than more and more delays. So I am not sure.

Mr. Harvey: Mr. Chairman, if we went with this new way, and I will provide copies of examples for you for your next meeting, it would save substantial time with staff preparing the minutes because it is easier to transcribe what is being said rather than listening to it, trying to understand it, then summarize.

Mr. Fields: Sure.

Mr. Di Peppe: This is a legal question. Would it be better for us though to have verbatim minutes because we have ended up in court.

Mr. Nugent: Verbatim minutes are always the better policy.

Mr. Di Peppe: Also, especially if it is easier for staff and it is better because we occasionally get brought in there. That would be my concern. I understand exactly what Ms. Kirkman is saying…

Mr. Nugent: From a legal perspective, we would prefer precise minutes.

Mr. Mitchell: Mr. Chairman? I too would prefer the verbatim minutes. I know they are more lengthy and more time consuming to put them together and get them to us, however, in many cases it explains how we came to some decisions, how we discussed them pro and con, and if we consolidate them all into one paragraph I think you lose a lot of the context.

Mr. Fields: I did like Ms. Kirkman's suggestion of the idea where everybody sort of, at some point we do sort of, I do not want to put people on the spot but at some point we do kind of articulate points of view. I think maybe if we could all keep this in the back of our minds. I am not trying to restrict anybody, obviously anybody can make a discussion item any way they choose to do so. I am not trying to be unreasonable. I just might suggest that all of us as Commissioners might think that, particularly if we are going to go to verbatim minutes, my concern is always that our dialogue, pros and cons in as much depth as possible, is clearly understood by the Board of Supervisors when they look at the minutes. Our audience is several but our ultimate audience is the Board of Supervisors when we are making a recommendation that they understand because, I certainly know that I did and I am sure Mr. Mitchell did too, rely heavily on the knowledge that we take the time to debate these issues in a way that the Board does not have time to debate always. Maybe wee can think about making sure that we clearly

articulate certain positions. I like that suggestion so that verbatim minutes pretty instantly and logically reflect what the thinking of the Commission was and I think that is good. So maybe next time you can do that for the next set of minutes, we can take a look at it and see how it works.

Mr. Harvey: Yes, we will provide you with some examples.

Mr. Fields: If we do not like it we can do something else, we can give it a try. Are we all for giving it a try?

Mrs. Carlone: Could I make my comment? I do like this numbering system. It saves time rather than counting down and that is good. And I hope if that they are verbatim that if I slip with a word that is not acceptable it will not be put down.

Mr. Fields: So, Stacie, it is clear they have to be verbatim but not *really* verbatim. Just kind of like soften the focus a little bit and a little airbrushing so we all come off looking a little bit better than what we are.

Mr. Di Peppe: But no matter what happens we are going to blame you.

Mr. Fields: All right, any other comments? Mr. County Attorney, do you have anything?

COUNTY ATTORNEY'S REPORT

Mr. Nugent: Nothing at this time other than to tell you that I expect that you will have the electronic sign ordinance very shortly and work has begun already on the time limits for preliminary plans. That one needs a significant amount of work and we are moving, as far as we know from Ms. Roberts, with regard to the considerations for the rewrite of the subdivision ordinance. So, we are on top of it as much as we can be within the time limits we have available.

Mr. Fields: All right, Mr. Secretary?

SECRETARY'S REPORT

Mr. Mitchell: Mr. Chairman, my report for tonight is that I do not have a report for tonight.

Mr. Di Peppe: Do we need to move something for public hearing?

Mr. Fields: We do not need a motion for public hearing tonight on anything.

Mr. Harvey: Mr. Chairman, actually in your work session you discussed possibly scheduling a public hearing for April 15 for the SSYP but you also asked that it be brought back to your next meeting for a more detailed document for you to take a look at.

Mr. Fields: Do we need to make the motion though tonight to get it for the April 15th?

Mr. Harvey: Yes.

Mr. Fields: Okay, so we do need to make that motion.

Ms. Kirkman: I will make a motion that the Planning Commission hold a public hearing on the 15th regarding the SSYP.

Mr. Rhodes: Second.

Mr. Fields: Second by Mr. Rhodes. Moved by Ms. Kirkman. 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.

COMMITTEE REPORTS

Mr. Fields: Are there any committee reports that need to be heard? I think I mentioned before, Mr. Rhodes and I will be meeting next week's Transportation Committee working on the Corridor Plans. Ms. Kirkman and I are scheduled April 2nd I believe to be our liaison on the cluster ordinance. Are there any other subcommittee? We will hear next meeting.

CHAIRMAN'S REPORT

Mr. Fields: Chairman's report. Nothing other than I did attend the two days of CPEAV in Richmond. Not to put the County Attorney on the spot, but one of the things that was mentioned in the dialogue with Sharon Pandak who was there presenting and discussing with Mike Chandler, I thought was interesting because we have been seeing a lot about a course on these challenges. An intense amount of energy revolve all around the advertisement and the process of the advertisement and the planning and legal professionals there seem to feel that part of that is being complicated by what they perceive as an inconsistent and constantly moving bar from the judiciary as to what constitutes a complete or adequate advertisement. I think Loudoun or some county that literally essentially published its entire subdivision ordinance or zoning ordinance, but in other words, literally twenty pages of its ordinance as the advertisement for a meeting to make sure that the complete context, that anybody reading because the judges keep coming back no matter what apparently is done the judges keep coming back and go well I read this ad and I did not know about this, I could not imagine that this little tiny thing was going to be discussed and so, is your experience, I know you are rather new to Virginia, or Mrs. Roberts, is your experience been that you feel there is, I do not want you to feel I put you in a difficult position, are you experiencing somewhat of a nebulous judicial standard that makes this a little more difficult than it should be?

Mrs. Roberts: Absolutely. And also a problem we have had is obviously our ordinances. We amend them as we go and everything needs to be done in the ninth hour to get it out. (inaudible).

Mr. Fields: I just thought I would bring that to the Commissioners' attention. I am not trying necessarily make a point, I just thought it was a very saline point because Stafford is right in the middle of a large number of those and I just want the dialogue to be as informed as possible so we do not think maybe certain things are true.

Mr. Rhodes: Were you wanting to make sure for the record the fact that our counsel does not like the judiciary, is that what it is?

Mr. Fields: That is what I was trying to avoid. I am just saying that some people seem to think we have some issues.

Mr. Nugent: Mr. Chairman, on that subject, the case you are referring to is the requirement in law in the circumstances that involve that case was that you provide a descriptive summary and since that was the complete rendition of the ordinance itself the court felt that that did not constitute a summary as the law required. In other cases, the legal obligation is a descriptive notice and in those cases, one case in particular I know the governing body decided to advertise and they put in about 75 percent verbatim of the ordinance that was proposed. The Court said that was insufficient because they could have either given a descriptive notice, whatever that means, or they could have published the entire ordinance and that would have been sufficient. So it depends on what the standard is and it is a moving target. You just never know where the Court is going to come down on because these cases are so fact-intensive and fact-specific, one little fact could skew the entire equation.

Mr. Fields: It makes it very difficult for us to get it right, doesn't it?

Mr. Nugent: It does. Even for lawyers.

Mr. Fields: Well, particularly since the opposite side has essentially infinite time and money to spend litigating this stuff. But I also want to put that out there because I think, and again I am not trying to start a debate, but I think this whole issue of advertising and legal challenges, it is complex and I think we need to make sure we understand all sides of that. Any other business to come before the Planning Commission?

Ms. Kirkman: Was there something we were going to hear from Attorney Roberts, Mr. Chair? Were we going to hear from Attorney Roberts tonight?

Mr. Fields: I do not believe so.

Ms. Kirkman: I just wondered since we had your name tag up here tonight and we all moved, I did not know.

Mr. Di Peppe: I think we should make her sit up here. Since her name tag is up here she should have to sit up here.

Ms. Kirkman: Just so I know where to sit next time, are we going to be back to our normal seating order next time?

Mr. Rhodes: I am just going to look for my name plate.

Ms. Kirkman: Are we?

Mr. Fields: Are we generally going to do that or does it matter?

Mr. Nugent: I guess it is going to depend on the agenda.

Ms. Kirkman: That is why I just wanted to check and see if there is a reason we needed to hear from her.

Mr. Fields: Okay. We have minutes.

Mr. Howard: Nothing to do with the seating arrangements. How long does the county keep the electronic record of these meetings? I am not sure who can answer that. And I just want to know. What is the length of time that the county maintains the electronic record of the Planning Commission meetings? If you do not know, that is okay. We can find out next time. I just really wanted to know the answer.

Mr. Harvey: It has only been a few years since we started recording the meetings on television. We have all those that have been recorded on TV. Some of them are VHS, the more modern ones are on a disk. The old cassette tapes, I think it is five years we keep those. I forget the specific. The State Virginia Administrative Code specifies time limits for certain documents. Tapes, if I remember right, are not, after the minutes have been officially adopted by the Commission, the tapes are no longer necessary. We have had to jettison some of the old cassette tapes. I am not sure how far back we go currently.

Mr. Howard: That is why I was asking the question. When we start to think about the minutes of the meeting, how does the electronic back-up if you will factor into that. Thank you.

OTHER BUSINESS

APPROVAL OF MINUTES

October 1, 2008 Regular Meeting

Mr. Fields: Speaking of the minutes, we do have the October 1 meeting minutes before us. Ms. Kirkman, you had a change to line 1320 something?

Ms. Kirkman: These are all kind of technical but I think I heard from my colleagues they want to hear each and every one of them.

Mr. Fields: If they substantially change the meaning.

Ms. Kirkman: Okay. So, page 27 of 38, line 1320, it currently reads “obligated to the extent that there was funding”. It actually should read “obligated to the extent that there was no funding”. There should be a “no” inserted before “funding”.
Mr. Howard: What line is that again?

Mr. Fields: 1320.

Mr. Howard: Thank you.

Ms. Kirkman: And I am only doing the ones where it changes the meaning.

Mr. Fields: Thank you.

Ms. Kirkman: Page 34 of 38, line 1696, I think this is one of the contextualizing summarizing pieces and when I went back to the tape probably what is a more accurate reflection is "Ms. Kirkman stated there were parts of 49-27 that were nowhere near the parcel being subdivided and would need to see the disposition on those". Page 35 of 38, line 1719, it should be 45 vehicles per day not 4,500. Those are the only changes that change the meaning.

Mr. Fields: Okay. Any other corrections, additions, deletions?

Mr. Mitchell: Motion for approval.

Mr. Fields: Moved for approval by Mr. Mitchell.

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe. Any further discussion? All those in favor of approving the minutes as corrected please 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. And I believe that concludes are business tonight. Thank you all very much, we will see you in two weeks.

ADJOURNMENT

With no further business the meeting was adjourned at 9:05 p.m.

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Peter Fields, Chairman
Planning Commission