

STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
April 15, 2009

The work session of the Stafford County Planning Commission of Wednesday, April 15, 2009, was called to order at 5:36 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

Members Absent: Rhodes

Staff Present: Harvey, Nugent, Roberts, Stinnette, Zuraf, Stepowany and Schultis

3. Declarations of Disqualification

None

4. Review of Proposed Ordinances

- a. Elimination of the Preliminary Subdivision Plan Process (**Deferred to April 15, 2009**)

Mr. Fields: Do we have any further discussion on the elimination of the preliminary subdivision plan process?

Mr. Schultis: Mr. Chairman and members of the Commission, on April 1, when we talked about this, we covered a memo I submitted to you for that meeting detailing the current process and a proposed process that may work with State Regulations. I think the Commission indicated that they wanted to marinate on the proposal for a while and I am awaiting direction from the Commission as to what to do next.

Mr. Fields: Okay, do we have any questions for staff or any comments at this point? Where do we want to go?

Ms. Kirkman: I am still sorting out materials.

Mr. Di Peppe: As I have said all the way through the process, I understand exactly the motivation behind it, and agree with it, but I see the same problem that we have had trying to find a model and to actually accomplish it. I think the attempt is noble, good and right.

Mr. Schultis: The model I put together for the Commission last time, I am curious to take for a test drive through the legal side of it.

Mr. Di Peppe: I am sure we will if we go forward with it.

Ms. Kirkman: Have you met with the attorneys on the model that you put together?

Mr. Schultis: No, I have not. I was waiting for the Commission to give me a green light on the model, or if there are any changes you would like me to make before I started down that path.

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Mr. Fields: We do not have the model in our packets, so I am trying to get that in front of me real quick.

Mrs. Carlone: Same here.

Ms. Kirkman: It is in the packet from the meeting before.

Mr. Fields: From April 1, it is in the work session packet from April 1. Is that correct?

Mr. Schultis: Yes.

Mr. Fields: Okay, so does everybody have that from last time? Does anyone need to see it?

Mr. Schultis: I have one extra copy if necessary.

Mr. Fields: I have a copy here.

Ms. Kirkman: Do you have an extra copy?

Mr. Fields: Yes.

Mrs. Carlone: Jonathon, from the last presentation, were there any other changes that staff was proposing or had looked at to reconsider?

Mr. Schultis: No Ma'am.

Mr. Fields: So if we gave you the green light on what we have here from the work session, that is what you would take to the legal staff to have them take a look at it.

Mr. Schultis: Yes, Sir. The legal staff among the other review agencies to put it together.

Mr. Fields: We have had the preliminary, because we have had the different departments in here. The process itself, to some degree, has been vetted for practicality through the different departments.

Mr. Schultis: It would not be the first time they had seen it. It would be taking this model and putting together more of the inter-working parts to it.

Mr. Fields: Sure, but this model, though it may have adjustments and refinements, but we have been through it. It seems to my recollection, we have been talking to enough people now that we do not think there would be some type of major unforeseen road block at this point. I do not want to say never, anything is possible, but in the big picture the proposed residential site-plan process seems to be a workable thing.

Mr. Schultis: I think we have definitely established the big picture side of it, as far as this is a way that it could work. The stated the devil will be in the details. There is going to be a lot of work going into this and kind of getting it to a polished off form.

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Mr. Fields: As I recall when we first started to look at this, the implementation process, if we were to decide to get all this review and we have a relatively workable process to actually implement eliminating the preliminary subdivision plan would be primarily, if my memory is serving me right, primarily actually repealing or removing a great deal of this the current code as opposed to an active ordinance eliminating the preliminary subdivision plan. It is actually removing things from the existing code. Do we still need an ordinance that removes the preliminary subdivision plan?

Mr. Schultis: As far as a specific ordinance that removes the preliminary plan, I do not think so. I think you are correct in stating there is a significant portion of the Subdivision Ordinance that would get removed. In addition, there are aspects of the Utilities Ordinance that would need to change. There are aspects of the Erosion and Sediment (E & S) and Stormwater Manual that would need to change. It may not need to change in its entire reconstruction, more or less just striking the references to the preliminary plan. Additionally there are certain aspects of the Zoning Ordinance and Subdivision Ordinance that would need to be altered to reflect this residential subdivision plan, it may be a little as just changing the terminology to going through the process specifically in the Zoning Ordinance and the Subdivision Ordinance where the construction plans are administrative for residential, that would be changed to Commission approval. There would be a lot of logistics to work out with the Ordinance and they would look different on a couple different spectrums.

Ms. Kirkman: Could you clarify what in the Zoning Ordinance would have to be changed, because the Construction Plans are in the Subdivision Ordinance.

Mr. Schultis: That is true, but if I remember from my research there are some smaller portions of the Zoning Ordinance that may need to change to reflect even just the terminology of removing the Construction plan. But I will double check that.

Ms. Kirkman: Well, Mr. Chair, what I would suggest is this seems to basically lay out the process. We need to get a legal opinion the issues that were raised around this kind of process and, if we get a go on that, then we need to have something in writing about what needs to be changed. But it does not make sense to work on the changes until we know we have got a legal go on this.

Mr. Fields: I think that is all they are asking for, if we have had a chance now to look at what they have presented and, if we are comfortable with having them take this concept and start to consult with legal, then we should direct them to do so at this point.

Mr. Schultis: Mr. Chairman, if I may submit to bring this back to the Commission the second meeting in May to give me adequate time to get with the attorneys and prepare you something that has some meat to it.

Mr. Fields: Okay, that is fine with me. Are we all okay with that?

The Commissioners agreed.

Mr. Fields: Very good. Okay.

Mr. Schultis: Thank you sir.

Mr. Fields: Thank you.

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

Mr. Fields: Okay, electronic signs, we are still waiting on County Attorney.

Mr. Di Peppe: Before we move off electronic signs, can we just see... do we have any...

Mr. Nugent: Mr. Chair, my revisions are complete, the matter is now back with Planning, we expect at the latest to have something before the Commission by the second meeting in May. That is the current plan. We still even have time beyond that.

Mr. Fields: Okay, very good. Thank you very much. That is good to hear. Jamie?

- c. Agricultural Districts Lot Yield (**Deferred to April 15, 2009 Work Session**)

Jamie Stepowany: Mr. Chairman, I am going to discuss the agricultural lot yield proposal and also the sliding scale proposal. A couple meetings ago, staff requested some information from Spotsylvania and Fauquier Counties. I got a preliminary listing from Spotsylvania County and it came out that the medium lot size was like 5.2 acres out of 4,000 and some unimproved properties. So, we discussed unimproved properties and what the State Code refers to as unimproved properties and asked them to go back and look at them. I have not gotten another response back. It sounded awful small for out of 4,000 properties that are subject to the 10 lot yield that the medium size would be 5 acres, because we are dealing with 5 acre and 10 acre zoning districts. He is going to recalculate the information and try to get more information and get back to me. I have not had a response back from them. I did notify Fauquier County again and asked them as to when they could provide that information. I have yet to get it back from the Planner in Fauquier County. The only other request that we had as of the time of the last meeting was are there any recommendations in the current Comp Plan pertaining to growth management and limiting the number of lots other than on an annual basis. And the response that I received from the Long Range Planning Office is there are no other goals or policies in the current Comp Plan that manages growth in that type of requirement. Only that one goal that we provided at the last meeting, that it managed growth on an annual basis. Those were primarily the only two goals we got. We did put out a list served to other jurisdictions, if they also limit the number of developments per year. We have gotten a couple responses of some that just limit the number of lots they can have regardless if it is one year or how many years, but those are the only other requests that we were given that we have not really gotten any response on. And just similar to what Mr. Schultis was talking about, I think what they are pointing out is what direction do you want staff to go with this?

Mr. Fields: On the limiting per year, are you saying that on a given parcel they limit the number of subdivisions you can do per year? I do not mean the number of subdivisions, meaning subdivision plans, but the number of parcels that can be subdivided from a parent parcel.

Mr. Stepowany: That is correct. On a yearly basis, on an annual basis, because that is how the Comp Plan says you can do it. And that is what Mr. Harvey was talking about before, it was like through the minor subdivision you can have a minor subdivision on a yearly basis. You can come in and subdivide 5 lots out of your tract this year and then in a year you can come in and subdivide another 5 lots. That is how we view that goal on an annual basis. So we did do a list serve through all the other jurisdictions to find out if any other jurisdictions have such a regulation and we have not gotten any

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responses on an annual basis. Similar to Spotsylvania, we have some that just limit how many lots they can have, but nothing on an annual basis as of now. That is pretty much all we can update from what was given staff at the last meeting on this proposed ordinance.

Mr. Fields: Okay, are there any questions or comments or thoughts from the Commission? So do we still want to just sit here and wait for the info?

Ms. Kirkman: Actually, Mr. Chair, the original proposal that we began with was the 10 lot parameter and I would like us to go ahead... has legal reviewed this?

Mr. Stepowany: No they have not.

Ms. Kirkman: I would like, in the interim, for our County Attorney's office to review option 1 to make sure that would meet snuff.

Mr. Fields: Alright, does anybody object or concur?

Mrs. Carlone: I concur.

Mr. Fields: Alright, to at least take a look at the legal aspects of that. You are talking about the one which is 10 subdivisions of a property, of a parent parcel?

Ms. Kirkman: Yes.

Mr. Fields: Okay. Any other questions? And, of course, the information in that time... hopefully we will get some information back on those medium parcel sizes.

Mr. Stepowany: And again, I did ask them to (inaudible) because it did look awful small. Now you are saying no, Ms. Kirkman, but you do not think...

Ms. Kirkman: I do not think it is because probably what they are including is subdivided parent parcels that are... if they just did a strict count of what is 5 acres that would be...

Mr. Stepowany: But I am saying we are talking about zoning districts that are 5 acre and 10 acre minimum. So, to have a medium as 5 acres, even though you have some tracts that if they were to subdivide they would be 10 acre lots, it just seemed awful small. So, he is looking at the definition of unimproved land as it is defined in the State Code and he is going to have to figure out how to calculate it and he will get back to us.

Ms. Kirkman: Okay.

Mr. Fields: Since our average in 3 acre zoning is 4 ½ acres, give or take, right, it would seem odd that out of that many parcels you would get such a small number.

Mr. Stepowany: That is why I questioned... I did not want to have issues when I brought it back to you. And to your request and similar to Mr. Schultis' to allow the County Attorney's office at least the second meeting in May before we might have a response from County Attorney's office on this one also. And, realistically, to have it for the next meeting it has to be done by tomorrow.

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Mr. Fields: I understand. That just is not going to happen; not a problem. Thank you for all the energy on that.

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

Mr. Fields: Moving right along; awaiting revisions for time limits for plans. I assume, Mr. County Attorney, time limits for plans is moving right along okay?

Mr. Nugent: My initial revisions are complete, it is back with Planning. I expect some further input, another round of revisions, and then we can probably go from there.

Mr. Fields: Okay, very good.

Ms. Kirkman: I think we will have that back by the next meeting.

- g. Ordinance O07-71, Private Access Easements in Minor Subdivisions

Mr. Fields: Alright. Item g, Ordinance O07-71, Private Access Easements in Minor Subdivisions.

Mr. Harvey: Mr. Chairman, this is an item that, in conversation with the County Administrator's office, for some reason never made it onto the Commission's agenda and I apologize for that. It was an item that was taken up in December of 07 by the Board of Supervisors as a public hearing then deferred back to the Planning Commission. There was some direction to the Commission; I do not know what happened, whether it was the combination of the holidays or the new Commission or what, but it never made it onto the work session agenda. And, again, I apologize for that. Jamie can give you some more details about the background of the ordinance.

Mr. Stepowany: Thank you Mr. Chairman. For some background, the proposed Ordinance would limit only one PAE in a minor subdivision. Currently a PAE can only serve two lots, including the lot it travels through. Adjoining lots are restricted from using a PAE and it requires a note on the final plat saying so. Prior to 12/13/05, a PAE could serve three lots, not including the lots it travelled through. So you could have had a five lot minor subdivision with the PAE going down the middle and that one PAE would serve all five lots, but it was called a PAE. On 12/13/05 it was called the Rural Additions Ordinance by the Board of Supervisor and that changed the definition of street, which means any means of access serving three or more lots. As part of that, all streets must be public except for family subdivisions and in the case of townhouses. It was asked to be made public to avoid the need for rural road funding. And what was happening was you can have a little private access road, a private access easement, ingress/egress easement, serving three or four lots and you ask VDOT to fund your road to get it improved to meet County standards and VDOT has found throughout the whole State that it is a very difficult task. So, to avoid having to spend money trying to upgrade private roads to meet VDOT standards, they have asked any means of access serving three or more lots has to be to

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VDOT standards and has to be a public road. Townhouse streets must still comply with VDOT standards even if they are private. And that caused a lot of changes in some townhouse developments. So, when you come into a townhouse, you can call them private streets but it is going to meet everything that VDOT wants. Again, in the event that they decide they want it to be public streets, it is an easy transformation that does not involve money from VDOT to convert it. Family subdivisions may continue to use ingress/egress easements, which are not PAEs, and there are no limits on the number of lots being served. As a matter of fact, family subdivisions are the only type of subdivisions that can be further subdivided from an existing private access easement, private easement, ingress/egress easement. Any other kind of subdivision off of a private access, that private access has to become public to further subdivide. A subdivision with a street is a major subdivision and requires preliminary subdivision plan approval, and what we have seen in the past, minor subdivisions may use two separate PAEs to avoid having two PAEs side by side which would serve four lots and would be a public street. For example, these are actual PAE applications that have been approved. This is a subdivision that has two lots in the back and three lots in the front. They wanted to have two PAEs side by side down the middle and it was determined that would serve four lots, so they did this lot with the PAE here and this lot with the PAE there. This subdivision, you can tell by here, again they wanted two PAEs going down between lot 4 and lot 1 and that would serve actually five lots, so instead they have this lot being served there and this lot being served there. And then this was a third minor subdivision that had a PAE. Again, he had just four lots, they wanted two PAEs going side by side along here, one to serve this lot and one to serve that lot. And another note that I said is a PAE can only serve two lots and any lots adjoining it is restricted and they have to have a note. So, if you have a PAE running down this lot, this lot cannot use it. And vice versa, and we said that is not reality. What they ended up doing is having a PAE over here and a PAE over here and it is those reasons why this ordinance was proposed. And I will be more than happy to answer any questions the Planning Commission may have.

Mr. Fields: Why wouldn't the minor subdivision simply create a public road if they have four lots?

Mr. Stepowany: Because then it becomes a major subdivision because it has a street and that has to go through the preliminary subdivision construction plan process.

Mr. Harvey: By definition, any subdivision that requires public improvements is a major subdivision and has to have a preliminary plan.

Mr. Fields: But that is different from, of course, a family subdivision.

Mr. Stepowany: That is correct. A family subdivision is not limited to how many lots on an ingress/egress easement or how many ingress/egress easements, so this would not limit further subdividing for a family subdivision.

Mr. Fields: Personally it has always been my concern that family subdivisions have fairly liberal use of PAEs to maintain an affordable approach to keeping families together on rural land. But a minor subdivision is just a small subdivision for profit. I mean, there is really no difference. So, I do not see the reason to facilitate... because PAEs, even if it is a family subdivision, even if they are all members at one point of the same family, I acknowledge that PAEs lead to a whole world of problems that are not necessarily easily solvable. Mostly the fact that the tie-in of the PAE to the VDOT road over time changes radically, of course, as the road gets repaved and resurfaced, when the PAE is not maintained properly. I have seen that all over the George Washington District. I am sure at one point the PAE

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and the VDOT road actually were level and then you get twenty years down the road and you have got a VDOT road with like this much pavement sloping down to a PAE that of course is not a road built up over time. But, with a family subdivision, to me, my personal view is live and let live. But I am not sure why we would want to facilitate their use in a minor subdivision, what advantage that would be to the County as a whole. It would be an advantage to the property owner but not to the County as a whole I think is my concern, unless someone can point out to me how that can help everybody. These PAEs are problematic. I had a horrible situation of one off of Caisson Road where the adjacent landowner was going to put a fence right on the line of the PAE so it would make it impossible to navigate the access to the other person's property. That did not seem at all fair.

Mrs. Carlone: We had discussed that before about the blocking and the trees, and it comes back to this again. And I really wonder, property changes hands in these family subdivisions and we have had problems in our area. I am just concerned about the number of people on a PAE for a family subdivision.

Mr. Stepowany: If I can, Mr. Chairman, from a staff standpoint, when we have gotten these applications for two PAEs side by side going back to serve the two lots in the back, in all three cases it was the same situation. And, again, you get two PAEs side by side, you are not going to be able to restrict this person from using this and this person from using this. So, all four lots will use that same road, that same travelway. And, because it is three or more lots using the same travelway, it would have to be a street. So, to avoid that requirement, they separate them. From a staff standpoint, from an emergency standpoint, there are issues now that they create an additional access onto the same street. Instead of just one access for four lots, which fire and everybody would support, now you have multiple accesses on the street, and that was the other concern that staff raised when this was first being presented.

Mr. Fields: The other way to do it would be to simply not allow PAEs on minor subdivisions.

Mr. Stepowany: Well, that is another option too. This would only allow one PAE, for that one lot. Because it can only go through one lot it basically becomes a long driveway. But the other option would be to not allow PAEs at all.

Mr. Fields: So the problem you are seeing now is by allowing more than one, you have this multiple PAE situation.

Mr. Stepowany: Correct.

Mr. Fields: So, if you allow one on a minor subdivision, then if they had four lots what would they do? Would they have to make a public street for three lots?

Mr. Stepowany: For these examples, they would all have to have public streets.

Mr. Fields: If you have a lot just by itself and you have a road to your house, from your house to the public street, is that considered a PAE or is it just a driveway? And what is the difference between a driveway and a PAE?

Mr. Stepowany: A PAE is an access easement that serves a lot that does not have frontage.

Mr. Fields: Okay.

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Mr. Stepowany: So that lot does not have frontage on the street so the PAE is an ingress/egress easement for the purpose of (inaudible).

Mr. Fields: So, if you have a lot that is on a public road and you have a driveway in it, that is not an access easement, that is simply a driveway.

Ms. Kirkman: That is a pipestem lot.

Mr. Fields: Yes, the easement part of it refers to the fact that you have a lot that, where you have to have an egress over somebody else's property, either adjacent to it or through it.

Mr. Stepowany: Yes, it is an ingress/egress easement but it is...

Ms. Kirkman: Excuse me Jamie. You keep using the term ingress/egress easement but, perhaps you can point out, I cannot find the definition anywhere in our Subdivision Ordinance that defines what an ingress/egress easement is. Or that this animal even exists under our Subdivision Ordinance.

Mr. Stepowany: Well, I meant to make copies. I do know, under Family Subdivision, it refers to it as an ingress/egress easement.

Ms. Kirkman: And can you tell me where that is defined?

Mr. Stepowany: I would have to see where it is defined. I know it is a standard legal term for a type of easement.

Ms. Kirkman: I raise that because this has actually come up in some of our other subdivision reviews and I think there are a lot of technical problems with how we are using terms in the Subdivision Ordinance regarding ingress/egress, private access easement, and there may be some other technical problems with this Ordinance. So, I feel like the first thing we need to do is have some consultation with the County Attorney's office on it.

Mr. Fields: Regarding the definitions of the different...

Ms. Kirkman: Well, yes, whether or not these changes can stand alone. There is also a potential procedural issue that I would want to discuss in closed session, not in public session.

Mr. Fields: A procedural issue regarding how we proceed on our analysis of this referral or how we would...

Ms. Kirkman: The process regarding the Ordinance and that is all I am going to say.

Mr. Fields: Well, I am just trying to get a handle on this.

Ms. Kirkman: Because of the potential for litigation.

Mr. Fields: Okay. Are there any other comments or questions for staff? So, how do we want to proceed? We cannot just go on without some direction from the Commission. Does anybody have a

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thought? Hope? Desire? Wish? Aspiration? No? Okay. Well, we will tell them that we just decided we did not have anything to say.

Ms. Kirkman: I would be glad to find the appropriate privileged communication form to express my concerns to the attorney.

Mr. Fields: Okay. So, Ms. Kirkman's response is that she does not really want to move forward with our discussion on this until we consult with the attorney.

Ms. Kirkman: That is correct.

Mr. Fields: Okay. I am assuming... County Attorney, is that okay with you?

Mr. Nugent: Yes.

Mr. Fields: Do we want to do that today? Are we prepared to do that today?

Ms. Kirkman: Yes, it is very easy (inaudible).

Mr. Fields: Do you want to give them two weeks to have a closed session so that they can research it and be prepared for potential questions?

Mr. Nugent: If there is litigation pending that addresses this particular issue or that involves this particular issue, I think closed session would be appropriate. If there is no specific litigation pending in which this issue is present, then closed session would not be appropriate and we can just discuss the matter as a matter of attorney-client communication.

Mr. Fields: Okay.

Ms. Kirkman: So, we will do that, the latter.

Mr. Fields: So, we want to move this, at least defer to the next work session?

Ms. Kirkman: Yes.

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

Mr. Stepowany: Excuse me, Mr. Chairman. Ms. Kirkman, would you like me to look at least in the State Code for a definition of ingress/egress easement?

Ms. Kirkman: It needs to be in our Subdivision Ordinance; if you could look through our Subdivision Ordinance.

Mr. Stepowany: Right, I have other sections where it refers to a travelway as an ingress/egress easement but it is not defined. Would you want staff to look into defining...

Ms. Kirkman: Let us hold off on that.

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Mr. Stepowany: Okay.

Mr. Fields: Under Family Subdivision, what is our required length of time you have to hold the property for a family subdivision?

Mr. Stepowany: They have to own it. As an immediate family, it has to be under the ownership of the immediate now for 15 years. And if it is conveyed to an immediate member of the family, that person must retain it... or it has to be retained in the immediate family for 15 years.

Mr. Fields: Okay. I remember we changed that. When I first started it was 5 years.

Mr. Stepowany: That was just changed last year.

Mr. Fields: It lead to a number of abuses.

Mr. Stepowany: And there was an ordinance on the ingress/egress easements and private access easements, they have to have an easement of at least 20 feet wide clear of any structures and vegetation. That was approved by the Board a couple years ago also. It was a 10 foot travelway and they made that the easement because there was nothing spelling out how wide the easement had to be.

Mr. Fields: And they were... unfortunately, even though the Code had changed, the plat was configured under the old standards. Yes, Mr. Di Peppe?

Mr. Di Peppe: Mr. Chairman, before we leave Ordinances, can we go back up for just a moment to the Reservoir Protection Overlay? It is in subcommittee; Mrs. Carlone is the Chairman of that. What else do we need to do before we bring that back? Do we need to get together one more time?

Mrs. Carlone: I am ready to go on it. They did change the wording about the mean water level. That was one of the changes, remember?

Mr. Di Peppe: I was just wondering if there was anything else. Jamie, is there anything else holding that up other then... I am not saying do it this work session but perhaps maybe the next.

Mr. Stepowany: Again, we have had a couple requests for additional information that we have not received yet.

Mr. Di Peppe: Do you think we can get that by...

Mr. Stepowany: One of them is doing the list of the land values, assessed values, through the Commissioner of the Revenue. We have notified them to contact other jurisdictions on the two questions dealing with the effect of properties.

Mr. Di Peppe: Where did that come from?

Mr. Stepowany: That was brought up at the last meeting. And then we asked for a revised list of permits that has been issued and that has not been received yet either.

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Mr. Di Peppe: I am just afraid that this is going to get bogged down in committee and go away forever.

Mrs. Roberts: Mr. Di Peppe, if I could, I think that just one more subcommittee would be in order. I have been reviewing it since the last and I do have some concerns I want to discuss with the other subcommittee members prior to bringing it to the full Commission.

Mr. Di Peppe: Can we talk about getting together the subcommittee?

Mrs. Roberts: Absolutely.

Ms. Kirkman: Can we bring it back to our next work session ready to go?

Mr. Di Peppe: Well, I think you want to meet with Ruth and I before then. I would be happy to... we can talk to Mrs. Carlone, of course, since it is her committee. Maybe a day next week perhaps or certainly the day before the next Planning Commission work session. Do we need to do that right now or do we want to talk about that...

Mrs. Carlone: I would like to go ahead and set a date; this has been held up almost three years now.

Mr. Di Peppe: That is why I brought it up tonight.

Mrs. Roberts: I will have someone email you tomorrow with some available dates for next week.

Mr. Di Peppe: Okay. I am good for almost any day but Monday.

Mr. Fields: But you guys are going to have this ready to go at the next work session? No matter what?

Mrs. Carlone: Yes, regardless.

Mr. Di Peppe: Thank you Mr. Chairman.

Mrs. Carlone: Excuse me. Jamie, there was something else on the Reservoir Overlay. It was the number of lots... was it the combination of lots owned by one person? I know there was about four or five issues. I just remembered that we did have a discussion the last time and there were several issues. It was the properties, the setback, and I think there was something else.

Mr. Di Peppe: I think we made a lot them go away.

Mrs. Carlone: We resolved them and then the last one that we actually had anything definitive was on the naming of the (inaudible).

Mr. Stepowany: We were also still waiting on, and again this was due to the County Attorney's office, one of the still outstanding questions that has not been able to be answered is the one regulation if you were in the buffer zone, which is the 200 feet, you cannot build any structures except for picnic tables and does that include houses and how does that affect vacant lots. And I believe that is one of the reasons why we still need to have the subcommittee discuss that and the other issues.

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Mrs. Carlone: Okay.

Mr. Fields: Alright, are we done with ordinances then?

5. Review of Pending Rezoning/Conditional Use Permits

- a. CUP2800697; Conditional Use Permit - Stafford SPCA - A request for a Conditional Use Permit to allow a use not listed within an A-1, Agricultural, Zoning District, specifically an animal shelter, consisting of 10.15 acres, located on the west side of Andrew Chapel Road approximately 2,800 feet south of Courthouse Road on Assessor's Parcel 39-102B within the Aquia Election District. **(Time Limit: June 30, 2009) (History - Deferred at April 1, 2009 Regular Meeting to June 3, 2009 Work Session)**

Mr. Fields: We have the CUP; it is deferred to June 3.

6. Review of Pending Subdivision Plans

None

7. Review of Proposed Comprehensive Plan Amendments

None

8. Other Unfinished Business

- a. COM2900048; Comprehensive Plan Compliance Review - Jackson/Lovitt Sanitary Sewer Extension - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for the extension of low pressure sewer outside of the Urban Services Area a length of 185 linear feet across Assessor's Parcel 28-122D to Assessor's Parcel 28-125, located on the south side of Courthouse Road approximately 2,000 feet east of Shelton Shop Road within the Rock Hill Election District. **(Time Limit: May 31, 2009) (History - Deferred at April 1, 2009 Regular Meeting to April 15, 2009 Work Session)**

Mr. Fields: That brings us to unfinished business and the Comprehensive Plan Compliance Review, the Jackson/Lovitt Sanitary Sewer Extension. We were provided a list of questions that were raised and answers to those questions and documents attempting to illustrate some of the answers and some of the issues related to that. Do you have a presentation?

Mike Zuraf: I can go through and summarize some of that if you would like.

Mr. Fields: Sure.

Mr. Zuraf: Also, just to refresh your memory, this is a request to determine a sewer line extension to serve Assessor's Parcel 28-125. It would be in compliance with the Comprehensive Plan. The public hearing for this case was conducted on April 1 and the item was deferred for additional information.

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The additional information has been provided to you and I will just quickly summarize the information provided. One of the first bits of information provided to you was your question as to when the house at 80 Courthouse Road was constructed. That was the smaller house and that was constructed in 1991. Also, the Planning Commission requested some additional background and if I can get the computer please I can illustrate some of the background of these properties. What I have before you on the screen is on November 28, 1990, a family subdivision plat was recorded which created parcel 125 where this is the property that 80 Courthouse Road is located at. The original property boundary was the longer rectangle shape in this family subdivision. They basically split the property in the middle and then they added in this extra 0.349 acres of land where the drain field was located for 80 Courthouse Road. So than the house was then constructed at 80 Courthouse Road in 1991 as I mentioned and then in 2004 a Boundary Line Adjustment (BLA) Plat was recorded. This conveyed that 0.349 acre piece of property in this location over to parcel 28-122D which was adjusted to follow the line that I am identifying.

Ms. Kirkman: It looks like that is where the drain field is located.

Mr. Zuraf: Yes.

Ms. Kirkman: There is an ingress/ egress access easement over the top of the drain field. Does that have something to do with why it failed?

Mr. Zuraf: That is the ingress/egress easement that goes back to 28-122B.

Ms. Kirkman: Is it standard construction to build road on top of drain fields.

Mr. Zuraf: I don't know if... I don't think it is and I am not certain of where the limits of the actual drainfield is located. It may not be in that location but as we mentioned...

Ms. Kirkman: But there are going to be pipes going through there.

Mr. Zuraf: Well, right, but that was the whole issue that brought this up. This actually is the location of the driveway for 90 Courthouse Road and yes the construction of 90 Courthouse Road as mentioned at the previous meeting damaged the pipes that were associated with this drain field.

Mr. Di Peppe: And that was to give this 90 Courthouse Road three (3) acres so that they could actually build the house. That was the rationale?

Mr. Zuraf: It did.

Mr. Fields: The drain field for parcel 125 was than on somebody else's property?

Mr. Zuraf: Well no, this property was part of 125.

Mr. Fields: Right, but than it was conveyed...

Mr. Zuraf: Than it was conveyed over and became part of 122D.

Mr. Fields: I thought we didn't allow drain fields to be on other property.

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Mr. Zuraf: We don't and what I mentioned last time was that the Boundary Line Adjustment plats at the time were not required to identify where drain fields were located. That was something that was not shown.

Mr. Fields: By virtue of the fact that it isn't shown, we allowed something to happen that is actually against our code to happen. I am not pointing fingers, I am just saying that if the drain field had been shown we would have never permitted the Boundary Line Adjustment.

Mr. Zuraf: No.

Mr. Di Peppe: So we need an ordinance?

Ms. Kirkman: The people who agreed to the Boundary Line Adjustment knew where there drain field was because they carved it out to begin with.

Mr. Fields: Maybe they didn't know that it was illegal to have a drain field on someone else's property. They may have been completely ignorant of the code, they may not have been but they could have been.

Mr. Zuraf: I can't speak for the property owners, whether they knew or not.

Mr. Di Peppe: This is a family subdivision?

Mr. Zuraf: No, this was a boundary line adjustment.

Mr. Di Peppe: I mean originally.

Mr. Zuraf: The original for 125 was part of a family subdivision.

Mr. Di Peppe: Are they still family members there or did they sell the property?

Mr. Zuraf: They sold the property to the Lovett's.

MR. Fields: That is a fifteen (15) year requirement.

Mr. Zuraf: One of the other questions that was raised at the meeting was if money changed hands when the Boundary Line Adjustment occurred. At the time of the memo, we did not know the answer but Mr. Allen with the Utilities Department did find out that no money changed hands when this adjustment occurred. The other requests were clarification of where the easements are located through both subject properties. Of course, on this plat you can see where that easement is located to go back to parcel 122B. It is in the exact location of where driveway and access is for 122D and the easement for 125 is adjacent to the easement on the other property and run back to the residual property and parcel to the south of 125. The other easement is basically adjacent in this location. One of the other requests of information or questions was: how long were the Lovett's at 90 Courthouse Road have been paying for pump and haul for 80 Courthouse Road. Basically, the damage occurred when the home of 90 Courthouse Road was being constructed in 2004. So, we are assuming that the Lovett's have been paying for the pump and haul since 2004. Another question that was raised was: who would be paying for pump and haul should the request not be approved. If that happens, the property owner,

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they can go and petition the Board to go onto subsidized pump and haul. If the Board actually approved that than the County would be paying for the pump and haul and if the Board does not approve that, it could continue as a non-subsidized pump and haul; at that point it would be a private matter between the property owners.

Mr. Di Peppe: I am trying to understand something, that 80 gives 90 there drain field so there is enough land for them to build a house and meet the three (3) acre requirement and that lands happens to be there drain field. I am assuming there was no other land and that was the only way they could do it.

Mr. Fields: I don't mean to interrupt, so the new house is 122, right?

Mr. Zuraf: Yes.

Mr. Fields: Okay, so if you look at this plat here and you look at where the house is, the house and the driveway sit right on top of what must have been that drain field.

Mr. Zuraf: Yes, I believe that the house is pretty much over that in looking at the aerial photos and where the house is.

Mr. Fields: Somebody had to know that the drain field was getting destroyed the minute they built that house. There is no way you could not know that when you started to build a driveway and excavate the foundation of a house. You did not suddenly go, oh my gosh, I wonder what these pipes are that smell funny? It is incomprehensible to me that it wasn't clearly known that the drain field was going to be destroyed the minute the house was built.

Mr. Di Peppe: And my problem is that people come to us to make them whole. Is there a possibility of an alternative system for the other house other than pump and haul.

Mr. Zuraf: Information the Utilities Department received from the Health Department, basically stated that it would be tough for that to happen because of the condition of the site. The soil is pretty low, high water table, RPA and my understanding is that it is not possible. Maybe Dale Allen can confirm that.

Mr. Di Peppe: And no money change hands? They just gave them their drain field for no money, just said I am going to cause myself a world of problems of 450 dollars a month unless somebody makes me haul and you could just have this land? That's the story.

Mr. Zuraf: What I have been told is no money change hands.

Mr. Kirkman: Looking at this map in front of us, I can't read the map number but the lot that is behind 80, who is that owned by?

Mr. Zuraf: Howard Harrison Estate, care of Helen Jackson.

Ms. Kirkman: And Helen Jackson is the owner of 80?

Mr. Zuraf: Yes.

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Ms. Kirkman: Has anybody done soils testing on that lot to see if that lot line could be vacated, create one lot and that is a suitable soil on site sewage disposal treatment site on that lot.

Mr. Zuraf: I don't know if soil studies have been done on the site.

Ms. Kirkman: It does seem that would be the next step because if there is a usable site there these people could solve this privately without involving...

Mr. Fields: Isn't there a giant RPA going between the two (2) properties?

Mr. Zuraf: There is.

Mr. Fields: If you look here, you have a huge RPA and it would probably be impractical to move, pump the sewage on site across the RPA. The question in my mind is... I hate seeing these kinds of things. I don't think this is completely and innocent mistake, again who are you punishing if you don't approve the sewer system, that is part of the problem. Are you punishing somebody that did something wrong here or are you punishing somebody that was caught in the process? Ultimately, this 125 is who gets punished if you don't give them a sewer. It is not up to us to punish people, we are here to make... As frustrating as this is, we are not attempting to redress what is at the end of the day a grievance between two (2) private owners.

Ms. Kirkman: Lets be clear, thank you for reminding me of the aerial photo in the packet, it is crystal clear that this wasn't a matter of they accidentally backed over an area that they didn't mean to go on. The only way to build this the way it is built is to build the road right on top of the drain field.

Mr. Zuraf: In the picture it looks like the driveways actually, where it curves, I am not certain of where the limits of the actual drain field were or how close it came to the property line. The exact drain field boundaries are not shown on the plat, that whole portion is identified, which might have been drawn to allow for the lines to run over to 80 Courthouse. It also does appear that the house may be on that drain field.

Mr. Di Peppe: I have a question for legal, would we not be capricious and arbitrary if we go through and do this and somebody else comes in with the exact same...because I think what it sets up, do you want water and sewer to set one of these things up and give your drain field away and then the county has to give it to you. If we give it to these people, we are setting ourselves up for capricious and arbitrary, and we have just given somebody a loop hole to get water and sewer outside of the Urban Service Area (USA).

Mr. Nugent: When a court analyzes that standard, generally speaking it is a very fact intensive or fact specific inquiry. If the second situation that comes before the Planning Commission is identical on its fact than a different ruling could be interpreted that way. The likelihood of the identical situation coming before the Planning Commission is something that your experience will tell you whether is possible or not.

Mr. Di Peppe: I am just saying that two (2) lots beside each other with a difficult drain field problem so that we have to... and also trying to make three (3) acres to make a lot size. Also, I am worried that we are setting up situation, if we approve this, somebody else could do exactly the same thing. Set it up on someone else's property, there is no drain field on their own property than wait a little while,

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vacate the line, give it away and build a road over top of it and destroy it, than come to us and say make it whole. My solution is, I really believe that it looks obvious that they knew exactly what they were doing. It looks like they would pay pump and haul, they created the problem, shouldn't be putting this burden on every tax payer in the county because they made these decisions. If you make these decisions, pay 450 dollars each and every month so you can flush your toilets. Otherwise, I think this is a terrible precedent.

Mr. Fields: I know what you are saying but the problem with that is that the owners of 122D seem to knowingly, it is possible that they knowingly did that, we are not a court of law and not doing a legal investigation. I want to temper some of these things. I understand what you are saying, it seems that a fairly irresponsible level of activity created this situation on the part of the new property owner or whoever they hired to do the work or is it who knows. That is the thing, we really don't know all the people involved. However, the bottom line is if we say you knew what you were doing and you have to pay the pump and haul, what would that do to the people on parcel 125 and the value of there property to be on pump and haul versus on sewer? And is it fair, because there will be a penalizing effect of forcing them to maintain on some size pump and haul and so the people that would be more accurately punished will be the people who live on 125, not the people who really created the problem. I am not sure that at the end of the day that we accomplished anything, as gratifying as it may seem to not cave into what seems to be a very unusual situation. Ultimately, the decision not to give low pressure sewer to 125 creates a far less re-sellable property. As a matter of fact, re-selling a property that is on a pump and haul agreement is extremely difficult because that agreement, that is not anything you can count on. Pump and haul is a policy that we have, not something you can count on. The negative impacts of that decision rests squarely on the shoulders of the people on parcel 125 and so if we recommend that we don't extend the sewer, they are the people that lose, unfortunately.

Mr. Di Peppe: I am not doing this as a punitive thing. I want to be clear, I am not saying lets punish the people. My question is, are we setting up a loop hole by which we would be capricious and arbitrary for someone to come in and do the exact same thing in a similar situation. They are trying to get two lots out of one, they have a drainfield on the one for a while, then they go oh, this next lot needs just that much land to have three acres, so we are going to give them our drainfield. Oh, low and behold I don't have a drainfield, then the county. And who is getting penalized, but every citizen in Stafford County who has to pay for running the sewer over there. It is not about penalizing these people, I am just concerned.

Mr. Fields: To be accurate, not to argue but to be accurate, every citizen in Stafford County does not have to pay.

Mr. Di Peppe: I stand corrected, but...

Mr. Fields: Those extensions, Mr. Allen correct me if I am wrong. This is a neighborhood project and there is a certain budget that is factored in to the annual utilities budget and there is a certain funding of that neighborhood project is factored into the rates and the availability fees.

Mr. Allen: Yes, that is correct. We collect five hundred dollars for availability fee that goes into a fund for extension projects, and that is what would fund this particular project.

Mr. Di Peppe: I am just worried about setting a precedent, not punishing these people, just worried setting up a precedent for a loop hole.

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Ms. Kirkman: Mr. Chair, One of the things that might be helpful, conceivable this all was just a big mix-up. I think it would be really helpful, I am assuming that both the property owners of 80 and 90 Courthouse Road want to see this happen. It might be helpful to actually have them come to a work session and tell us what actually happened, so we can understand the circumstances that lead to this.

Mr. Allen: They were certainly aware of tonight's activities.

Ms. Kirkman: Mr. Chair, could we formally request that they...

Mr. Fields: I guess we could ask them, we do not have subpoena powers.

Ms. Kirkman: I understand that. The BZA does though.

Mr. Field: Maybe you want to subpoena them in under the BZA, and we will show up and listen.

Ms. Kirkman: Could we ask them to come here to clear up what seems to be some misunderstandings about how all of this occurred.

Mr. Fields: That is fine with me, but what outcome would be different if we have them here?

Mr. Mitchell: I go back to what you said earlier. We are not an investigative body, this is not a Senate panel to question and answer. The bottom line of the whole situation, if this is not approved they will have the option to apply to the Board of Supervisors, who may be a little bit nicer than what our questioning is. If it is approved by the Board of Supervisors, the County is going to be paying. Maybe we can solve a problem and rectify a problem, but to ask these people to come in and put them on the witness stand and say hey why did this happen, how did this happen, why did you do so and so I think would counter what we are trying to do as a Planning Commission. Our issue is land use decisions. Our issue is not what happened in a particular instance.

Mr. Fields: Okay.

Mr. Di Peppe: In general, we are loathed to extend water and sewer out side of the Urban Service Area. We try hardly ever to do that, so I... Maybe there is something here that I am not understanding, and once I heard from them I might say I understand now and you were certainly put in a situation, through no fault of your own, and we need to help... I have as much compassion as the next person, but I am just worried.

Mr. Fields: I understand all the issues, and I understand Mr. Di Peppe your point. Your point is very well taken that you are concerned about setting up a precedent for gaming the system, so to speak.

Mr. Di Peppe: Not saying that they gamed the system.

Mr. Fields: Not saying that they gamed the system. I agree with your point that you are setting up a precedent where someone could see that, who does want to game the system. I have to say I understand where people are going, I am not in support of formally requesting these people to be here because we do not have subpoena authority. We are not going to swear these people in and they will not be under oath. I don't believe the Planning Commission has that realm of authority to interrogate people about an issue. This is a land use decision and decisions on property need to be made

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independently of the individuals that own the property. I think it is a very uncomfortable situation to put someone under, to have them stand before the Planning Commission with our legal counsel. If you are going to ask someone to stand in front of a body and answer questions, and we have legal counsel, they would be either, and I do not know if they have the means to afford their own legal counsel, but they would be ill advised to stand before us and answer their questions with out counsel. We have that advantage and that is a completely unfair advantage to ask someone to do that. I understand where you are going with it and I understand we want to get to the bottom of the problem. We can certainly vote on it and see where we come out, but I can not see getting people in here interrogating them.

Ms. Kirkman: I withdraw my suggestion. I only made it to try and make the process move forward. Assuming this was just and innocent mix up, and I think any number of members on the Planning Commission might feel more comfortable moving forward with this. If that does not suite the wishes of the Planning Commission, I withdraw my suggestion.

Mr. Fields: I understand that it was meant in a constructive way. I did not mean to sound heavy handed. My other concern, and this has nothing to do with these people, my experience on the Planning Commission and the Board of Supervisors, again if you are not subpoenaing people and they are not under oath, I have had people misrepresent their position to me with no indication what so ever that they are misrepresenting their position. And I have learned my lesson, so people can come in here and say anything.

Mr. Harvey: May I offer some refocus?

Mr. Fields: Yes sir.

Mr. Harvey: The comprehensive plan does allow extensions of neighborhood projects under two recommended conditions. One, that there is a documented risk to public health and two, that the applicability of pump and haul is financially excessive to the county rate payers. So, if the Commission is inclined to make a recommendation, those are the two things I think you would have to take a look at in your recommendation.

Mr. Fields: Essentially it is a comprehensive plan issue that we are being asked to take a look at.

Mr. Harvey: Yes.

Mr. Howard: I have some questions for Mr. Allen. I think they are similar to the questions I asked at the last meeting. What is the cost to the County to extend the sewer system to this home?

Mr. Allen: It is about two thousand dollars.

Mr. Howard: Two thousand dollars in total?

Mr. Allen: Yes.

Mr. Howard: What ongoing cost does the County incur once the extension is complete?

Mr. Allen: The cost to the County upon completion?

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Mr. Howard: Yes.

Mr. Allen: Well, it is a wash. The rates that they would pay, compensate the County for the cost the County would incur for providing them service.

Mr. Howard: I knew that, I just wanted to get that on record. That was my point for bringing it up last time. It is two thousand dollars. Mr. Zuraf, did the homeowner from either parcel indicate that they would pay the two thousand dollars to offset the cost? Was that even asked?

Mr. Allen: We would not ask. They would pay the normal availability fees for sewer, but the cost of construction comes out of a fund that we already have.

Mr. Howard: Which is what you explained earlier when you were asked that question?

Mr. Allen: Right, we would not be asking for an additional two thousand dollars.

Mr. Di Peppe: So their hook up charges would be what?

Mr. Allen: It is about two thousand one hundred dollars for construction cost and three thousand five hundred for availability and another forty dollars in miscellaneous fees.

Mr. Di Peppe: The homeowner would pay five thousand dollars.

Mr. Allen: Five thousand six hundred dollars, something like that.

Mr. Di Peppe: So if we provide it they would pay five thousand six hundred dollars?

Mr. Allen: It is the same amount that any other person would pay even if they were not involved in an extension project.

Mr. Fields: Because it is a neighborhood project, the homeowner is not paying it, the neighborhood project fund is paying.

Mr. Allen: That is the normal availability fee. They would pay the availability fee.

Mr. Fields: They are still paying the availability fee.

Mr. Allen: Yes.

Mr. Fields: So what is the twenty one hundred dollars you said was covered by the...

Mr. Allen: It is the construction charge. We charge separately for availability and construction. Construction charges are the cost to us to put in the sewer tap.

Mr. Di Peppe: So they would be paying.

Mr. Allen: They pay for that, but they do not pay for the extension.

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Mr. Howard: I asked the question, what was the cost to the County if we were to approve this? It is two thousand dollars cost to the County and the homeowner pays fifty six hundred for the hook up.

Mr. Nugent: I will ask you and you can ask the question if you choose. Is there an option for the newer homeowner, the one that caused the problem, to reimburse the fund for the twenty one hundred dollars?

Mr. Fields: Is that a possibility?

Mr. Allen: Well that would be a private matter between the two. We would charge the homeowner that is requesting the neighborhood project.

Mr. Fields: Which is parcel 125?

Mr. Allen: Which is parcel 125.

Mr. Howard: Mr. Allen, is the homeowner on 80 aware of the charges that they will incur should this be approved and in fact would have to agree to be hooked up?

Mr. Allen: Yes they are.

Mr. Fields: If they were approved for a subsidized pump and haul, the cost to them would be less.

Mr. Allen: No the cost would be the same. Subsidized pump and haul customers pay availability and connection charges the same as any other sewer customer. In addition they would have the cost of a two thousand gallon concrete tank.

Mr. Fields: They see that and financially they are prepared and understand how all that works.

Mr. Allen: Yes, they do.

Ms. Kirkman: I have a couple more questions for Mr. Zuraf or Mr. Allen. The staff report states the home was constructed in 2004. It is safe to assume the Lovitt's have been paying since this time. Can you please tell me why, five years later this is coming before us? What sparked the need five years later?

Mr. Zuraf: I would only assume the homeowner at 90, Mr. Lovitt, has been paying the pump and haul charges for so many years.

Ms. Kirkman: Why now?

Mr. Zuraf: I do not have the answer to that.

Mr. Di Peppe: He might be tired of paying.

Ms. Kirkman: Do you know, Mr. Allen?

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Mr. Allen: That is my supposition. They are tired of paying it. They know this extension program is available to them.

Ms. Kirkman: So there are no pending contracts on any of the properties that you are aware of.

Mr. Allen: Not that I am aware of.

Ms. Kirkman: Mr. Zuraf, in response to item 8, could you please explain the statement, the subdivision, this in reference to Kings Crossing, was not required to obtain comprehensive plan compliance review approval as the sewer lines was determined to be a feature shown on the comprehensive plan once the subdivision was approved. I am just not aware of any mechanism that allows amendments to the comprehensive plan through the subdivision process. Could you please explain what this statement means?

Mr. Zuraf: I may defer that to Mr. Harvey.

Mr. Harvey: When this issue came up we looked back and found that preliminary subdivision plan and we found out that there was not a comp plan compliance review approved for it. Prior to the subdivision plan being approved by the Planning Commission there was a sewer line running through a portion of the property. There was section in State Code that said, if the County approved the plan or rezoning or some other significant governmental act that shows public facilities on that plan, then in essence that is essentially like a feature shown in the comprehensive plan.

Ms. Kirkman: So, if I understand you correctly what happen was there was no compliance review done, but because the preliminary subdivision plan was approved, even though there was not an approved amendment to the comprehensive plan or a compliance review, it now defacto exists.

Mr. Harvey: Yes, for that subdivision.

Ms. Kirkman: So we had an illegal extension of water and sewer and now we have to live with it because the subdivision plan was approved.

Mr. Harvey: I would say it was not illegal. Based on the State Code it is legal, it was just a different way.

Ms. Kirkman: It is legal only because you approved the preliminary subdivision plan.

Mr. Harvey: It was done a different way instead of having a public hearing it was done through a preliminary subdivision plan approval.

Mr. Howard: But there is public water and sewer running through that property?

Mr. Fields: Through a part of it, but when the preliminary plan was approved. I think the point, and it is a point well taken by Ms. Kirkman. I know I have dealt with this with a couple of plans, the Oakes at Ferry Farm was one where you have a parcel... Mr. Howard, this is just an illustration. We had a subdivision for twenty seven homes proposed, with a certain number on water and sewer and a certain number were outside the Urban Service Area. To be sure that every time sewer, even in a situation like that, whenever it is extended, that all of the ramifications relating to the comprehensive plan are

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addressed, even that required a comp plan review even though the majority of the lots were on water and sewer. This is a case where the preliminary plan was approved and it did not go through the comp plan compliance review, which is I think is unfortunate, because it has allowed for this and this is part of the issue. It has allowed one subdivision outside of the USA and now another lot because it was adjacent to the lateral and now another lot. So now we have got....

Mr. Di Peppe: A sugar trail.

Mr. Fields: Yes, the famous sugar trail

Mr. Howard: The good news is it can not go any further.

Mr. Di Peppe: Could this possibly happen again with another preliminary plan where we do not get the review of the comprehensive plan? Was this in 2004 that this happened or in 1990, when was the subdivision done?

Mr. Zuraf: 2007.

Mr. Fields: That was your watch Buddy.

Mr. Di Peppe: Yeah.

Mr. Howard: April 18, 2007 to be exact.

Mr. Di Peppe: And so I am wondering, having been here, how did that happen?

Ms. Kirkman: Well you were here.

Mr. Di Peppe: Now we know.

Mr. Howard: In any case Mr. Harvey, what was that redirect you said before?

Mr. Fields: Refocus.

Ms. Kirkman: Mr. Harvey if you could please clarify, how did staff accept the preliminary subdivision plan without a compliance review? I just do not understand how that happened.

Mr. Harvey: For whatever reason, it never came up to this property from the Utility standpoint it was outside the Urban Service Area.

Ms. Kirkman: This is not a little bit outside of the Urban Service Area. This subdivision is clearly outside of the Urban Services Area.

Mr. Harvey: My assumption would be that since it is adjacent to Augustine, which is also outside the Urban Service Area, it did not get the scrutiny it should have gotten.

Ms. Kirkman: Okay, thank you.

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Mr. Di Peppe: Is this still my fault?

Mr. Filed: A little bit.

Mr. Mitchell: Question to Dale or Mike, in reference to if the subsidized pump and haul was approved, what would be the monthly cost to the County? Or yearly cost, however you would split it up.

Mr. Allen: On the average, the subsidy for the County for every pump and haul is four thousand dollars.

Mr. Mitchell: It is four thousand dollars.

Mr. Allen: Yes sir.

Mr. Mitchell: So we are looking at a two thousand fix or a four thousand dollar fix.

Mr. Allen: Or a four thousand dollar per year fix.

Mr. Mitchell: Per year, so if it went five years, it could be twenty thousand. But we can fix it for two thousand. Maybe my math is wrong.

Mr. Fields: Personally, Mr. Mitchell you are at the financial heart of the issue. I think Mr. Di Peppe does bring out a very good point that I think is important to put on the floor. Setting a precedent for someone that wants to... We have seen sort of a cascade of unintended consequences and possibly inadequate oversight lead to this sort of situation. I think we all agree that financially it makes perfect sense to extend the sewer, I certainly would not argue with that. But we want to make sure we do not set ourselves up.

Ms. Kirkman: Mr. Harvey, what was the second criteria that we need to take into consideration?

Mr. Harvey: The two criteria that are in the comprehensive plan are documented risk to public health, number one. Number two, the pump and haul would be financially excessive to the rate payers.

Mr. Fields: Alright, we have chewed on this a lot. Have we gotten all the questions answered? So we probably need to go ahead a make a motion on it.

Mr. Howard: Yes, I will make the motion since it is in Rock Hill. We have to move it to the main meeting right?

Mr. Fields: That is correct.

Mr. Howard: I make a motion to move COM2900004 for a comprehensive plan compliance review, Jackson/Lovitt sanitary sewer extension to the main meeting this evening.

Mr. Fields: Is there a second?

Mr. Mitchell: Second.

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Mr. Fields: Second by Mr. Mitchell. Any discussion? The motion is to move to the evening meeting?
Alright, all those in favor signify by saying aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Ms. Kirkman: Aye.

Mr. Filed: Opposed?

Mr. Di Peppe: No.

Mr. Fields: Aye. Alright, motion passed five (5) to one (1).

9. Approval of Minutes

Mr. Fields: We have approval of the work session minutes for November 6, February 18 and March 4.

Ms. Kirkman: Could we do March 4 separate?

November 6, 2008 Work Session

February 18, 2009 Work Session

Mr. Fields: Certainly. Is there a motion for November 6 and February 18?

Mr. Di Peppe: So moved.

Mr. Fields: Moved by Mr. Di Peppe. Second?

Mr. Mitchell: Second.

Mr. Fields: Second by Mr. Mitchell. Any discussion? All those in favor signify by saying aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Mr. Fields: Aye. Opposed?

Ms. Kirkman: Mr. Chair I am going to abstain.

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Mr. Fields: I knew that was coming.

Mr. Howard: Point of order on the abstention. Ms. Kirkman is required to explain her reason for abstention.

Mr. Fields: Absolutely.

Ms. Kirkman: Well I will repeat myself again, if we need to do this for every time we come across this situation. We are supposed to get the minutes within thirty days of the meeting and I can not go back and say what happened on November 6, months and months and months later. So I am abstaining because if I approve minutes, I want to make sure that I can do that.

March 4, 2009 Work Session

Mr. Fields: Alright. A motion for March 4 work session minutes?

Mr. Di Peppe: So moved.

Mr. Mitchell: Second.

Mr. Fields: Moved by Mr. Di Peppe, seconded by Mr. Mitchell. Any discussion? All those in favor signify by saying aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Abstentions? Alright, seven (7) to zero (0).

10. Adjournment

Mr. Fields: We will recess to seven thirty.

With no further business to discuss, the meeting was adjourned at 6:56 p.m.

Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES

April 15, 2009

The regular meeting of the Stafford County Planning Commission of Wednesday, April 15, 2009, was called to order at 7:32 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the Stafford County Administration Center.

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

MEMBERS ABSENT: Rhodes

STAFF PRESENT: Harvey, Nugent, Roberts, Stinnette, Zuraf, Stepowany, Schultis, Hess, deLamorton, Woolfenden and Johnson

E. Declarations of Disqualification

None

F. Public Presentations

Mr. Fields: The public presentation portion is when any member of the public may speak for three minutes on any topic that is not being covered by a public hearing. Just to make sure there is no confusion, we have a number of public hearings tonight and if you are here to speak about any one of those, you will be accorded that opportunity when the public hearing is actually opened. If you would like, however, to speak on any other topic, no is your time to do so. If there is anybody in the room that wishes to address the Planning Commission, please come forward on any topic. You have three minutes. The green light goes on when you start, the yellow light is one minute and the red light means your time is up. See none I will then close the public presentations and we will move to our first public hearing which is a Public Information Session regarding the FY2010-2015 Secondary Six-Year Plan.

PUBLIC HEARINGS:

1. PUBLIC INFORMATION SESSION: FY2010-FY2015 Secondary Six-Year Plan (SSYP) - A recommendation to the Board of Supervisors regarding future construction funding of secondary roads in the County.

Fulton deLamorton: I am the Transportation Administrator for the County and, as you mentioned, tonight's first item is a Public Information Session on the Virginia Department of Transportation's Secondary Six-Year Improvement Program and that is for the fiscal years FY10 to FY15. I am going to go through a presentation going over the proposed program and we will begin with the project. On February 13th the CTB approved revised funding allocations for VDOT construction programs and that included the SSYP. The SSYP allocations and all allocations, as you know, for construction funding around the State were reduced drastically. Here are the numbers as they appear for Stafford County's Secondary System. For example, looking at FY2010, just several months ago the original allocation would have been about \$3.8 million. That has been reduced to \$2 million and that \$2 million figure holds for the predominant part of the six year plan. By the way, FY2015 depicted here is just FY2014, the same allocation. It is just for planning purposes until we get better figures from VDOT. Financing of the successful 2008 transportation bond referendum was based on future SSYP allocations being applied to two Courthouse Road projects. These are west of I-95. They can be considered basically Courthouse Road west of the Interstate but there are two projects according to VDOT. The first one begins at Cedar Lane and extends west to Winding Creek Road and the second picks up at Winding Creek Road and goes to Shelton Shop Road. With this SSYP update, there is an opportunity for the

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document to become more succinct. Several unfunded projects remain in the proposed SSYP. VDOT does not support unfunded projects in the SSYP and as recently as earlier this week they have urged us to remove projects or plan to remove projects with a zero allocation of State funding. The removal of the projects from the SSYP does not affect the county's transportation plan. However, removal of projects may affect the ability for Stafford County to secure federal funding authorized in, there is the official title of the stimulus act. The projects are in four categories, they are Regular Construction, Youth Driver Taskforce, Unpaved Roads, and then there is a category called VDOT Budget Items, and I will touch on all four of these categories as I go through the presentation. By the way, you are going to see a term called VDOT UPC. You have already seen it on an earlier slide. The VDOT UPC is a project code that is assigned by VDOT. It helps them track their expenses and what-not on various projects. In this case it is going to be helpful in multiple projects on the same route. There are several, for example, on Courthouse Road. The first category of projects, again it is called Regular Construction, and after the Public Information Session I will be asking the Commission to do two actions tonight regarding the regular construction projects. The first is going to be to retain or delete the projects that I am going to be going through here shortly and then to prioritize the remaining projects or those that are retained. So the first project is the Deacon Road widening project that was actually completed a couple of years ago. That appears in the document because there are some minor funding shortfalls that need to be covered. Whether that is going to exist in the actual document we receive I do not know that. Garrisonville Road, at the intersection of Mine Road and Staffordboro Boulevard, this is the construction of a second left-turn lane from westbound Garrisonville Road to southbound Mine Road. This is eligible for CMAQ funding and should be retained in the SSYP. You will recall that the Commission voted, within the last couple of months, to take a request to the Metropolitan Planning Organization and apply for CMAQ funding for this project. Garrisonville Road 610 from Mine Road/Staffordboro Boulevard west to Onville Road, this is a big widening project that is now completed. Garrisonville Road in the vicinity of Joshua Road, this is to widen Garrisonville Road to four lanes. VDOT is currently acquiring right-of-way and relocating utilities. The project's current ad for construction is this November. It should be the county's first priority in the upcoming SSYP. Mountain View Road from Rose Hill Farm Drive to around Joshua Road is a two-lane reconstruction of this section of Mountain View Road. It is now a transportation bond program project; it was one of the Youth Driver Taskforce projects. It is fully funded with \$1 million in FY2009 VDOT revenue sharing monies and a \$3.6 million county contribution approved by the Board of Supervisors. Mountain View Road from Shelton Shop Road to Choptank Road, this is a widening project from Shelton Shop out to the Mountain View High School that was added to the SSYP a couple of years ago with a minor allocation just for preliminary engineering activities. However, there is no activity on this project. Andrew Chapel Road, we call it Andrew Chapel Road but it is actually a new connector road between Courthouse Road and Brooke Road. This is on the east side of the CSX Railroad. It is currently unfunded in the SSYP. Courthouse Road from Hamm Lane to east of the CSX Railroad Bridge, this is reconstruction of the approaches to and the replacement of the substandard railroad bridge that was constructed in 1917. This is scheduled for advertisement for construction in July 2010. There is an allocation of federal bridge funds in the SSYP. This is also a federal stimulus funded project and it is also a transportation bond program project. Courthouse Road between Interstate 95 and Route 1, this was added to the SSYP a couple of years ago with a small allocation for preliminary engineering, however, there is no activity on this project. Courthouse Road widening from Cedar Lane to Winding Creek, these two projects that appear on this slide are the two that appeared on the slide earlier. This is the widening of Courthouse Road out to Shelton Shop from Cedar Lane and again, they are just two VDOT UPC projects separated for the purposes of the six-year plan. They adjoin each other. Courthouse Road between Brooke Point High School, in that vicinity, and east of Hamm Lane, this was the two-lane reconstruction that was recently completed. Shelton Shop Road from Garrisonville to Mountain View, this is Shelton Shop in its entirety. It is a widening project and it is unfunded in the SSYP and has been in the SSYP for more than five years basically unfunded. The

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Juggins Road connector as we call it, this is a new two-lane road between Doc Stone Road and Staffordboro Boulevard. It has been in at least the last two SSYPs. The primary funding source has been the VDOT Revenue Sharing Program, however, future allocations within the revenue sharing program are now earmarked for certain transportation bond program projects. This project is unfunded in the SSYP. The second category of projects is the Youth Driver Taskforce projects. Nine projects were added to the SSYP last year and now seven have become Transportation Bond Program projects and a funding source for the seven bond projects is the VDOT Revenue Sharing Program which I just mentioned. These projects should be retained in the SSYP and they are Brooke Road south of Eskimo Hill. This is a couple of miles, almost two miles, of two-lane reconstruction and this is again a Youth Driver Taskforce that is now a Transportation Bond Program project. Brooke Road, this is the intersection of Raven Road along the creek. This is the eastern-most section. This is the horizontal realignment of that section of Brooke Road. It is also a Transportation Bond Program project. Poplar Road, just north of Kellogg Mill Road, a two-lane reconstruction and that is now a Transportation Bond Program project. Poplar Road from Mountain View to just south of Mountain View, this corrects the horizontal curve in the roadway at that section and it is also a Transportation Bond Program project. Mountain View Road from Centreport Parkway north to about a mile and a half is a two-lane reconstruction of this facility. It is a Transportation Bond Program project. Mountain View Road at the intersection of Kellogg Mill Road, this is a Transportation Bond Program project. Again, all of these were previously Youth Driver Taskforce identified projects. Ramoth Church Road from a little bit south of Courthouse Road to just about a mile south of Courthouse Road, these are the six horizontal curves in the roadway. This project is not a Transportation Bond Program project. Rock Hill Church Road from Crown Manor Drive to just south of Dunbar Drive, this is a spot improvement, a horizontal realignment. It is now a Transportation Bond Program project. And Sanford Drive from Riverside Parkway to about a mile west of Riverside Parkway, two-lane reconstruction. This project is not a Transportation Bond Program project. The third category is non-hard surfaced roads. Hard surfacing projects funded with SSYP unpaved roads funds. Now, the unpaved roads fund is actually a subset of the total SSYP allocation. The document, as it currently exists, shows the hard-surfacing of two roads, one is Sandy Ridge Road and the other is Juggins Road. This is the section of Juggins Road that is unpaved north of the Perry Farms subdivision. The question for the Planning Commission and for the County in general is should we continue to set aside SSYP dollars to hard-surface unpaved roads. There has not really been any movement on this program in the last several years. And, in fact, if we were to not allocate money toward unpaved roads, then that money could be used elsewhere in the SSYP. And finally the VDOT budget items. This is a small portion of the SSYP allocation that is devoted to countywide VDOT activity such as the Rural Addition Program, engineering and surveying, subdivision review and traffic services. The VDOT Residency Administrator typically includes these allocations in his formal SSYP submitted to the County. Following this Public Information Session, staff requests again the Planning Commission take two actions on the proposed 2010-2015 SSYP. This first is to indicate which projects to retain in the SSYP and which to delete, and to prioritize the retained projects, particularly those in the regular construction category. Planning Commission recommendations will be forwarded to the Board of Supervisors for consideration. Following the advertisement of a public hearing there will be a joint public hearing with the VDOT Residency Administrator. That is now anticipated in May and the CTB approval of the SSYP in June of 2009. And I am available for questions.

Mr. Fields: Alright, are there any questions for Mr. deLamorton? Mr. Howard.

Mr. Howard: Mr. deLamorton, where is the actual allocations? You have got a list of routes, street names, the VDOT UPC and what the project cost is, but where are we tracking what has been allocated to those projects?

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Mr. deLamorton: That is in the document, Mr. Howard. I did not include that because even the cost estimates here are old information. They are a year old and so I am not depicting the allocations as they appear in the documents, but I can tell you that in the existing FY09 to FY2014 document, the first priority of funding is allocated to Route 610 near Joshua Road and then to Courthouse Road, that is UPC4632 which is that first section west of I-95. That is where the bulk of the money lies.

Mr. Howard: Okay, thank you.

Mr. Fields: Are there any other questions for Mr. deLamorton?

Ms. Kirkman: On the Garrisonville Road project near Joshua Road, the old cost estimate is how much?

Mr. deLamorton: It looks like here it is \$7.9 million.

Ms. Kirkman: Okay. And then how much of that do we have allocations already?

Mr. deLamorton: I think it is mostly there. I do not know the exact amount; it might be less than \$500,000 that we are short.

Ms. Kirkman: And how much of that has actually been spent?

Mr. deLamorton: That I do not know. I have been trying to get the information from the Residency Administrator but they are past design, they have held the public hearing, they are now in right-of-way acquisition so there is probably quite an expenditure of funds underway now with that in the utility (inaudible).

Ms. Kirkman: But how much of that has actually been spent?

Mr. deLamorton: I cannot answer that question.

Ms. Kirkman: A million?

Mr. deLamorton: I cannot answer that question.

Ms. Kirkman: How much typically does design cost for something like this?

Mr. deLamorton: Typically, a design costs about 15 percent of the total value.

Ms. Kirkman: Okay. And then has any construction actually started on that project?

Mr. deLamorton: No ma'am.

Ms. Kirkman: How much has been spent on right-of-way today? You have no idea?

Mr. deLamorton: No ma'am.

Ms. Kirkman: Okay. Then, the Juggins Road project, the new connector, has an estimated cost of \$3.4 million and I do believe there have been some previous revenue sharing allocations put towards it?

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Mr. deLamorton: Yes ma'am.

Ms. Kirkman: How much?

Mr. deLamorton: One hundred fifty thousand dollars was the revenue sharing and then a \$150,000 match. So we have got \$300,000 on that project.

Ms. Kirkman: And then I think in the discussions last year we determined that that money can be reallocated?

Mr. deLamorton: Yes.

Ms. Kirkman: On the Youth Driver Taskforce projects, just to clarify. Although there are ones that say bond, according to this hand-out that you gave us some time ago it appears that many of them are not fully funded through the transportation bond. It looks like there is about \$8 million that has to come from somewhere else.

Mr. deLamorton: The transportation bond financing mechanisms bring in revenue sharing, SSYP or Six-Year Plan monies for both the secondary and the primary and interstate. Also the transportation service districts for the improvements on 610 and Route 17. They would be funded from the transportation service districts.

Ms. Kirkman: It looks like all of the Youth Driver Taskforce projects are the missing funding is from revenue sharing. Now that is the competitive grant application process.

Mr. deLamorton: Correct.

Ms. Kirkman: So we may be successful or we may not?

Mr. deLamorton: That is true and also the revenue sharing program could dry up or could be at the will of the General Assembly.

Ms. Kirkman: And then for the two unpaved roads, what are the traffic counts on those two roads? How many households are served by those unpaved sections?

Mr. deLamorton: I do not have the numbers but I would say that the traffic counts are less than 200 vehicles a day.

Ms. Kirkman: Do you know any sense of how many units are back there?

Mr. deLamorton: In terms of housing units?

Ms. Kirkman: Yes.

Mr. deLamorton: No ma'am.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Alright, are there any other questions for Mr. deLamorton?

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Mr. Howard: If you go back to Garrisonville Road, which is the 51919 UPC VDOT number, is there an actual rendering of what the project will actually look like?

Mr. deLamorton: I am sure there is a rendering but the plans have been approved for construction. Or actually they have been approved for right-of-way acquisition so the plans are set.

Mr. Howard: There is an actual plan that is set? Because I know when they had the public hearings they had renderings and there was some additional discussion with some of those communities and there was some redesign that I know took place but I have not seen any...

Mr. deLamorton: And I am not aware of that redesign either but I know there was discussion about the slip lanes, the left-turn lanes into the two subdivisions, and I believe they were incorporated into the design.

Mr. Howard: Okay.

Ms. Kirkman: Are you certain that the left slip lane into, I think it is Woodleigh Estates, that that was included? Because I do not recall that being included in the final design.

Mr. deLamorton: Well, again, I have not seen the final plans from what they are working the right-of-way acquisition from but I know it was an issue. I am just saying it is my speculation, from what I have heard, that they were both incorporated but you may know better information than I.

Mr. Howard: Mr. Chairman, we are not supposed to ask Ms. Kirkman directly but has there been a plan presented to us?

Ms. Kirkman: There is plan designs presented at a series of VDOT public hearings last spring.

Mr. Howard: I was at those meeting but they had a rendering, they did not have an approved plan which Mr. deLamorton indicates there would be if they were out there acquiring right-of-ways. So, I am wondering is a plan that we can actually look at.

Mr. deLamorton: I can get that document from VDOT. What VDOT does is after the public hearing they address the comments, make any modifications to the design, so I think it is perfectly permissible for us to get, if not maybe just a half-size set of the plans or just an updated rendering.

Mr. Howard: Thank you.

Ms. Kirkman: There is also, as I recall from those comment sessions, those public hearings, they write up each of the comments and then they do a written response. So not only is there a plan, there is a narrative that will address whether or not they incorporated that left slip lane.

Mr. deLamorton: That is correct.

Mrs. Carlone: Mr. deLamorton, from some of the public hearings and discussions, it was the two roads going west about the left-hand turns? Is this what you are talking about?

Mr. deLamorton: Of the same project? Yes. It would allow a left turn into those two streets, but it would not allow a left out of those two streets.

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Mrs. Carlone: Okay, thank you.

Ms. Kirkman: Based on our model, what is the Level of Service at that intersection of Joshua Road and Garrisonville?

Mr. deLamorton: We do not have that answer at our fingertips, Ms. Kirkman.

Ms. Kirkman: Okay, and also in terms of our traffic modeling what the current status is.

Mr. deLamorton: Yes.

Ms. Kirkman: Thanks.

Mr. Fields: Alright, any other questions for staff? Hearing none, we will open the public hearing. So if anyone here in the room wishes to speak on any aspect of the proposed Secondary Six-Year Plan remembering that the Planning Commission is here to take your comments and thoughts and incorporate those into our recommendation to the Board of Supervisors. We are not the final word on this though we certainly hope that we are taken with a reasonable level of gravity. So, if anybody would like to comment on the Secondary Six-Year Plan now is your time. You have three minutes as before. Does anybody wish to comment? Alright. Apparently we have a perfect plan that has the consensus of the entire county so that is a good thing. It is now the Commission's task to decide what we are going to retain and delete from our recommendation, correct?

Mr. deLamorton: Yes.

Mr. Fields: Let me ask this. We could go down every single item and vote up or down which is fairly time-consuming but could be necessary if we do not have total consensus. My sense from what you presented, Mr. deLamorton, is that unfunded plans, by unfunded that means by any source. So, if something has no State funding but has bond funding then VDOT would still consider it a funded plan, correct?

Mr. deLamorton: Correct.

Mr. Fields: So something that has no funding from either State or any County source or Federal source is highly recommended from VDOT to be removed from the plan. However, you noted it could affect possible ARRA money. So, is there a consensus on that on the Board? Would there be objections to removing something that has no bond or State funding from the plan?

Mr. Mitchell: Mr. Chairman, I personally would not want to remove anything although VDOT has recommended it. But the issue is if any stimulus funding came down we would stand the possibility, not probability, of not having these projects funded. So if we take them out to please VDOT, we may be cutting off our nose to spite our face and lose potentially Federal funding.

Ms. Kirkman: Although as was pointed out earlier particularly regarding the Youth Driver Taskforce projects, those are not fully funded now even with the bond. So, if we take out the completely unfunded projects, we will still have less stuff left in there that could be done through the stimulus monies.

Mr. Fields: I agree. So, it sounds like unfortunately I am going to have to do this one at a time.

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Ms. Kirkman: Mr. Chair? Do we have to make a decision about this tonight because I would like to know what the need for is of the Garrisonville Road project out at Joshua Road. I do not remember in the traffic modeling that being a problem spot.

Mr. Fields: We are sort of into the right-of-way acquisition though.

Mr. Howard: Mr. Chair, my recollection, I am not trying to answer Ms. Kirkman directly, but my recollection is it was either a D or an F.

Mr. Fields: The intersection?

Mr. Howard: Yes.

Mrs. Carlone: Okay, after that is upgraded what level will it bring it up to?

Sara Woolfenden: After it is upgraded, it becomes an acceptable C or above. I do not remember exactly the Level of Service. A C or above is considered acceptable in the County and once it is completed, that section did model it...

Mrs. Carlone: I just felt there were some that were higher priority. May I ask you, in the Youth Task, the recent death we had at 17 and Poplar Road, is that covered in here or is it funded right now to go ahead and put rumble strips or upgrade that?

Mr. deLamorton: The intersection itself is not a project that is funded in any of the approved plans, however, the section of Poplar Road between Truslow Road and Warrenton Road is a Transportation Impact Fee project that is now fully funded. It will be a two-lane reconstruction and I strongly imagine that intersection improvements would be a part of that project, whether they extend onto 17 or extend back to Poplar Road.

Mrs. Carlone: I am just concerned about the number of accidents.

Mr. deLamorton: I can tell you, Mrs. Carlone, that the Sheriff's Office and my office are working at Mr. Brito's recommendation to install red light cameras and also VDOT is looking at rumble strips at that intersection and also they are looking to put those back in at Harwood Road.

Mrs. Carlone: Thank you. I had not gotten a response to my letter, that is why I ask.

Mr. Di Peppe: Could you go over again about the Deacon Road widening and what is left there. It is on here but the widening is essentially done but there is still a little bit more money to pay off that.

Mr. deLamorton: Yes sir. From what I understand and, again it is in the current document and things may have transpired during the year, but it was in the document last year or the current document now, FY2009 to 2014, because there were still outstanding right-of-way issues. They had gone to court and they were waiting for the court case to get settled. That is my understanding.

Mr. Di Peppe: So you are recommending leaving it just like it is.

Mr. deLamorton: It may come out, I just have not gotten updated information from the VDOT Residency Administrator. It may come out because that case has been resolved.

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Mr. Di Peppe: So tonight, as far as Deacon Road, you are looking for...

Mr. deLamorton: I would say for the projects that are completed, the Deacon Road, the reconstruction of 630, those projects that are completed I would say the Planning Commission can vote to remove those with no harm. Now, if there is a deficit, VDOT needs to fund that deficit before they can remove it.

Mr. Di Peppe: One other quick question. The chance of getting stimulus funds for some of these unfunded road projects that we have, is there any feeling at all the kind of money that is possible or is that just completely unknown at this point?

Mr. deLamorton: It is not completely unknown. It is still mostly unknown. A number of the projects have been identified. Of course, we are part of a metropolitan planning organization so those funds would need to pass through FAMPO and FAMPO has identified several road projects in the area. There are none in Stafford County except for the railroad bridge project, and that is actually out of a document from the Secretary of Transportation here in the Commonwealth to upgrade using a part of the stimulus money to upgrade rail and freight routes. And that is all I know. I do not know that any others have been excluded necessarily.

Mr. Di Peppe: And the feeling behind VDOT saying there is no sense leaving these in, is it just a burdensome paperwork thing to carry these on from year to year when there is no funding? There must be some kind of rationale behind taking these unfunded projects out. I understand what Mr. Mitchell is saying that if we do take them out and all of a sudden money showed up and we did not have something in place waiting, he might be exactly right. We could lose some funding for roads and nobody wants that.

Mr. deLamorton: What VDOT wants to avoid is, and they went through this exercise several years ago, you may recall VDOT had a six-year program that was several billion dollars and several years ago they constricted that program back to available dollars, that realistic program. And that is what they want the localities to do with their secondary system programs is to do the same thing. What they want to discourage is what you could call phantom projects, projects that are on a six-year plan that essentially have no hope of being funded. Now, with stimulus there is that hope. Hope is fleeting but there is a hope.

Mr. Fields: Do you know what the total allocation of ARA funds to the MPO is?

Mr. deLamorton: Not at my fingertips.

Mr. Fields: Ms. Kirkman, do you know?

Ms. Kirkman: I do not recall the figure but that figure has been released.

Mr. Fields: The figure is out there. I am just trying to get a sense of magnitude and scale on... we are already getting CSX bridge funds for that. Is that going to be our slice of the pie? Is there a little bit left over, a little bit available to us, a lot?

Ms. Kirkman: Fulton, could you clarify? I believe the Board has already sent forward a list of projects for stimulus funding and FAMPO has already, I think, even voted on a list of projects for stimulus funding.

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Mr. deLamorton: That is correct.

Ms. Kirkman: Which projects on the list in front of us are on either of those two lists?

Mr. deLamorton: None. Now let me back up. Let me go back to the Board's resolution. The CSX railroad bridge is on the list but this is the secondary program, there are a number of projects on the primary system.

Ms. Kirkman: Right, but the point I am making is we keep talking about leaving things on here for stimulus funds but the Board has already made a decision that the bulk of those funds are going to go to primary road projects. They have already made that decision.

Mr. Fields: Alright. Well, what is the will of the Commission? Do you guys want to vote on each of these? Do we have consensus on most of them?

Ms. Kirkman: Mr. Chair, I am going to make a motion to try and keep us from having to vote on each and every one and we will see if it passes or not, and if it does not I guess we will go through each and every one. The motion I am going to make is that we retain on the SSYP all of the Youth Driver Taskforce projects, both those that have funding and those that do not have funding, and that we remove from the regular construction and the unpaved road funds projects that are lacking most of the funding.

Mr. Fields: Most or all?

Ms. Kirkman: Well, I do not want to say all because there is this \$300,000 out of \$3.4 million that is in Juggins Road, so that is why I am saying most instead of every penny.

Mr. Di Peppe: Would it be easier because so many of these have no funding to just designate the ones...

Ms. Kirkman: To retain?

Mr. Di Peppe: Yes, because as I was going through, the majority of them I was putting x's through because there is no money. But your motion may work just as well.

Ms. Kirkman: It is the same thing.

Mr. Fields: Okay, anything regarding the unpaved road funds in your motion?

Ms. Kirkman: Those are not funded, is that correct?

Mr. deLamorton: There is an allocation to those two but there has been no activity on VDOT's behalf to execute projects.

Mr. Fields: So there is \$.7 million that is transferrable to something else potentially?

Ms. Kirkman: But I do not know what that means, there has been no activity.

Mr. deLamorton: VDOT has not been forthwith in coming to the County recognizing there is money in those two accounts and getting approval from the County, which they already get through the SSYP

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to hard-surface those roads. I would say there is probably a half a million dollars in unpaved road funds that are sitting out there unspent.

Ms. Kirkman: I do not understand.

Mr. deLamorton: Several years ago there was an effort to pave all the non-hard surfaced roads in the County and there has been little interest, even on the County's behalf, in recent years. There was interest back in 2006 I think was the last time, prior to the last bond effort.

Ms. Kirkman: I do not understand what the hang-up is. If the money is already there, I am concerned about the impact on those residents.

Mr. Fields: So your motion at this point does not concern unpaved roads?

Ms. Kirkman: Yes. So, the motion at this point would be to retain all of the Youth Driver Taskforce projects, the unpaved road funds, and to remove... Fulton, check and see if I get this correct... VDOT UPC 16267 Garrisonville Road.

Mr. deLamorton: This is to remove?

Ms. Kirkman: Yes. These are the ones I think are the unfunded ones.

Mr. deLamorton: That is the second left-turn lane from Garrisonville onto Mine.

Ms. Kirkman: No, not that one. That is why I did not want to do that. The Mountain View Road project near Mountain View Road that does not have a UPC number.

Mr. deLamorton: That one is fully funded with the revenue sharing.

Ms. Kirkman: Can I go back to my original motion, Mr. Chair?

Mr. Fields: Okay, you can make any motion you want.

Ms. Kirkman: Without having to vote on all these, which is to retain Youth Driver Taskforce projects, retain the unpaved road funds and remove the almost entirely unfunded projects from regular construction.

Mr. Howard: I want to agree with you but I want to understand something, which is the question I asked earlier. How do we know which has been allocated? We have the total, what the projected cost is. And maybe Mr. deLamorton can help us. So, Shelton Shop Road, project 3568, where it says N/A, does that mean there are no funds allocated?

Mr. deLamorton: Correct.

Mr. Howard: Is that your understanding Ms. Kirkman? Is that part of your motion? So the ones with the N/A are the ones that we...

Ms. Kirkman: No, but it would also include Juggins Road. Before I make the motion, let us just get the list.

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Mr. deLamorton: Let me try. These are going to be ones that are unfunded or have little funding and I will mention which ones. Mountain View Road near Shelton Shop, zero allocation currently. Andrew Chapel Road New, zero allocation. Courthouse Road, UPC 87901, zero allocation. Shelton Shop Road, 3568, zero allocation. Juggins Road New has a very small previous revenue sharing allocation on it but essentially that project has a zero allocation to it.

Ms. Kirkman: Thank you, now I can make the motion properly. We retain Youth Driver Taskforce projects, the unpaved road projects and remove project 84609 which is Mountain View Road near Shelton Shop Road, 73555 Andrew Chapel Road, 87901 Courthouse Road, 3568 Shelton Shop Road, and 65551 the new Juggins Road. That is my motion. Do I have a second?

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe. Discussion.

Mr. Howard: Would Ms. Kirkman accept a friendly amendment to retain 84609 Mountain View Road near Shelton Shop Road. Heavily travelled intersection, very high vehicles per day, several school buses that service at least two high schools, two middle schools and at least two elementary schools that have to come through there every morning and it is a bear for people to have to travel. It is a capacity and a safety issue.

Mr. Di Peppe: I support that because I have been down that road many times and I know exactly what you are talking about, and especially with all the school bus traffic. I do not know money-wise what will happen but still, if there was something to leave, I am very familiar with what you are talking about and it is a very dangerous road.

Ms. Kirkman: I will take that friendly amendment.

Mrs. Carlone: I was going to back up the level of service, it is very dismal. The visibility is dismal and it is extremely dangerous so I agree to the friendly amendment.

Mr. Mitchell: Mr. Chairman, I cannot support the motion with taking Juggins Road out. I do not think it is a good move. There is \$300,000 which is ten percent of the total funding and it is not like there is \$50,000 or \$10,000. I cannot support it with taking Juggins Road out. I think we will need it. People have talked about this road for years. People have wished there was a road around some of the congestion and Juggins Road would be that road. So I would like to have it in there and if it is not in there, I cannot support the motion.

Mr. Fields: I certainly understand. Just my own two cents concerning this, none of this is easy. We do want to be cautious. There is not a single identifiable road project in Stafford that is not needed to some degree. We are trying to create a functional document that reflects reality and funding constraints. I respect everybody's opinion on what roads are certainly needed but you can make a compelling argument for the need for everything. We could have a list several yards long of needed transportation improvements. We are making tough choices here. We know that for at least the last couple years transportation funds have dwindled and we simply have to focus on a couple priorities and be content with that. Whether we like it, that is a different story.

Ms. Kirkman: Mr. Chair, except for the one thing I would add about Juggins Road which is in my district. Just to remind folks of the history of this project. Somebody went out and eyeballed it and said it looks like a good place, it will cost us \$300,000 for the 4/10 of a mile. Well, it turns out there

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were utilities and major environmental features on the site that increased the cost more than ten fold and, as they did the traffic impact studies, they determined that putting the Juggins Road connector in would do absolutely nothing to improve the Level of Services at the adjacent intersections.

Mr. Fields: I was here on the Board when we started the idea that VDOT said when we thought we could throw some asphalt on this pathway for \$300,000 it was like sure, why not, it will help traffic move around. I think everybody realizes that at \$3.4 million it is hard to justify. Alright, is there any more discussion on the motion? So, the motion now, as amended, has removed Mountain View near Shelton Shop Road and retains that on the SSYP but it still removes the other things with zero allocations which would be the new Andrew Chapel Road, the Courthouse Road project that is titled 87901, Shelton Shop and Juggins. Any further discussion?

Mr. Mitchell: I am just saying if you are sitting on 610 and it is not flowing, thinking about an alternate road would be good. And I do realize there are other roads, within the County, there are numerous roads that could use funding and could use building, but I think Juggins Road, because of the amount of traffic on 610, if you were able to go around some of the problems, I think Juggins Road would be the way to do it. So I will not be supporting this. Thank you.

Mr. Fields: Understood. Thank you. Alright, all those in favor of the motion signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mr. Fields: Motion passes 5 to 1. Alright Mr. deLamorton, thank you very much. Do you have what you need from us now?

Mr. deLamorton: We need to prioritize those that we have retained, and if you just prioritize the top three that would be satisfactory.

Mr. Fields: Good luck with that.

Mr. Di Peppe: Should we ask for recommendations?

Mr. deLamorton: The recommendation is the first priority is UPC 51919 which is the Route 610 widening project at Joshua. The complete funding on that should be just a minor allocation. Priority two is UPC 4632. Priority three is UPC 11671, and that is keeping with the bond program financing mechanisms.

Mr. Fields: Do we have consensus on that? Do we think? Possibly? We do not have to but I am just trying to get whether we can get a motion to move on or whether we need to go a different process.

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Ms. Kirkman: Mr. Chair, I just want to remind you, when the Transportation Committee of the Planning Commission was meeting last spring we only had a couple of weeks to do this process last year. And at that point we had brought to the Planning Commission and a majority on the Planning Commission had said that in the future what we wanted to do was prioritize our SSYP dollars for small projects that can make an immediate difference and be completed quickly. And at that time we had also talked about that being the Youth Driver Taskforce projects. So, I just do want to raise that, in my mind, we had had some thinking about what the priority would be for the SSYP dollars and that it would be smaller projects that could be done quickly and would make an immediate difference.

Mr. Fields: It is really kind of a difficult choice to make because you are really almost talking about two different issues here. You are talking about do you pick between the widening of Courthouse Road which is a desperately needed traffic improvement under any measurement or do you pick between the Youth Driver Taskforce which is a desperately needed traffic improvement under any circumstances. I do not know that I have the ability to say which is... to try to say one is more important than the other seems almost an impossible question.

Mr. Howard: Mr. Chair, I do not remember that discussion. Ms. Kirkman recalled it very well. Could we pick two from each so, instead of having either one or the other, Mr. deLamorton indicated there are some that are almost funded. You certainly would want to see those occur and then one of the top two Youth Driver Taskforce projects that we want to get out there either from a funding because we think we can get those two done with the funds available or whatever other way we are thinking about that.

Ms. Kirkman: Actually I am going to suggest that we not prioritize because we do not have the dollar amounts and we have no idea what we are talking about. That would be my recommendation.

Mr. Di Peppe: Is there any way, I know that VDOT wants this as soon as possible, but is there any way to get those dollar amounts by the next Planning Commission meeting? I mean, if you want prioritized we...

Mr. deLamorton: Earlier there was mention of hope... there is hope... the situation of VDOT is continually in flux with their monies and I spoke just last week to the Residency Administrator. He said he would try to get us a document but, quite frankly, I am going to put the burden on him to get us a document and I have instructed him that we need it 45 days in advance of a public hearing for the Board. So, I do not know for sure. I can get back in contact with him.

Mr. Di Peppe: Could we put off this prioritizing at least until, and then maybe not prioritize, until maybe the next meeting or no?

Ms. Kirkman: I have been told we have to do this tonight.

Mr. Di Peppe: We have to do this part of it tonight.

Mr. Fields: This is the cycle of getting it to the joint VDOT/Board hearing.

Ms. Kirkman: Well, let me try something. How about this... that we complete the funding for the Garrisonville Road project and any remaining dollars to go to Youth Driver Taskforce projects to be determined by the Board. It is just an impossible task without the dollar amounts.

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Mr. Fields: If we have to state a priority we will say finish Garrisonville and get to work on the Youth Driver Taskforce. I have no problem with that.

Mr. Di Peppe: I can live with that.

Mr. Fields: And realistic of course we want Courthouse Road to be built as soon as possible. I think that goes without saying. It is probably not very helpful. I think what is left, since we took the things that are not really funded off, I think what we have got is all the stuff that we know needs to be done. This has certainly been refined and refined and refined now, so there is nothing left on there that is frivolous or even that controversial. So, I think that will be the recommendation of the Planning Commission that the motion is as passed and that we finish Garrisonville Road and start to work on the Youth Driver Taskforce.

Mr. Di Peppe: Do we need a vote on that second part?

Mr. Fields: We can if we like. Would somebody like to make a motion?

Ms. Kirkman: Yes, I move.

Mr. Fields: Okay, Ms. Kirkman moves.

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe. Any discussion on the motion? Alright, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright. Happy?

Mr. deLamorton: Yep.

Mr. Fields: So are we.

Mr. deLamorton: Thank you Mr. Chairman, Planning Commissioners.

2. RC2800486; Reclassification - South Campus - A proposed reclassification from A-1, Agricultural Zoning District to B-2, Urban Commercial Zoning District to allow for commercial development on Assessor's Parcels 39-16A and 39-71A consisting of 53.9 acres, located on the south side of Peake Lane approximately 600 feet east of Jefferson Davis Highway and the east side of Old Potomac Church Road approximately 500 feet south of Stafford Hospital Boulevard within the Aquia Election District. The Comprehensive Plan

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recommends the property for Urban Commercial and Rural Residential uses. The Urban Commercial land use designation would allow development of Commercial Retail and Office uses. The Rural Residential land use designation permits single family residential development at a density of one (1) dwelling unit per three (3) acres. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the B-2 Urban Commercial Zoning District. **(Time Limit: July 14, 2009)**

Mr. Fields: Alright, item number 2, Reclassification, South Campus.

Jon Schultis: Good evening Mr. Chairman, members of the Planning Commission. As stated, we will be talking about item number 2, the South Campus Reclassification. The applicant is Mr. Sherman Patrick of Compton Duling. He will be representing Old Potomac Church LLC. The parcels involved in this application are 39-16A, 39-71A and this is a request for reclassification from A-1, Agricultural to B-2, Urban Commercial. The current zoning as indicated in the light blue color is A-1, Agricultural, the darker purple is B-3 and the lighter purple is B-2. The Land Use Plan recommends Urban Commercial and that is indicated by the orange coloring for both of the parcels in question. And this is an aerial view of the site, and a more detailed aerial view of both sites. Existing conditions as depicted on the aerial photos consists of dense tree cover, there is a stream that exists on the eastern portion of parcel 39-71A. On the eastern tip of that same parcel there is a Dominion power line easement. The new Stafford Hospital is located to the north of parcel 39-71A and there is a structure that exists on 39-16A. The development is proposing 31 office buildings which range from 12,000 square feet to 23,400 square feet, and that is on parcel 39-71A. On parcel 39-16A there is one office building proposed. The total proposed square feet of development will be 531,868 square feet. Additionally, this application includes phased improvements of Old Potomac Church Road and a phased construction of a boulevard which would bisect parcel 39-71A. This is a, albeit very fuzzy, rendering of the development plan. The red arrows indicate certain features on there which are pertinent to orienting oneself with this project. It should be noted that this parcel circled by orange exists within the Courthouse Redevelopment Area and Vision which was passed by the Board of Supervisors as the area that this would consist of. Speaking to that, the South Campus proposal is consistent with the Courthouse Redevelopment Plan's vision and separately the Economic Development Plan calls for streets to be constructed in a grid pattern in the Courthouse area. The plan also proposes mixed use development with pedestrian connectivity, both of which are features of the South Campus project. The Economic Plan has also been approved with the current Comprehensive Plan proposal and the current Comprehensive Plan which was adopted. There are a significant amount of transportation improvements proposed with this project because neither of the parcels have direct connectivity to Jefferson Davis Highway or Hospital Center Boulevard. Details of these improvements would, of course, include connectivity to the development through Old Potomac Church Road and South Campus Boulevard. This development would generate 21,180 new vehicle trips per day, peak hours, and the alignment of South Campus Boulevard which has been proposed on the Generalized Development Plan where it meets Jefferson Davis Highway is to be where the aligned or one of the versions, the preferred version, of the relocated Courthouse Road interchange from 95 would meet Jefferson Davis Highway. Transportation proffers, and please bear with me because there are a lot to them, consists of a phased development which would allow the developer to build out the total 531,000 square feet through a series of phases which would be bolstered by transportation improvements. Each of these phases are discussed, mind you, in the Transportation Impact Analysis and the trip generation from each one of these phases is supported through each one of the constructed developments. Phase 1 and 2 would be a two-lane improvement to Old Potomac Church Road which currently as it exists now is a gravel road between where it is improved from Hospital Center Boulevard to the approximate site of South Campus Boulevard. The first phases would allow up to 80,000 square feet of development. And this is, pursuant to the GDP that I showed you earlier, the approximate section of where that

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would take place. Phase 3A and 3B go as follows: Phase 3A would be a half section of South Campus Boulevard so that larger boulevard shown on the GDP, a half-section of that, or two lanes, would be constructed to Old Potomac Church Road. Phase 3B would preclude building that section of South Campus Boulevard and allow for a second eastern entrance off of Hospital Center Boulevard, parcel 39-71A. The applicant's ability to acquire right-of-way will determine which phase they will be able to construct and the third phase will allow up to 250,000 square feet of development. Indicated in yellow is Phase 3A and indicated in orange is Phase 3B. Phase 4A, 4B1, 4B2. Phase 4A will be constructed if Phase 3B is constructed. And it consists, and if you remember Phase 3B is that separate eastern access point into parcel 39-71A so this would be the half-section or two-lane section of South Campus Boulevard from Jefferson Davis Highway to Old Potomac Church Road. Phase 4B1 will be constructed if Phase 3A is constructed. So, Phase 3A, which was the half-section of South Campus Boulevard from Jefferson Davis Highway to Old Potomac Church Road, this phase would upgrade that to a four-lane divided road. Phase 4B2, which is another option that the applicant would like to leave available, would be to include the new eastern entrance that I previously mentioned. Again, right-of-way acquisition would determine which phase they will be able to construct and Phase 4, in any one of its forms, will be required prior to construction of the 250,001 square foot of development. Phase 4A is orange, 4B1 is green, 4B2 is red. Phase 5 of this development would consist of continuing the South Campus Boulevard further east in the development to allow the continued build-out of the total 531,000 square feet. The Office of Transportation is in agreement with the conclusions presented in the TIA, however, they would like to note that the spacing of the proposed South Campus Boulevard touchdown point to Jefferson Davis Highway along Route 1 to Hospital Center Boulevard is inconsistent with current VDOT standards and, if that were to meet at that point, a waiver would have to be applied for. It is generally considered the waiver would be looked upon favorably because that would be the touchdown point of the Courthouse Road relocation from I-95. VDOT has also reviewed the TIA and the proffers and recommends that the project move forward. Other proffers pursuant to land use, the applicant has proffered that 60 percent of this proposed development will be medical or general office space, the remaining 40 percent will be built-out with B-2 uses that they have not proffered out. And it is also mentioned here that they have proffered out uses in the B-2 district that may be deemed as undesirable. The applicant agrees to include automatic sprinkler systems in buildings greater than 3,000 square feet. There is a site design and illustrative guide that was included with your packet, this has been proffered as their design guidelines, and the applicant has proffered that buffers along public right-of-ways will consist of at least 50 percent evergreens in their plant units. There are a number of positive features with regard to this application. It is compatible with the established commercial development pattern and zoning. It is also consistent with the Land Use Plan. It is consistent with the County's Redevelopment Plan, and proffers would mitigate negative impacts. However, there are also some negative features I would like to note. Some of the improvements may not be constructed if the right-of-way is unavailable. Proffers with regard to landscaping are less than what the County already requires. And the applicant has removed portions of the environmental proffer that have repeated minimum requirements but staff feels there are additional changes which would be appropriate with regard to that proffer. So, though staff sees a significant amount of merit with this application, we would like to see some changes in the proffers before we could recommend approval. And with that, Mr. Chairman, that concludes my presentation. I will be happy to answer questions. I would like to note that Brad Johnson with Economic Development is here to answer questions with regard to the Courthouse Plan and Sara Woolfenden with the Office of Transportation is also here if you have any questions with regard to transportation.

Mr. Fields: Alright, are there any questions for staff? Mr. Di Peppe then Mrs. Carlone.

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Mr. Di Peppe: Where are the cemeteries? I notice on the Phase 1 they mention two cemeteries and a civil war camp but I could not find them anywhere in the report. Maybe I just do not know where to look.

Mr. Schultis: I am under the understanding that the cemeteries exist within the preserved area or the open space area of the GDP and I can allow the applicant to expand on that.

Mr. Di Peppe: And the civil war camp?

Mr. Schultis: I was aware of the two burial sites; those were the two historical sites that were brought to my attention by the Historical Preservation Planner. I would have to look into the civil war camp.

Mr. Di Peppe: Because the reason I ask is on page 9 of the Phase 1, there is only one site which is a civil war camp that has been potentially eligible for recognition and preservation and yet there is nowhere anywhere in this report that shows it to us, how big it is. And I would want to know a lot more information about that.

Mr. Schultis: Certainly. Staff has requested that a Phase 2 be completed on the site

Mr. Di Peppe: Okay.

Mr. Schultis: The applicant has yet to commit to that.

Mr. Di Peppe: Okay. Thank you.

Mr. Fields: Mrs. Carlone?

Mrs. Carlone: Coinciding with Mr. Di Peppe's comments, has there been any change, I think it has been answered now, the applicant declined to comply with this request and that is on the Phase 2 for the second site. One of the questions to you, the continuation of the Campus Boulevard to 630 it shows done by others. That is kind of a concern. Did I gather this correctly that it looks like it stops mid-project?

Mr. Schultis: Yes Ma'am. The vision for South Campus Boulevard is that it would ultimately go to Courthouse Road, however, that would be some time in the future. And I can let the applicant speak to more on the timing.

Mrs. Carlone: I would be curious whether that would ever get done if by others.

Mr. Schultis: But that is included specifically with this project.

Mrs. Carlone: Okay.

Mr. Fields: Ms. Kirkman?

Ms. Kirkman: Could we go back to the aerial photograph please?

Mr. Schultis: Yes Ma'am.

Ms. Kirkman: Are these two properties owned by the same property owner?

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Mr. Schultis: No Ma'am.

Ms. Kirkman: And they are not contiguous.

Mr. Schultis: No Ma'am.

Ms. Kirkman: Why are they on one application?

Mr. Schultis: As far as I know we do not prohibit having two parcels that are not contiguous to be put in the same application. I would let Mr. Harvey expand upon that.

Ms. Kirkman: So, thirty property owners, non-contiguous properties, could come in and pay one fee for the rezoning?

Mr. Schultis: The application is put together by total acreage as opposed to number of parcels.

Ms. Kirkman: No, there is a base fee with incremental based on acreage. Can you explain why this is not two separate applications?

Mr. Harvey: Well, the property owner has the opportunity to consider how they want to proceed with the application, whether they want to make them two separate applications or one. In this case, they chose to make it one because they are looking at it as one whole development package and project with one set of proffers that apply to both properties.

Ms. Kirkman: The properties are not contiguous. What is going to happen with the stuff in between the properties?

Mr. Harvey: Those are separately owned under different ownership.

Ms. Kirkman: These are separately owned under different ownership.

Mr. Harvey: Correct. In this case, they are asking for reclassification in the same district and also under the same set of proffers. This would end up being a stand-alone issue as far as development goes unless they were to partner with the adjacent properties.

Ms. Kirkman: So these are separately owned properties, non-contiguous. So if I were to follow that logic, going back to my original question, thirty different property owners with non-contiguous properties asking for the same rezoning classification could come in under one application?

Mr. Harvey: If they were all jointly making the same proffers and having it all considered in their General Development Plan and in their scheme for providing infrastructure and those sorts of things.

Ms. Kirkman: Isn't that interesting. Okay, so did they proffer the GDP?

Mr. Schultis: They proffered parts of the GDP but they did not proffer the GDP as a whole.

Ms. Kirkman: Do any of the proffers provide improvements to the intersection of Courthouse Road and Route 1?

Mr. Schultis: No Ma'am.

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Ms. Kirkman: When you say that this plan is inconsistent with VDOT standards, the access point for the boulevard, do you mean by that that in fact it does not comply with the access management requirements?

Mr. Schultis: I would have to let Ms. Woolfenden expand upon that. She is the one that brought that to my attention. I suppose one could infer that but the Virginia Department of Transportation has also reviewed this project and have given it the green light to go ahead. If I may, there is a waiver that one can receive for the access management standards and that waiver (inaudible).

Ms. Kirkman: Has the applicant applied for that waiver?

Mr. Schultis: No they have not right now because the alignment of South Campus Boulevard, as you see it there, is conceptual to a certain degree.

Ms. Kirkman: You stated VDOT approved this but, I have this letter dated April 1, 2009 that says "please note that although the TIA appears to be in good order, the review has identified several issues which should not be considered resolved". Could you tell me what those issues are?

Mr. Schultis: Off the top of my head I cannot. I do not have the VDOT comments right in front of me. I know that the spacing issue may be one of them. I know that there are also issues with regard to the interchange and where exactly the interchange is going to touch down and what type of intersection it is going to have with Route 1. That may be an issue with regard to South Campus Boulevard. I would like to say as far as VDOT is concerned, they issue comments and they look for things to be addressed, it is not necessarily approve or deny on VDOT when it comes to reclassifications. And some issues they bring up are site plan issues that ultimately get resolved through that process.

Ms. Kirkman: Well, if it is not approve or deny, why did you say that VDOT had approved this?

Mr. Schultis: If I said that I meant that they have reviewed it and they have given it the green light to go ahead, maybe not necessarily approved as one would approve a review. And if I said that in error, I apologize.

Ms. Kirkman: Okay. It looks...

Mr. Fields: Did you want Ms. Woolfenden to answer that question?

Ms. Kirkman: Yes, if you can Sara.

Mr. Fields: I do not mean to interrupt but while we are on the same line of questioning, if that made sense. I am sorry, I did not mean to derail your train of thought or anything.

Sara Woolfenden: I believe VDOT identified three issues that they concerned about and they were the ones that we were speaking to as well. The first issue is the proximity of an intersection with a signalized intersection to the adjacent signalized intersection which is due to the primary access standards that were adopted and have been in effect this year. And that is an issue. One of the things that Jon spoke to briefly is that if the interchange access point does land at that point where it has been identified by the Board of Supervisors as a possible landing point, then it would need to be signalized or it would need to be an interchange right there. And so we anticipate that that would have a waiver. The reason why it was identified was because if it does not land there, then that would be a concern for that to be signalized. Another issue that was raised had to do with proximity of Jumping Branch Lane

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to that intersection and that would most likely be dealt with at site plan. We would expect that. And I am forgetting the third issue that was raised. It is in the letter. But they were generally spacing issues.

Ms. Kirkman: But, just to make sure I understand, as this plan is on paper now, it does not meet the access management standards.

Ms. Woolfenden: No it does not.

Ms. Kirkman: Okay. And just to confirm, all this traffic that comes out and turns right onto Courthouse Road and goes down to the intersection of Courthouse Road and Route 1, they are not offering any improvements to that intersection?

Ms. Woolfenden: No.

Ms. Kirkman: Okay. Thanks.

Mr. Fields: Any other questions before we open the public hearing? Mr. Di Peppe?

Mr. Di Peppe: Do we know who Old Potomac Church LLC is? There is no affidavit.

Mr. Schultis: The applicant is here today and I would be more comfortable with them answering.

Ms. Kirkman: Could we get a copy of the owner affidavits for both of the properties please?

Mr. Schultis: Yes Ma'am.

Mr. Fields: I was looking for that, I do not see that.

Ms. Kirkman: And then also, could we also get the VDOT April 1, 2009 letter states that the review has identified several issues. These can be found in the attached correspondence but we did not get a copy of the correspondence. If we could get a copy of that as well.

Mr. Schultis: Yes Ma'am. That is all in the file also.

Ms. Kirkman: Okay.

Mr. Fields: Any other questions?

Mr. Howard: Yes. Mr. Schultis, you indicate in one of the narratives that staff does not recommend approval and one of the terms you use is you do not believe that the proffer, as written, is enforceable. Can you elaborate a little bit on that?

Mr. Schultis: As it was written there, and the applicant has indicated to me that they have made some changes, the way the proffer is written in some regards makes it seem as though if the right-of-way is unavailable certain improvements are not going to be able to be made or we will not be able to enforce those improvements to be made. That is the way the proffer is written. I do not believe that is the intent of the applicant. I do not believe that is the intent of the proffer statement. Some rewording would fix that.

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Mr. Howard: Was there anything else other than some of the rewording? And I guess what they are indicating is if they cannot get access to the property or easements or... was there wording in the proffer that indicates the County was going to help them? Was that your concern?

Mr. Schultis: The concern was...

Mr. Howard: Require the right-of-way for the road.

Mr. Schultis: Exactly. And the applicant has allowed themselves through the complicated phasing narrative a couple different routes for them to achieve what the Traffic Impact Analysis necessitates that they do and thus the reason there are so many phases included in that.

Mr. Howard: Right. Thank you.

Mr. Fields: Any other questions for staff?

Ms. Kirkman: I did. There are several... I think you also referenced one of the staff concerns is that there are proffers that are actually a lower standard than our Zoning Ordinance.

Mr. Schultis: Yes Ma'am. The second landscaping proffer with regard to the buffers, it is of a lesser standard as far as the buffers being negotiated or what the Land Use Plan recommends the property to be that I have requested be taken out.

Ms. Kirkman: So, the concern there is for instance, we just had a lawsuit filed against the County that says this was a condition and even though it is lesser than the Zoning Ordinance, it was a condition and that supplants anything in the Zoning Ordinance. Is that the concern?

Mr. Schultis: I suppose it could be construed that way. My concern is basically the design standards manual requires X for these landscaping buffers and this seems to undermine that to a certain extent and that is why I have asked it to be taken out.

Ms. Kirkman: Okay, thanks.

Mr. Schultis: You are welcome.

Mr. Fields: Any other questions for staff? Alright, is the applicant here?

Sherman Patrick: Mr. Chairman, members of the Commission, it is a pleasure to be here this evening. I am Sherman Patrick. I am representing and speaking this evening for Old Potomac Church Limited Partnership. Two of the principles in Old Potomac Church, I am sorry it is LLC, two of the principles are here this evening, Mr. Don Hart and Mr. Doug Brown, and we have a number of professional consultants here to speak with you this evening to answer any additional questions that you might have. I have a presentation of about six slides; I will take about a minute to a minute and a half for each of those. I will be done well before ten minutes are over. I did want to touch on a couple of things that were just discussed about the content of the proffer conditions, and some things that I think are a little bit confusing. Those have to do first with the VDOT comments. We have characterized those as issues. Issues can mean a lot of different things. What it really boils down to is there are design concepts that have not been finalized as of yet because the final engineering for these road sections have not been completed, either by the applicant or by VDOT. The applicant will have to tie to VDOT roads and when VDOT finalizes their planning for locations of some of these roads, in the

case of the interchange connection, that is a location that was determined or recommended by the County Board of Supervisors incidentally, those things will be determined. And that will determine the location of the final alignment for the roads that are proffered and then the final alignment of those roads will impact the availability of certain rights-of-way. And as we talk about phasing and different choices to be made and the availability of right-of-way, that also has to do with these decisions that have not yet been made by VDOT on alignments. So, with that being said, I will try to move forward with the presentation and then at the very end answer your questions. If you have more specific questions and I need to bring one of the engineers up I would like to be able to do that. Jon has done a very thorough analysis of this application. He is to be commended for keeping us on our toes throughout the process. So, I will not take a lot of time reiterating things he has said, but I will try to emphasize things that were not really covered in the staff overview and probably not a part of their normal review. From a broad perspective, what I want to focus on is some of the basic road locations and why they are where they are. Now, our standard process with this was to begin by coming and sitting down with the Economic Development staff and the Planning staff to get their input on how this area is evolving and what sort of challenges they would see for the development of this property. So that was our beginning point. We started off with a meeting where we were told about the Courthouse Redevelopment Area, which was very interesting and informative, and we were told about certain connector roads. To orient you again, and Jon has done this in part already, here is parcel 71A and that is fronting on Old Potomac Church Road which has a right-of-way that runs north/south. The site is generally south of Hospital Center Boulevard recently constructed with the construction of the hospital which is located here. Route 1 is located to the west of the subject site and Courthouse Road intersection is here about a mile north of the site and intersects with Route 1 at this point, comes from the interchange from the west and moving east comes all the way down past the middle school and high school over in this area. Ms. Kirkman was asking about the location of parcel 16A which is a one-acre piece of property and it being contiguous or not being contiguous with the development area. She is correct in that it is not contiguous with the rezoning for parcel 71A but it is contiguous with properties that are controlled by Old Potomac Church LLC. And these are shaded here and actually should have included also a property right here. So you see, this corridor from Route 1 all the way over to Old Potomac Church and over to the power lines is controlled by Old Potomac Church LLC. So, they are in fact contiguous and in fact linked by the alignment of a proposed road that we are calling South Campus Boulevard. That brings me back to our first meeting with Economic Development staff and the Planning staff. When we sat down with them, we had a proposal... we had two pieces of property. We had a property that was accessed by Peake Lane which is a dirt road very much substandard. It does not meet any sort of vertical grade requirements, and we had access by Old Potomac Church Road, which is also in need of improvement. We were informed of the Redevelopment Area Plans and a plan to provide a kind of sweeping grid system that would come over from a proposed relocated interchange with I-95 located far to the west and sweep down through this property and go over back to Courthouse Road, providing connectivity to Courthouse Road. This was to compliment another sweeping grid-like road that would begin at Red Oak Drive at Courthouse, come down to Hospital Center Boulevard and continue over to Courthouse. So, what that does is it provides excellent connectivity for this area around the interchange that you do not have today. And the lack of that connectivity is precisely why you have the traffic congestion that you do at Courthouse Road and Route 1. You need these other alternatives that the Planning office and Economic Development is now planning and that they have asked us to incorporate into our proposal. The applicant has agreed to bring in property that is not part of the rezoning application. It is already zoned B-3 and is not required to be part of this analysis. But they brought it in by agreeing to commit to dedicating right-of-way at no cost to the County or VDOT from Route 1 all the way over to Old Potomac Church. And then through parcel 71A they are also agreeing to dedicate right-of-way from Old Potomac Church all the way over to the corner of their property. They cannot continue that further out in this direction because it simply is not their ownership and they have no way of obtaining that.

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There is a road right here that is called Spartan Lane, so there is right-of-way already for at least a portion of I think approximately 50 percent of this connection back out to Courthouse Road. There is only a smaller segment between the end of parcel 71A and over to Spartan Lane to make this connection. And incidentally, we were directed to this road as an appropriate location to intersect again with Courthouse over to the east. Jumping back to the intersection on Route 1, the Board recently approved a resolution expressing their preference and in essence directing VDOT, when they do the footprint design for the location of the road from the new interchange that they are recommending in this vicinity, to come over and intersect with Jefferson Davis Highway at this location because of topography and environmental constraints that are further down here. If you jump past those you run into the adult detention facility and so that closes the opportunity to go to the south. And if you move it even further south then you eliminate the ability to get back out to Courthouse Road because of Accakeek Creek and its tributaries to the south. The separation requirements that were being discussed as being design issues not yet settled with VDOT have to do with a minimum separation, I will get it wrong if I say it but we have a consultant that can give you that exact number, but the separation issue is from Hospital Center Boulevard to the proposed location of the interchange connector road that the Board has recommended and we are simply tying to that. The standard that we are following is the AASHTO standard, the Federal standards for separation and that meets that requirement. The new standard that VDOT has adopted that Ms. Woolfenden mentioned is more than double than the AASHTO standard, so it is more than double what the national standard is for separation. And we did get a positive indication from VDOT that because it was more than double that if this connection does come through then this is likely to be acceptable to them. Again, in our first meeting we were told about the Courthouse Redevelopment Area, we were told how the County is trying to create this road network that will alleviate a lot of the transportation issues that already exist and that will continue to exist unless some sort of network like this is set up. We were also advised that there is going to be an architectural standard and design guidelines and we referenced those in our proffer conditions. So we believed after meeting everyone that this stage was well set here for economic development, particularly south of this whole Courthouse area. We have good accessibility from the interchange, we have the hospital which is obviously a cornerstone for public services and institutional uses in this vicinity, and then you have the other institutional uses this building that we are in, the School Board building and park facilities and fire stations, all up along courthouse road. So this is really a very good area and it has all of the key components that are necessary for economic development. I think it is probably the envy of many of the surrounding counties. A comment was made about the archaeological study. I think that there is some misunderstanding of the archaeological study. What was found on parcel 71A and on parcel 16A were only two sites. On parcel 16A, over here, there is a house foundation that was found that the archeologists recommended for further investigation. It did not appear to have any unique purpose or place in history but they wanted to have the Phase II study to make sure that was correct. The second archaeological site that was identified on the property was a prehistoric site that is here that I am pointing to in the open space that is proposed and in the floodplain area that exists on parcel 71A. And the recommendation in the book, the study, that it either not be disturbed or have a Phase II study. We have agreed in the proffers to do the Phase II study for the house foundation on parcel 16A. We have agreed to avoid the site on parcel 71A and, if it is not avoided for some reason, because of utility locations or anything of that nature, then the Phase II study is proffered. So it is not as simple as they did not agree to it. It actually is proffered under particular circumstances. This is a copy of the topographic plan for the area extending from the intersection of Route 1 and the proposed South Campus Boulevard and the existing now Hospital Center Boulevard along Route 1. This is Old Potomac Church Road coming through the center of the property and running north/south and Courthouse Road is to the north and out of view on this particular slide. Our first step was to inventory the physical attributes of the property. And I am telling you this because I want you to know that this is a process that we go through as we develop our property. It is not throw a building on it and then figure out how to get around the topography. You

start with the topography and you build up from there. You start at the ground level and you come up from there. So, the first step is always to inventory the environment. In the darkened area here you see an area that is partly RPA, it is partly wetlands, wetland vegetation area so those are pre-emptive, and then there is an area over here that is not wetland or RPA, it is actually usable property. But it is going to be preserved. All of this darkened area here is proffered in the GDP to be preserved. In fact, we suspect that more than this will actually be preserved in the long run because you really cannot do much with some of these nooks and crannies. And our proposal is to add onto this. Right now we have set a minimum of 30 percent open space, including the open spaces and buffers on the rest of the property, so it is 5 percent above the minimum requirements, plus we have set a 10-acre cap that we suggested that the Park Authority may be interested in having or the County may be interested in having. In one of those early meetings that we had with the Planning Department and Economic Development, a comment came up that there is a very strong stream valley running through the property and to the south and eventually connecting with Accakeek Creek. That seemed like a good idea to us, so we have offered to dedicate that if the County wants it and so it is there for the County's requesting if they do decide that they want that. What we came up with based on the net area of parcel 71A and the net area of parcel 16A is a very realistic building area yield of 531,868, so about a half a million square feet, on parcel 71A and 10,000 square feet on parcel 16A. Those worked very well with the existing topography and the existing environmental features of the property and we think that, again, we can probably add a little more to that because of the nooks and crannies that I mentioned that you just cannot fill-in in some of these locations, so there will be some additional area overall. The next step was to do the archaeological study but I have already mentioned the archaeological study. The next step was to do the 527 TIA that is required by VDOT. A much larger area than just this site was analyzed. The analysis and the recommendations that you see in the analysis maintain a Level of Service C at all of the connecting roads for this proposal. A Level of Service C in a TIA is peak hour, and that is a substantial improvement over Level of Service C in a Comprehensive Plan or a 24-hour type of model. So really, these road connections are well taken care of, well above what the normal public planning process provides in their analyses. Our next effort was to identify the locations and opportunities for road connections. We have already talked about this intersection at Route 1 and how that was driven by environmental features to the south and also to Board preference resolution. I will pause for a minute here and talk about the three things that VDOT was concerned about, the designs that are yet to be determined. And they are, from Route 1 to Old Potomac Church, the existing road intersection does not meet VDOT standards for separation if you have a crossover. And so there could be turn lane stacking questions as this property develops and it is phased so we think we are avoiding that by funneling traffic either out through South Campus Boulevard or an eastern connection which is one of the late suggestions that we received from VDOT back up to Hospital Center Boulevard. This eastern connection presumably would get the traffic signal if this is approved, and then this connection probably eventually would not become an intersection with a crossover. It would probably end up being something that would have more limited access and thus the design question, or issue as it was referred to earlier, goes away. It just is not an issue anymore. We talked about the separation between Hospital Center Boulevard and this location. The other concern, and Sara already mentioned it, is the location of Jumping Branch Drive here. And this simply is not designed yet. If the VDOT plan brings in a road at this location then Jumping Branch Drive will be too close to that intersection and it does not meet any kinds of alignment today. It is a skewed intersection and it does not meet geometry requirements. What would probably happen with this road is that it would probably curve back and intersect with South Campus Boulevard somewhere back here. But that has not been designed yet. And so it is more appropriate as we get closer to that issue and after we know what VDOT is doing on this side of the road. Another option that has been looked at is to connect Jumping Branch Drive back to the south somewhere. There is another connection opportunity that would probably result in a cul-de-sac at this location, which is not a very desirable intersection already, and would funnel traffic back toward the south and eventually intersecting with Route 1. So, again with choosing the road

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alignments after identifying the opportunities, we saw that Shad Landing Way intersects in this vicinity of Old Potomac Church so we needed to meet separation requirements for Shad Landing. We have an intersection that we need to keep away from here at Hospital Center Boulevard and Old Potomac Church and so that pushed the intersection of an east/west connector through our site to the north. And so that is why you have this curve that comes through the property and then comes up to the north and intersects here. It is so that when this road is built we do not have to go to the people who live on Shad Landing Way and say guess what, our road is too close you are losing your crossover, you are losing your median break. That is not the way to plan. We have planned it at a different location so that is going to not create that conflict for them. Also I mentioned that Old Potomac Church LLC owns these properties so, by the virtue of this alignment, they have provided a location for this road that they fully control and can provide right-of-way for. VDOT, however, asked, and I believe the County agreed, that we should be flexible on the location of this road and, in fact, suggested that it might be located closer to the north in our meetings. It might be located further north closer to this intersection, even more challenging to that separation requirement we were talking about earlier. But that is to be determined, it is not a design that we can control and we have to wait until they have answered that question. And then we proffered the phasing of buildings so that incrementally road improvements could be provided to maintain this Level of Service C connectivity that I mentioned earlier. And that is the reason for our phasing schedule. And it would be nice if our phasing schedule was very nice and straightforward but we have to wait for VDOT to make some decisions, we have to do some more engineering on our own site and we have to purchase right-of-way depending on what VDOT might decide. So, what we have done is we have phased it so the project can progress and be a revenue generator for the applicant as well as for the County in terms of tax revenue. This next slide, and I will not spend much time on this because you are all familiar with it, but I just wanted to include this to show you that we looked at the Comprehensive Plan and saw that this area was planned Urban Commercial. And then we went to the zoning, and we noted here that it says "comparable zoning district B-2", so we went to the zoning district B-2 and that is what we have applied for today to be consistent, completely consistent, with the Comprehensive Plan. We did, however, as Jon acknowledged, that there were some uses that might be considered negative influences on the overall project from our perspective as well as possibly from the County's, so there are a list of prohibited uses that would otherwise be permitted in the B-2 district simply because they do not fit in with the character of design that we are talking about. In the perspective of economic development, I mentioned that this property is well-staged for very good economic development opportunities. We understand that the County's goals from the Comprehensive Plan and the economic development strategies that we see on the internet is that the County wants to create employment opportunities within the County and, just pausing for a moment, I heard someone say that this project was going to generate traffic. It attracts traffic or it captures traffic but people do not live in office buildings, people come to office buildings from residences. So, we think that this creates an opportunity to create employment within the County so that these same cars that are already on the roads and passing by this site today to go to employment further north can stop here and work. And so we think, from that perspective, this employment opportunity is very, very positive in terms of transportation as well as revenues and just quality of life issues for people in Stafford County. It would provide supportive services and workforce to the hospital. It is a revenue-positive proposal. The tax revenues from the build-out of this project, based on the current tax rate in Stafford County, would net \$1.3 million per year. As we all know, commercial uses demand very little in the way of public services and so that is why I have listed this as a revenue-positive project, because we truly believe that it is. It also is consistent with the Courthouse Redevelopment Area vision. And in our proffers on architecture, we were a little bit ahead of the curve in that we have a design guide that we have proffered but, at the same time, we were asked what if we have some other ideas in the Courthouse Redevelopment Area Plan. Will you incorporate those as well? And the LLC agreed that they would do that and so that is why you see a proffer that proffers to both the design guide that you have a copy of but also says that if

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there are concepts from the redevelopment area guide that those will be taken into consideration as well. And one thing that is not normally true when you do one of these rezoning applications is that this is truly a keystone property, and I say that because when you take parcel 71A and 16A and you combine them with the other landholdings that the LLC has, you have an opportunity to provide access to a much larger area that the County has identified for economic development. And because of that, we think that by virtue of 71A being developed and providing over 12 acres of right-of-way dedication free to the County, that it is going to create opportunities for... it is going to create sort of a critical mass. We think that it will accelerate redevelopment or development of those properties that surround it. There is about an additional 150 acres within this area. Brad Johnson may be able to tell you exactly how much area is south of Hospital Center Boulevard and east of Route 1 and north of Accakeek Creek that is a part of the redevelopment area. But it looks to be about 150 acres from our estimates. The proposed South Campus Boulevard, if we did not say it before, is a four- to six-lane arterial, it is proffered to be at four lanes. We were asked to give, even though you cannot fit six lanes in a 110 foot right-of-way, we were asked to give a 150 foot right-of-way at least between Route 1 and Old Potomac Church Road. And so that is a part of the proffered conditions. That is more than enough land to allow that road to become a six-lane road. It is not often, when you have one of these development applications, that you are getting an entirely new road that is going to benefit more than a single project. This is going to benefit all of the people there and we think this will take a lot of traffic away from the intersections to the north. The total length, just to give you a sense of scale, of this South Campus Boulevard that we keep talking about is over 4,000 feet; it is about $\frac{3}{4}$ of a mile. In the first leg of it, the part that has been requested and proffered at 150 feet in width is 2,200 feet. So that is almost a half a mile of new road right-of-way. We have some things that we need to keep working on. You saw from the staff report some comments that some things had not yet been done to the satisfaction of staff and honestly we thought that we had gotten there. We are disappointed that we did not but we are completely willing to sit down with staff again and try to sort these things out. We think some of them are communication issues that we can correct by providing some additional words here or there to replace some of the concern. And the one that caused the most concern was the one about right-of-way availability. The others were not so much concern. They were simple enough. If the Zoning Ordinance takes precedence over something that we have proffered inadvertently not realizing that we have created this conflict, the Zoning Ordinance prevails. I do not know of any jurisdiction that does not say the Zoning Ordinance prevails if somebody has proffered something under the minimum standard. So that is not a big deal, those proffers can be eliminated or revised so that we do not have those sorts of conflicts and we do not waste the words or we do not waste the paper in the proffer statement. The right-of-way availability is a little bit harder, a little bit more challenging I think because we thought we had addressed that. I went ahead and I put the words from the proffer right in this slide so that everyone could see them. Our intention is, by making this reference to right-of-way availability is that if for some reason, because VDOT has shifted the road north further toward the edges of the properties that are owned by the LLC for whatever reason, or because of some engineering constraint the road is moving somewhere that we do not expect it today, that we would be able to get an exception to the slope grading requirement for example. When you build a road, you have to maintain 2-to-1 slopes on the shoulders of that road. And so what we are trying to be careful of are that if there are some engineering design problems like that that arise when we get to the site plan that we have an understanding that we are also going to ask for a waiver or a modification, all of which can only be approved by VDOT and the County if they meet safety standards. There is no intent to try to get out of building a road, there is no intent to try to build something that does not meet safety standards, this is just a provision that we are trying to say we may need to look at some alternatives and we want to be sure they are still available to us. That no one picks up the proffer and says well you know you could apply for a waiver or modification but you cannot now because you have proffered that you are going to do it this way. And we just want to be

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able to do that. So, those are wordsmithing things that we think we can address. I may have gone over my 10 minutes; I apologize if I did that.

Mr. Fields: You are at 30 minutes.

Mr. Patrick: Oh really? Okay. We do have additional professionals here that can answer more detailed questions on transportation and engineering if you need those. And if you have any questions that I can answer I will be very happy to try to answer those for you this evening.

Mr. Fields: Are there any questions for the applicant at this time? Mr. Di Peppe then Mrs. Carlone.

Mr. Di Peppe: There is no listing of the partners. I would like to know how many partners are in Old Potomac Church LLC and who they are. You said you had two of them here but how many partners, I would like to know who you are, who we are dealing with.

Mr. Patrick: We will be happy to provide you with information on the LLC.

Mr. Di Peppe: Okay. Do you have the people, your consultants, CRI, the Cultural Resource people here?

Mr. Patrick: No, we did not bring them this evening. We did not think that there was going to be a question on that.

Mr. Di Peppe: Just briefly. On page 7, the whole research design under objectives “The Phase I cultural resources survey was designed to locate and identify all archaeological resources within the areas surveyed, as well as to document any standing structures over 50 years of age within the project area.” An important part here, “CRI designed the survey to obtain sufficient information to make recommendations about the research potential of identified cultural resources based on the resource’s potential eligibility for listing on the National Register of Historic Places.” That is 7, that says what you are supposed to do, what you intend to do. On 8, next to the last paragraph, “The remaining three archaeological resources included two cemeteries...”, with some numbers, “...and a Civil War winter camp...” and when you go to page 9 the only thing that came up that had any potential eligibility is listed as 44ST0976, Military/Defense, 19th Century, 3rd quarter. I am assuming that has to be the Civil War camp. Maybe I am wrong but since this whole thing was set up to identify those and since the only one that was identified as having any potential listing, and I could not find it anywhere in the study. And I am disappointed about that because I want to know where the Civil War camp is, how big it is and if we need a Phase II. I also was told that the cemeteries, and this is kind of in the name of Barbara Kirby, I want to know where the cemeteries are, not just that they are in some undisturbed area. I want to know where they are and how big they are and what kind of buffers we are going to have, and I want a whole lot more information on where the camp is and all that information.

Mr. Patrick: Mr. Chairman, if you look at page 10 in the same report, you will see a map that gives the locations of all of the sites that are discussed on page 8 and 9. These things are very confusing and it has taken me a while, many years, to really understand them and read them. But these paragraphs are referring to other studies, other previous investigations that were done on other properties. To our knowledge there is no cemetery on parcel 71A or parcel 16A. There is a prehistoric site where they think there may have been an Indian encampment, they saw some broken stones, that is the area that is undisturbed and in that floodplain area down near the creek that I mentioned. And then there is the foundation on parcel 16A. What they do when they do these studies, and this might be an explanation of why things are not in our HP recommended, what they do is they classify them, and this is a

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generalization, but they take the site and they decide first is this site unique, are there any others like this in the area. And if it is not unique then that gives it one rating. They check it to see if it has historic significance and, if it has historic significance, like a Civil War camp, which we do not have on our site, then that is important in this area. It has local importance. Or if it is connected somehow with a person who has significance in history, like if James Madison or John Marshall or George Washington slept in the house with the foundation, which we do not have any indication is the case, but then that would give that site a scoring for having historic significance. So after they identify a location and they define its approximate age, then they go through this vetting process to determine whether or not is it significant or not and whether it is eligible for the National Register. So I think that is why you are seeing what looks like an inconsistency. But if you have a lot of that background then it makes a little more sense.

Mr. Di Peppe: So there are no cemeteries and no Civil War site?

Mr. Patrick: No sir.

Mr. Di Peppe: Okay, thank you.

Mr. Fields: Mrs. Carlone?

Mrs. Carlone: I have quite a few. One of the concerns Arch already asked about and you only gave a partial list of partners. You are going to provide that. Some of the statements here attached to the proffers are rather worrisome and let me quote some of them. "Applicant did not comply with that request", this is on landscaping. "The applicant declined to comply with that request", this is on Cultural Resources. "The Planning and Zoning staff asked that applicant remove these proffers", that is on Environment, "The applicant declined to do so". There is a lot of little statements here but another one is the question about why the Campus Boulevard stopped mid-parcel 71A, and then we have no guarantee about what is going to happen on the road. You show a road going to Courthouse Road; you do need a crossover there but it says "not by applicant" and "not by applicant" starts in the middle of 71A. That is a concern. Why? There are a lot of other ones and I do not want to go into it in the proffers but I am just a little bit concerned about some of the statements in here about the cooperation. And also just about building materials. This is one that could be readily resolved and that is metal panels; we are trying to keep brick stucco on the siding, stone precast. I have a lot more annotations but that is it for right now.

Mr. Patrick: Mr. Chairman, I think that in an effort to be brief in the staff report, and succinct, unlike my presentation, staff has chosen words that perhaps are unfortunate and I will let them speak to that if they want to. But I have a copy here of the proffer statement that we submitted immediately before this combined with the changes that we made. And what we do is we do underline and strikethrough format, which you can do easily in Word, and I can show you in these proffers where we changed every proffer that we thought was being asked that we change. We did not get to the final conclusion. So, it is not a matter of we declined to address those issues. We tried to address them, we just did not get all the way there. And so, what I am telling you here this evening, we are very happy to go sit down with staff, this has been a highly collaborative process. I would be happy to show you all of the changes that we made to this proffer. I have highlighted the ones that were mentioned in the staff report to show where we did literally change those exact proffers. But this, as I said, has been a highly collaborative process with staff. We think we have been very, very cooperative and we think they would agree with that, and we are completely prepared to continue that.

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Mrs. Carlone: Just one other thing. History is what is very important here. We are trying to preserve what is here, what is significant, and perhaps something that is not significant to someone else is to us. And you do not know the significance until you have done a Phase II. So I hope we get through that or over that hump.

Mr. Fields: Any other questions for the applicant?

Ms. Kirkman: I have a few questions regarding the proffers. So, throughout the proffers I noticed you refer to a commercial building rather than a medical building or general office building and I do see in proffer 1B you say "a minimum of 60 percent of the gross building area shall be medical or general offices". Is that the only proffer you have about the mix or the phasing of the mix?

Mr. Patrick: Yes.

Ms. Kirkman: So you have not proffered you will build the medical first.

Mr. Patrick: No.

Ms. Kirkman: You have not proffered you will build the general first.

Mr. Patrick: The Comprehensive Plan allows B-2 zoning and recommends B-2 zoning and what we have said is we will do B-2 zoning, no problems, but we will do at least 60 percent of that as general and medical offices. But there is no phasing for the medical and general offices to occur beforehand. The reason that we are having this mix of uses and not going straight offices is because in areas where they have done straight offices on property of this size, it is not sustainable. Everyone will want to go to lunch. If they want to go to some sort of retail service in the middle of the day during their lunch hour has to get in their car and drive somewhere else. So by allowing for a reasonable mix of supporting commercial uses that are not office, we are providing a critical mass of a mixture of uses that improve connectivity and reduce transportation impacts of a proposal, plus they just make it more desirable.

Ms. Kirkman: But in your Traffic Impact Analysis, about 2/3 of the project is general shopping and I just do not see where you need that amount of shopping to support the remaining medical and general. That seems to be providing excess retail capacity for the proposed project.

Mr. Patrick: The TIA was drafted so that it conforms to the proffer conditions and vice versa. We made a very strong effort to try to make them both work together. One of the problems that we ran into with the ITE, the Institute of Transportation Engineers, traffic projections is they do not have traffic generation rates for every different use that is permitted in the B-2 district. So some of those uses we have to look at them and we have to say okay, we are going to treat it the same as a retail use and, in fact, VDOT helps us make that decision, even though it is not a straight retail use. A bank is not a retail use but you will find in an ITE very frequently you have to treat a bank as a retail use in your trip generations. So, I think the difference that you are seeing there is because of the ITE trip generation rates not matching perfectly with the permitted uses in the B-2 district.

Ms. Kirkman: Well, I just want to point out that 60 percent only applies to parcel 71A. The proffer does not, in any way, address the other parcel which has, I think, a 5,000 square foot building on it.

Mr. Patrick: You are right about that.

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Ms. Kirkman: So it does not address that. And I would be looking for some kind of commitment about how this gets phased so we do not end up with a strip mall first and then medical and general office later.

Mr. Patrick: I understand.

Ms. Kirkman: Also, we are going to need a definition of gross building area. I know that may seem obvious but it has been amazing the interpretations that lawyers have come back at a later date regarding these kinds of things. I had a question about you made the statement about this boulevard is going to relieve congestion at the Courthouse and Route 1 intersection. But, if you take that boulevard over to Courthouse, you either go left, which takes you right back to that intersection, or you go right. And if you are going to go right you already have access to the hospital boulevard or if you are coming from further south you can take Eskimo Hill Road. So, I do not understand how this... I would need to see, and perhaps it is in this 200 page thick document that we got on Friday and have not had the time to read every page of it, but I really want to see convincing evidence that this is going to reduce and improve what happens at the Courthouse intersection rather than make it worse.

Mr. Patrick: It is in that 2 inch document and we are happy to explain it.

Ms. Kirkman: Then, you make the claim that this will generate... will be a \$1.3 million revenue generator for the County but it looks like the proffers also propose a community development authority and when those are set up they capture the tax revenues and just reinvestment them in just that project, instead of those tax revenues going into the general fund. So, while this may mean more infrastructure for this project, I would like to see the Economic Impact Analysis and how this benefits the County as a whole rather than just plowing the tax revenues back into the infrastructure for this project.

Mr. Patrick: If I could address that. We spent a lot of time talking about the CDA and how to address that in the rezoning application. The final conclusion was, and the recommendation from staff as well, was getting into the details of the CDA is premature frankly. The Board of Supervisors needs to initiate the CDA, and then the structure of that CDA provides for how those funds are collected. Very often, those funds that you are talking about, are additional taxes collected from the properties. So, in addition to the eight-five cents per hundred that is part of your current tax rate, it is very likely that the Board will adopt a CDA district which will be drawn around this property and any other properties that choose to participate. Very often they will have an additional surcharge on that. And it is the surcharge that is used and allocated to pay down the debt on the bond. It is not paid by the general public of Stafford County. It is paid by the people who are within the taxing district.

Ms. Kirkman: So, is your client willing then to proffer that they will not participate in a tax increment financed CDA?

Mr. Patrick: I am not sure. I will look into that and get an answer for you.

Ms. Kirkman: Because that just rolls the revenues back into the CDA and it is not based on an additional fee. And I want to see, in an Economic Impact Analysis, where these funds... the \$1.3 million is going into the general fund to benefit the County and not just to this project. Lastly, I just want to make sure I understand this proffer 5B titled Condemnation. If I am reading this correctly, it seems to suggest that the applicant will be asking the County or VDOT to use condemnation to acquire right-of-way if they are unsuccessful in purchasing. Is that correct?

Mr. Patrick: Yes.

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Ms. Kirkman: So they will be using condemnation for a private development project?

Mr. Patrick: No Ma'am. Those powers can only be used by the Board of Supervisors as I think you know and the reason you are asking the question. They can only be used where they show they serve a public interest. So there has to be a greater public good. The construction of South Campus Boulevard, for example, if you have the interchange connection as the Board has expressed they would like to have it at that location, will absolutely divert traffic away from the Courthouse intersection and create an easier route, a less resistance path, for traffic to come down below the current congestion and intersect with Route 1 and go south, or the opposite direction if you are originating on the office site and leaving the property. So, there has to be a public purpose; you are right. And we do not have any expectation that it will be done for the convenience of this individual development. It will only be done for public purpose and South Campus Boulevard and the example I gave you would certainly be that public purpose. And we will have to demonstrate it.

Ms. Kirkman: Yes, I will need to see that. Okay, those are all my questions.

Mr. Fields: Alright, any other questions for the applicant?

Mr. Mitchell: Mr. Patrick, just looking at the overall plan, would your group be willing to proffer paving the remainder of Old Potomac Church Road? I see that you had looked at paving the portion directly beside the developmental portion, but there are a lot of people who could benefit that live on down that way. That was one of the projects that I had worked on back when I was on the Board of Supervisors. So, my question... would it be feasible or economically possible to do a repaving of the remainder of the road not involved with your project?

Mr. Patrick: There is a proffer that says that the frontage of parcel 71A will be paved as it develops and it will have to connect to South Campus Boulevard as well. The difficulty with Old Potomac Church Road is the uncertainty of its ownership. It has a State route number, as I understand it, but no one can find where it was ever accepted into the State highway system. So, to the extent that the applicant owns land on both sides of Old Potomac Church Road, they can pave it and they can improve it and they can use parts of their own property to accomplish that. As you get past parcel 71A, we are not sure who owns it. I think it would be very difficult for us to determine that. Now if there is another process that the County goes through to figure out the ownership or to clear the cloud on that title, maybe something can work there. But we think that, to a large extent, the CDA, if people are interested in participating in it, can get a lot of these roads built and solve some of these problems that you have already pointed out.

Mr. Mitchell: Would you look at that for me please?

Mr. Patrick: Yes Sir, absolutely.

Mr. Mitchell: Thank you.

Mr. Fields: Any other questions for the applicant?

Mr. Howard: Just one real quick one, and it involves Route 1 basically. Did you discuss or did you include in your proffer any improvements to Route 1? Specifically, if you are heading northbound on Route 1, a decel lane turning into the complex. And then heading southbound on Route 1, in addition, widening to accommodate a left-hand turn lane once that traffic light is in place.

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Mr. Patrick: Yes Sir. We anticipate that that will be part of the design requirements.

Mr. Howard: From VDOT or is that proffered in there that in fact you will do that?

Mr. Patrick: We have proffered that we will make turn lanes that are necessary to accomplish the intersection.

Mr. Howard: On Route 1.

Mr. Patrick: On Route 1. And that would include some of these improvements that you are talking about.

Mr. Howard: Okay.

Mr. Patrick: Now, to the extent that we have right-of-way, we only have right-of-way on the east side of Route 1; we do not have any right-of-way on the west side.

Mr. Howard: But I am specifically asking, if you are heading southbound, in the proffer are you including that... it will require some widening so are you including adding a left-hand turn lane heading southbound?

Mr. Patrick: Yes. We said that we will do the turn lanes that are necessary for the intersection and that will include it.

Mr. Howard: That would be on the westbound side though.

Ms. Kirkman: You do not have the width on Route 1.

Mr. Patrick: There will have to be some shift.

Mr. Howard: It will require 400 or 500 hundred feet of road widening at some point to allow for the left-hand turn lane into your complex.

Mr. Patrick: Right. And that is one of those design things that I said would have to be worked out.

Mr. Howard: For my comfortability I would have to see it somehow worded in there that that is included and you thought that through.

Mr. Patrick: I will not take your time now but I will report back to you and give you that specific plan which I believe is there.

Mr. Howard: I understand.

Ms. Kirkman: I have one brief question. What are the plans for the remaining parcels owned by your client?

Mr. Patrick: It depends on the zoning of this property. If this property is rezoned and if the redevelopment plan is adopted as is expected, there is a meeting next week to talk about it further, then the applicant will start to put together a comprehensive approach to developing the sites.

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Ms. Kirkman: For what use?

Mr. Patrick: Well, they are already zoned B-3. Those other properties are not a part of this rezoning.

Ms. Kirkman: So there will be no other rezoning involved?

Mr. Patrick: I cannot say that. We need to look at this area more comprehensively and we need to see what the redevelopment plan recommends for these parcels. Right now they are in the Comp Plan for B-2, for Urban Commercial for example. We think that that might change. They are zoned B-3. We think that that might change with the redevelopment plan, we just do not know what is going to happen next.

Ms. Kirkman: And how is it that you think it might change?

Mr. Patrick: Well, the Planning Commission and the Board of Supervisors rezoned them B-3 less than a year ago, so that would seem to me to be some indication that there is a greater desire for some office over there or some other kind of mix of uses.

Mr. Fields: Alright, any other questions? I do have a brief question. As far as the possibility of Campus Boulevard extending eastward of the property over to Courthouse Road, you stated which is logical that you do not own that property but you do not own any property to the west either, right? You do not own the property currently between Route 1 and your main parcel, right?

Mr. Patrick: No, we do own most of it.

Mr. Fields: You do own most of it?

Mr. Patrick: Yes.

Mr. Fields: So those parcels that are not identified as part of this rezoning are actually your parcels?

Mr. Patrick: Yes. All of the ones along the alignment for South Campus Boulevard.

Mr. Fields: Then what were the right-of-way considerations that are questionable about that road? You said if you were able to get the right-of-way.

Mr. Patrick: Well, if VDOT relocates the road. See, VDOT asked that we not commit to only that alignment. They said we might want to move the road further north, so stay flexible on the alignment of the road. And so are proffers are flexible with respect to the alignment of that road. VDOT could shift it further north and then we are faced with the challenge of having to get additional right-of-way.

Mr. Fields: So, at a certain point it leaves your property, but under the current scenario the proposed South Campus that goes to that spot on Route 1 is all within the property owned by Old Potomac Church LLC.

Mr. Patrick: Yes. That is much preferred, it is much cleaner and we know exactly what we are dealing with. So the sooner the decision is made by VDOT, the happier and more swiftly we can move.

Mrs. Carlone: Mr. Chairman?

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Mr. Fields: Quickly, we have four other public hearings.

Mrs. Carlone: Just if this were approved, or when it is, what was your timeframe? It seems to be contingent on that VDOT decision. Is this correct or would you be initiating this earlier?

Mr. Patrick: The early phases of the proposal are not affected by the VDOT decision on the South Campus Boulevard because the property would be accessed from Old Potomac Church Road. And that is why we have broken it down like this. It is because, frankly, we would like to move quickly on it. A property that is not generating revenue is not income positive. And so the intention, economics allowing, market demand allowing and financing allowing, is to move forward as soon as possible. And we think that the hospital is going to generate the need for the space.

Mr. Fields: Okay. Stand by, we are going to open the public hearing and then we will continue. At this point I would like to invite... we will open the public hearing so any member of the public that wishes to comment on this proposed reclassification, either for or against, now has their time. Three minutes the green light goes on, the yellow light is a minute, the red light means your time is up and you need to wrap it up. Is there anyone that wishes to speak on this matter? Please come forward, anybody that wants to. You do not have to raise your hand, just stand up in line.

Raymond Shaw: If this development goes through, I would like a privacy fence between my property and their property. I have three neighbors who would like the same thing. If they realign the boulevard that they are putting in any closer to my property, I would like a sound barrier fence put in so that we can maintain our privacy. We rely on that section of the woods for our water table; we are on wells down there. And we rely on the water from that wooded area for the wells. If it gets paved and covered with office buildings, we are going to lose a lot of our water for the wells. We would like, if possible, to have a water line run to our property line from the new office buildings if they are built. Will there be any restrictions on the hours of operation of the office buildings? The blacktop road was already mentioned by Mr. Mitchell. The south side of the hospital boulevard, according to that did not look as though it was going to get paved. But I would like to see it paved down to the corner of Old Potomac Church Road. That is all.

Mr. Fields: Thank you Sir. Just to mention, to clarify sometimes on the public hearings we just receive comments, we do not actually answer questions. We answer at the end. So, if it seems like we are being silent it is not because we are being inconsiderate. We are just here to listen and then we talk about things collectively at the end. Thank you Sir. Is there anybody else that would like to speak?

Keith Snyder: One concern I had was I saw a number of 21,000 cars going to be exiting that area. If only half that number make a right turn toward the Courthouse and Route 1 interchange, I can see that being a disaster during any type of a rush hour. Especially with the narrow roads that are on 630 to 95 as it is. My other concern was the proposed road that they have got going into the property that does not go all the way to Courthouse Road. From the map that they showed, they identified one purple area as wetlands that my understanding is they would not go to Courthouse Road. So there is only going to be one exit going out of that property. That seems to be a concern that might need to be addressed. Mr. Shaw has already mentioned our water that we might be concerned about if we lose it. Actually I think that is about it. Thank you.

Mr. Fields: Thank you Sir. Is there anyone else that wishes to speak?

Lavette Bumbrey: Our property sits in between the hospital and the property that is represented here tonight. So we are essentially being sandwiched in. We have many of the same concerns as Mr. Shaw

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and this couple here, water line, sound barrier. I was personally concerned when I saw the comments about the buffers being below the standards that were even required because we are right up against that side of the property. I am also speaking for four or five different property owners in that same section. It is part of Johnson's Family Subdivision so we have about four or five parcels there that I think it is 39-57B, C, D, E, F, that section there. So, we are just concerned with how we are going to be impacted overall. And I think, again, more of our concern is the fact that we will be right in between both the hospital, Hospital Boulevard, and again there is only the one way in, one way in, one way out. We do not know what is going to happen with the traffic, the volume of traffic. So, that is it. Thank you.

Mr. Fields: Thank you Ma'am. Anyone else that wishes to speak? Alright, if that is all than I will close the public hearing. Would the applicant like to address any of the issues raised in the public hearing?

Mr. Patrick: Thank you. My client has authorized me to address a couple of things right now this evening and I think it would be important for people to hear them. With regard to the buffer being lesser than normal standards, the issue there was not that the buffer was going to be any smaller than is required at the time of development. What we had in the proffer was a provision that said that if the property next door cease to be a residential use then the buffer requirement would no longer be imposed against the South Campus project. The problem with the proffer is that we said residential use. If we had said if this residential zone goes away then we do not have to provide the buffer, then there would not have been a question. That being said, it does not matter. The Zoning Ordinance takes precedence and we are can delete that proffer, the part that is problematic and causing concerns for staff. But I did want the neighbors to know that the proffered buffer or the buffers that are shown on the plans and are intended and would be built fully comply with all the zoning regulations and, in fact, we enhance that by saying at least 50 percent of the plantings would be evergreens so that you would have year round screening as opposed to a few months a year when you would be able to see through the buffer. My client, Don Hart and Doug Brown as well, are the principles in the LLC and the balance of the LLC is made up of doctors who practice in this area, and there are a number of them. But Mr. Hart has been developing in Stafford County since 1974 so we are working with people here who are from the community and have been in the community for a very, very long time. So I wanted to be sure to clarify that because I might have left you a little wondering about the answer that I gave you there. With respect to the fence that has been requested for the neighbors, that has been completely within the realm of reasonableness. Mr. Hart has also said that he would be willing to extend a water line to the property in the event there were any issues with wells or concerns about the wells. So that is something that we can meet with the owners and talk about. And we will meet with them before your next meeting and address all of these issues directly. But thank you for giving me the opportunity to address those this evening. And Mr. Hart, in particular, wanted me to be sure to tell you that the vision for this project is to do a medical office campus similar to the one that has been done near the Mary Washington Hospital, and that the complete intent here is to follow through with that. Paving of Old Potomac Church across the frontage of the property to the extent that we own right-of-way or that the County owns the right-of-way is something that he has also agreed to. And I think I have touched on the things that people have asked. If there is anything else that I did not, please let me know and I may have an answer to that as well.

Mr. Fields: I have a couple of questions. I do not want to prejudge the outcome but it seems logical that we would be taking this to a work session as there are obviously unanswered questions and many things that would have to be worked out. The concept certainly is good, the idea of providing jobs and quality jobs in Stafford County is probably in some ways a more important goal for any of us to work towards. Sustainability of the community depends on that for sure. I think the number of traffic

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concerns... I would like to keep open at least a discussion of what would be the mechanisms and possibilities of the eastward extension of South Campus being in some way included in this process, either through the CDA or through some collaborative process. I am not sure; again, I will think of some ideas. I would like to put it on the table to be thought about. I am deeply concerned. I remember we had a presentation on this to the Transportation Committee of the Planning Commission previously a few months ago and I think that was still a major concern. I think things happen where they happen and that is okay. I think there is a concern that we are starting, as we look at the Courthouse Redevelopment Area, there is a little bit of a concern that we are starting at the outer edge of it rather than at the core of it. Though synergy and the more you develop will certainly imply things. So, I do not mean to say that that is in and of itself wrong. I think that some of the traffic concerns have to do with that idea of creating more development on the fringe of an area that is already problematic. As I was driving to the Courthouse this evening I was reminded that on the corner, on the very center of Stafford at the intersection of Courthouse Road and Route 1, you have a Government Administrative building and on the other side you have a big yellow sign saying car title loans and on this side you have a bunch of vacant buildings and then you have the Cedar Post that looks like something you would see in Baghdad or Kabul or something and I am like boy, this is a beautiful place to live, isn't it? I mean, honestly, I do not want to get on a... I am drifting off point here. But what I am saying is this will eventually help but I think there is some concern that I would certainly hope that we do not have a brand new beautiful office park down there and still have car title loans and the Cedar Post sitting there at the intersection of 1 and Courthouse Road. So, I know that it is not technically within your scope but I think, as we further discussion with the Planning Commission and the Economic Office and the Board of Supervisors and everybody involved, I think articulating and knowing that you own several other properties in this area, you obviously are going to be a significant participant in this. And I think further articulating and helping all to understand how this will really make Stafford have a town center in the Courthouse area I think is vital to getting this. And it sounds like you are very much on board with that. I think, personally, I need to hear more discussion about that in a comprehensive way. But particularly to talk about mechanisms for that eastward extension, I am very concerned that no matter whether the alignment of the 95 interchange comes there or not, that not providing connectivity then on that layer between Courthouse Road, as does the hospital thing, with the volumes we are talking about, it seems like we almost have to have two outflows there. Sara, from your department, have you done views to our model at all to look at some design outcomes or variabilities on this project?

Ms. Woolfenden: The answer is yes and no. When we looked at it with the transportation plan that we were looking at earlier, we included an alignment where they have identified South Campus Boulevard to see what would happen to the area. We also put significant employment in this area when we were modeling it because it is in the redevelopment area. So, we did not identify specifically South Campus and run a model run that way but when we did our model run to look at this area we did have elements that were very similar to this to see what would happen to the area, because we had talked to Economic Development and had some idea of what they were looking at in this area for their redevelopment. Now, as we all know, they have not finalized their plans and once they do finalize it we anticipate that we will rerun the model with their anticipated changes.

Mr. Fields: Can you get the specificity on your model to run a variation of connectivity to Courthouse Road versus no connectivity to Courthouse Road? Can you be that specific in your modeling? I do not mean to put you on the spot. You certainly can say I need to look into that. Do not feel compelled to give me an answer, it is just something I would like to find out.

Ms. Woolfenden: We have looked at it without it and we have looked at it with it. We did not run the partial thing that they proposed at this point. We asked them to phase it and run it with syncro and we

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looked at the TIA. Even without finishing the connectivity the traffic is addressed by the partial connector for their site. To be fair to the applicant, when they initially submitted their TIA, we looked at it and we asked them to make some corrections and they came in with a secondary TIA which addressed the concerns that we had. And in looking at it, it does adequately address their site traffic issues. In order to have the interchange land there, they will need that further connectivity if that goes through because of the anticipated volumes that will come off of the interchange from the Interstate. And so those are issues that we are concerned with, if it is not connected and the Interstate connects in. So that is a definite traffic issue. But, their piece alone is very much handled by it. And if they do proffer the six-lane, that is far above what their site would generate. I do not know if that fully answers your question or not.

Mr. Fields: What is the current vehicle count at the intersection, the 630/Route 1 intersection?

Ms. Woolfenden: Today it is about 16,000 vehicles per day.

Mr. Howard: I think that is just on Route 1. If you factored in Courthouse I think there is another 8,000. That would be 24,000 vehicles per day.

Ms. Woolfenden: Actually 16,000 is on Courthouse. On Route 1 I do not have it off the top of my head. It is higher on Route 1.

Mr. Howard: It is greater on Route 1.

Mr. Fields: I know what 16,000 looks like and that does not look like 16,000.

Ms. Kirkman: But, not tonight, I still have three public hearings left, but at one of our future work sessions I really want to see laid out if you have three lanes dead-ending into Courthouse Road where those cars are going to go. Because they are either going to go to the right or to the left and if they go to the left they are back up at the intersection. And I do not know why they would be going to the right because there ain't nothing out there. So, people keep talking about this connector being the resolution to the traffic problems but I do not understand how it does that.

Ms. Woolfenden: I believe that Brad is... and the redevelopment plan are working on the rest of those issues. That is part of the Redevelopment Plan is they have to identify how all the pieces are going to work together.

Ms. Kirkman: We have the rezoning in front of us now, so think about how you can address that question sufficiently or between you and applicant you can do that at one of our future work sessions. And then for the applicant, as a result of the public comment hearing, the comments during the public hearing I did not realize there were active residential uses adjacent to this proposed project. One of my real concerns is light spillage onto the adjacent properties because an 8 foot high fence is not going to do any good screening for lights that are up on a pole or on building sides and fronts. So if you could work with the engineer to come up with a lighting plan that is more of the low impact type. I know there is some new technology around that and there are new ways of thinking around that.

Mr. Patrick: Yes, there are lenses now that focus it very well and we will add that.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Mr. Di Peppe?

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Mr. Di Peppe: Just real quick. I certainly do appreciate your willingness to sit down with the residents that are close by and work with them on those issues of fences and water and things like that. I commend that. Thank you.

Mr. Fields: Alright. I think we have heard quite a lot. Mr. Mitchell, this is in the Aquia District I assume. Would you like to defer this to the next work session or future work session? I am not suggesting what to do.

Mr. Mitchell: Mr. Chairman, I would like to defer it to the second meeting next month.

Mr. Fields: The second meeting in May?

Mr. Mitchell: Yes. To me I think a lot of these questions can be answered, a lot of concerns. Hopefully VDOT may have a better scenario of where the road will come out. Maybe even meeting with some of the people, just a suggestion, and try to look at the traffic analysis.

Mr. Howard: Second.

Mr. Fields: Second by Mr. Howard. Any discussion on the motion to defer? Alright, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, the motion carries. It is deferred to the second Planning Commission meeting in May. At this time we are going to take a five minute break and then return.

BREAK: 10:00 p.m. until 10:09 p.m.

3. CUP2900091; Conditional Use Permit - Virginia Paving Amendment - A request to amend an existing Conditional Use Permit, specifically condition #3 of Resolution R88-156(R), to allow extended hours of nighttime operation on Sunday through Friday for up to 120 nights per calendar year for the existing asphalt plant on Assessor's Parcel 19-67T consisting of 16.10 acres, located on the north side of Garrisonville Road approximately 800 feet east of Toluca Road within the Rock Hill Election District. **(Time Limit: July 14, 2009)**

Mr. Fields: Back in session, number 3, Virginia Paving Amendment Conditional Use Permit.

Joey Hess: Thank you Mr. Chairman. As you stated, agenda item number 3. This is the Virginia Paving Amendment case, CUP2900091. The applicant is Leming and Healy and I have Ms. Debrarae Karnes here on behalf of them. The property owner is Virginia Paving Company and Mr. Ron Burton on the paving company's behalf. The tax map parcel is 19-76T, approximate size of the property is 16.1 acres, location is north of Garrisonville Road approximately 800 feet east of Toluca Road. The

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request is to amend condition 3 of the approved 1988 CUP Resolution R88-156(R) for an asphalt plant in an M-2, Heavy Industrial, Zoning District. Here is an overall aerial of the property. It is shaped like a pipestem lot. The operation is located to the north end of the property back here, and the property line pretty much runs down what is an existing 60 foot easement that Virginia Paving Company utilizes to access the site. Here is a close-up picture of the operation that is at the back of the property. The numbers indicate photographs that the applicant submitted with their application and I will be going through those, there are three of them. As you can see, the aerials are giving you a general depiction of where the picture was taken from and where it is going across the site. Down here at the bottom is the access easement to the property. Here is the first picture; it is facing north towards Quantico. In the foreground we have the troughs or stockpiles of aggregate materials they get from Vulcan Quarry. There is also another stockpile of aggregate material in the background. You can see the silos and the machinery that operates and mixes to make the asphalt. As you also notice, there is a line of evergreen trees. If you look at the original conditions from the '88 permit, the applicant was required to construct a 3 foot berm and plant evergreen trees on the north side and the west side of the subject property. Here is another picture facing southwest, I believe it is actually taken from one on top of one of those silos but I am not quite sure. Once again, you can see machinery up front that makes the asphalt materials and then you have the stockpiles of materials in the background. And then the third photograph is approximately where the loading area is at. The material comes down the conveyor belt, if you want to call it that, where it loads onto the trucks and then exits the site to go to where the project is located at. Here is another close-up aerial of the entrance of the property. This is Garrisonville Road; there is Vulcan Quarry Road and just a little up the ways is where the private easement for the Virginia Paving Company runs parallel with Vulcan Quarry Road back to the subject property. One means I have another photograph for that that I went out and took today. As you can see, it is a lighted "T" intersection. The existing zoning of the property is Heavy Industrial. There is a slight little sliver over here of A-1 property that is part of the subject property. The Vulcan Quarry is adjacent to the property to the north and east and it too is zoned M-2. Then you have A-1 Agricultural property to the west and to the south you have large tracts of vacant agricultural land with a few rural residencies and then you have the East View Residential subdivision right here located on R-1 property which is Rural Residential. Here is the Land Use Map. There are four land uses on this property, the first one being Heavy Industrial which is in the dark blue. Then you have a Resource Protection Area which is in the light blue. In the light yellow you have rural residential land use and then as you go on down closer to Garrisonville Road you have Suburban Residential land use that touches the property. The background, the existing conditions, the asphalt plant has been in operation at its current location since the late 1980s. The approved CUP at the time allowed for 45 calendar days of nighttime operations. They are currently allowed to operate from Monday through Saturday with limited hours. The daytime hours are the ones that are limited. The intended use is to remain the same. There is no proposal of increase in the size of the facility or of the operation, they intend on using the same number of trucks, have the same number of materials being delivered to and the product leaving the site is to remain the same. This would decrease the daytime operations. The applicant is requesting to extend nighttime operations up to 120 calendar days per year. The start time of those operations would be from Sunday, 7:00 p.m., and the end time would be Saturday, 1:00 p.m. There were some other provisions that were struck through as far as what the role of the Zoning Administrator was and that would be located in your packet. The one thing that we asked of the applicant to put back in would be that Virginia Paving Company would be required to submit a quarterly report of the nighttime operations, of the days that they operated at nighttime, for nighttime hours. We also removed conditions 12 and 13 which they dealt with site plan issues which have been addressed since the original approval of the CUP in 1988. Evaluation of proposal. Staff believes that the request, with the conditions, meets the standards of issuance for the permit. The use is consistent with the established development pattern as Vulcan Quarry as a next door neighbor. It is in accordance with the Land Use element of the Comprehensive Plan. The land use, back towards the operation there, was heavy

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industrial and it is zoned heavy industrial. The operation will not adversely affect the adjacent properties or diminish the value of the properties or will not adversely affect the health, safety and welfare of the persons residing or working in that area. Once again, all the surrounding properties have existed together since the late 1980s. Looking at two different aerials, one from around 1985 to 1990 and the most current one we have is from 2006 and not much development has changed in that area. With that, staff recommends that the application be approved because it does meet the standards of issuance as specified in Resolution R09-195. If you have any questions, I can answer those.

Mr. Fields: Are there any questions for staff?

Ms. Kirkman: Could you please explain why this change is necessary?

Mr. Hess: This change is necessary because I believe Virginia Paving Company has been awarded several contracts and they need to have the flexibility of working nighttime shifts to work on these projects, these contracts they have been awarded.

Ms. Kirkman: So, those are new contracts?

Mr. Hess: I believe so, yes.

Ms. Kirkman: Well, you previously stated this would not increase the traffic but if they are new contracts that is more trucks.

Mr. Hess: They have not stated that they would have more trucks. That might be something that Mr. Burton could probably answer, or Ms. Karnes could answer.

Ms. Kirkman: Okay. Also, it looks like there are some other changes that you did not mention. I just wanted to make sure I am understanding these correctly. From reading the current conditions of the SUP it looks as though, under the current process, they could not just do nighttime operations, they had to apply and get approval from the Zoning Administrator first, is that correct?

Mr. Hess: Right, upon two weeks prior written notice by the plant owner, the Zoning Administrator may authorize extended hours of operation and then the second provision was the Zoning Administrator may allow extended hours for a consecutive period not to exceed 14 nights, including weekends.

Ms. Kirkman: And you are striking the limitation that it cannot exceed 14 consecutive nights, is that correct?

Mr. Hess: That is correct.

Ms. Kirkman: So they could do up to 120 consecutive nights?

Mr. Hess: No, they could not because they would not have the ability to operate on Saturday night or Holidays if there was a Holiday that came about in the 120 days.

Ms. Kirkman: So they could do 6 nights in a row for however many weeks.

Mr. Hess: Right. They would start from Sunday night at 7:00 p.m. and go to Saturday at 1:00 p.m.

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Ms. Kirkman: Okay. And is this area within the Urban Services Area?

Mr. Hess: Yes.

Ms. Kirkman: Okay, thanks.

Mr. Di Peppe: I thought it said in here because of this nighttime work it was going to decrease the daytime work?

Mr. Hess: Correct. Basically what is going on here is they are using the same number of trucks but they are shifting their operation from daytime operations to nighttime operations to better accommodate these contracts they have been awarded from the State. The State prefers them to working during the nighttime obviously to prevent them from being on the roads when it is busiest. So, they are basically taking daytime operations and shifting them to nighttime operations.

Mr. Di Peppe: And, I know there are only a few houses, but what are the closest houses, residential homes, approximately how far?

Mr. Hess: I think the closest one I was able to locate was to the west which was about 400 to 500 feet away.

Mr. Di Peppe: Okay, and do we know approximately how many houses are within say a radius of 400 to 500 feet or something like that?

Mr. Hess: A ballpark would probably be under ten. If you take the one residential neighborhood that I pointed out, I believe it is R-1 which is East View subdivision, that is a much larger subdivision.

Mr. Di Peppe: Have we had many voiced complaints?

Mr. Hess: I talked to the Zoning Administrator about that and there are no filed complaints on the Virginia Paving operation since it has been there, since it has been established.

Mr. Di Peppe: Great, thank you.

Mrs. Carlone: I think it was Cecelia that mentioned what kind of threw us, everybody here, approving this proposed request would make Virginia Paving eligible for State contracts. It would allow them to be more competitive for VDOT contracts. Now, to me, that is certainly allusive of the fact that they will be able to pick up more contracts. I am just quoting what was in here. To me that does show an increase in traffic.

Mr. Fields: Alright, any other questions?

Mr. Howard: Mr. Hess, maybe we can have the owner respond to this.

Mr. Fields: We are going to have the applicant speak anyway. If you do not have a question for staff then we will have the applicant speak. Alright, I think we are good for staff questions. At this point, it is the applicant's turn.

Debrarae Karnes: For the record my name is Debrarae Karnes and I am representing the applicant, Virginia Paving, which operates several asphalt plants in the State including one additional plant on

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Courthouse Road. But tonight we are here talking about the plant on Garrisonville Road and I am going to cut right to the chase. We are asking for the ability to operate additional nighttime hours, and both Ms. Kirkman and Mrs. Carlone say well does that mean more production. And the answer is the production amount will stay the same. What is happening is that more and more, VDOT, when it issues its work on the Interstates and the roads in Northern Virginia, prefer to see the work done at night. What happens is when they do this work they have to do lane closures and they look at when the best time is to do the work that will not affect any traffic. Well, you have driven the roads around here; you know that although there are peak drive times, anytime during the day you are likely to be busy. Now, technically, the contracts that are written say language such as “the contractor shall do the work either between 9:00 a.m. and 3:00 p.m. or between 9:00 p.m. and 3:00 a.m.”, however, that is language constructed for the entire State of Virginia. You should have received a copy of a letter sent by VDOT dated April 9, 2009, perhaps today. It looks something like this maybe with a coversheet. And VDOT... did you guys get it?

The Commission members responded yes.

Ms. Karnes: I will quote in pertinent part from it. Two sentences, “performing this work at night will enhance work zone safety for the benefit of the work crews and the travelling public. Reduce the risk of potentially fatal accidents due to substantially lower nighttime traffic volumes and reduce the back-up and resulting congestion caused by the work zone which can negatively impact the entire Washington Metropolitan Region”. So, what is happening is more and more of the contracts that are being accepted are requiring the work to be done at night. This is why Virginia Paving is here before you to ask for an increase in the maximum of nights worked to a maximum of 120 nights per calendar year. I will go on if there are no questions.

Mr. Fields: Okay, we do not have any questions at this point.

Ms. Karnes: Joey Hess did a remarkably comprehensive job in explaining this application. Bottom line, this has operated since 1988 with no complaints. When you think about an asphalt plant, one wonders if it is going to cause any impacts to adjoining properties concerning noise or concerning emissions. And I think this plant is remarkably situated. It is 4,000 feet away from Garrisonville Road; it is adjacent to the Vulcan Quarry and, therefore, is near very few residential properties. However, even only one residential property deserves protection from any adverse use and the folks at Virginia Paving tell me they are very serious in researching and putting a stop to any possible adverse impact. This includes equipment that basically reduce noise levels. We are talking asphalt mixers that are basically electronic machines that hum. Noise also comes from the horn that sounds when a truck backs up and the occasional instance where a truck driver slams the door. They are confident that there will be no increased noise from this operation and tell me there have been no noise problems experienced in the past. Other environmental protections, any industrial plant provides emissions. They are supervised by DEQ who comes and does periodic inspections and they have been found to be in current compliance with all standards. The allowing Virginia Paving to work up to 120 days or nights per calendar year provides increased protection to the public because it reduces traffic, it provides increased protection to the travelling region because it reduces the impact of traffic movement on 95. And it also provides, I think, at the end of the day, a value to Stafford County residents because we are allowing Virginia Paving to be more competitive in soliciting contracts that require them to be able to work at night and thereby encourages a Stafford County to prosper. At the end of the day they are not going to be accepting any additional contracts but more so shifting the time of work. Now one final question. Somebody asked me if the VDOT contracts say 9:00 p.m. to 3:00 a.m., why do they need the additional hours to work because we are talking in terms of starting at 7:00 p.m. and going through the next workday, and there are two answers to that. First of all, although the VDOT contracts

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say from 9:00 p.m. to 3:00 a.m., in fact, and as documented in this April 9, 2009 letter, often times VDOT allows the work to be done starting as early as 7:00 p.m. and going, I am not sure if it is later, it is early at 5:00 a.m. the next morning. But secondly, there has to be time at the Virginia asphalt plant to mix the asphalt because it has to be delivered at a certain minimum temperature. It has to be so hot in order to allow it to be spread and maintain its mix. May I answer any questions?

Mr. Fields: Are there any questions for the applicant? Mr. Howard, do you have one?

Mr. Howard: I do but let Mrs. Carlone go first.

Mrs. Carlone: Just real quickly. What is the distance between the road and the subdivision going east? Do you know what the distance is between the road to the asphalt plant to this subdivision?

Ms. Karnes: I do not have it off the top of my head. Is it relevant the road or would it be more relevant the distance from the plant?

Mrs. Carlone: No, because the plant seems fairly isolated. I was just thinking the night truck traffic, any noise from that. That is why I was curious what was the distance and is that all tree-lined, the road?

Ms. Karnes: That I am going to have to ask my client.

Ron Burton: I am Ron Burton with Virginia Paving. The road coming out of our plant is tree-lined on both sides and as you approach the 610 corridor there is actually a pretty substantial earthen berm between our portion of the road and Vulcan's portion of the road.

Mrs. Carlone: Okay, but do you have any idea of what the actual distance is?

Mr. Burton: I would like to defer that to Joey. I think Joey had a comment. Approximately 300 to 400 feet to the east.

Ms. Karnes: We seem to be unable to scale it on the spot. It seems pretty close.

Mr. Hess: When I said 300 to 400, I was talking about from the operation in the back to a house over to the west.

Mrs. Carlone: I was looking at where the larger subdivision is there is kind of a curve in the road.

Mr. Hess: Yes, there is a curve in the road. Vulcan Quarry Road, if you can tell, is that thin black line that runs parallel with... well, it is one private road and one private easement. But like they said, it is screened along the way there.

Mrs. Carlone: There are trees and berm?

Mr. Hess: No, the berm is around the site. The berm is on the western edge and on the southern edge of the berm and the tree line and I think there is a fence there as well that shades it from the agricultural zoned property here to the west.

Mrs. Carlone: That was not as much a concern as this subdivision, just noise protection at night and from the trucks shifting gears or whatever, the traffic.

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Mr. Hess: Yes.

Mrs. Carlone: How far did you say?

Mr. Burton: As you are coming out of the access road, I am going to start back here at our plant, as you are coming out this is tree-lined on both sides. We are actually to the west side of the Vulcan access road. When you get to this point right through here, there is an earthen berm that is probably 15 feet tall and there are trees planted on the top of that berm. As you come out that road the rest of the way there are trees on both sides all the way out to Route 610 through this entire distance.

Mrs. Carlone: Okay, it just looked a little barren there.

Mr. Burton: Right in this area here it is probably protected more than anything because of the earthen berm from our traffic coming out that road. I believe on the Vulcan side they are on the opposite side of that berm when they come out of that road.

Mrs. Carlone: Okay, thank you.

Mr. Howard: My question was similar to Mrs. Carlone's but specifically Garfield Street and Kelly Way in that subdivision. I do not know if there are any homeowners or not, I guess we will find out, but have you had any issues with that grouping? Because if you are changing the time of night, the headlights, as well as the noise, are certainly going to be a change for that community as well as the two parcels. I think it was parcel 67 and 79 on Garrisonville Road in terms of noise abatement and also you certainly cannot have them turn their headlights off. I do not think that is a good idea. There has to be some type of a way to eliminate the truck headlights from coming into the homes.

Mr. Burton: I know that coming out of our access road the headlights would not be pointed in that direction. If you are coming directly out the access road from our plant...

Mr. Howard: What about coming back in though? You are running trucks back and forth because you are making the asphalt, right?

Mr. Burton: Right. I do not believe that the trucks going in either direction, that the headlights are going to point in the direction of Garfield if I am looking at it down here near the cul-de-sac. The truck headlights will not be pointed in that direction.

Mr. Howard: If, in fact, we discover two months into this that that is an issue or becomes an issue in the winter when the trees thin out a little bit because I am not sure what types of trees and shrubs are there, are you willing to add into the proffer that you will do something within reason to minimize or mitigate noise or reduce noise and something with headlights if, in fact, that becomes an issue?

Mr. Burton: Yes, we would be willing to do that but I can tell you that to date, I have been running this operation for 16 years, I do not believe we have had any complaints with headlights.

Mr. Howard: Which is great but you are changing the hours.

Mr. Burton: We would be glad to look into it.

Mr. Howard: And then Mr. Hess mentioned that there was a change. I was looking for the wording but I could not find it and maybe it is in here, but that you would agree to also submit quarterly reports

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to the Zoning Administrator reporting by quarter the number of nights that you operated. Is that in there or is that something we are going to add?

Ms. Karnes: Mr. Howard, that is already in there. We have consented to that.

Mr. Howard: Thank you.

Ms. Kirkman: I just want to clarify something with the County Attorney and then I have a question for the company owner. Because this is a CUP we impose the conditions rather than them being voluntary conditions as go with the rezoning, is that correct?

Mrs. Roberts: Correct.

Ms. Kirkman: But we can still check with the applicant to get their sense about what we would like to impose.

Mrs. Roberts: Absolutely.

Ms. Kirkman: The question I have, there seems to be good history here. There is no record of complaints. But unfortunately we do have situations with old SUPs where there are a lot of problems and we have minimal ways to correct those once they exist and seem to be in perpetuity. So, what I would like to know, how would you feel about if we impose a condition that says this CUP expires in 5 years and that would give us time to evaluate both how the experience works out with the adjacent residential neighbors, but also there is a lot of vacant agricultural land out there that could be served by water and sewer which often turns into residential development later on. So, by sun setting it in 5 years you will have the opportunity to come back and re-apply and if there were no problems I am sure you would get approved again. But if there were some problems, it would provide the County with an opportunity to address those through additional conditions or what makes most sense at that time given the future development. What is your thoughts about that?

Ms. Karnes: Ms. Kirkman, we would be willing to look into that. My only concern, thinking about it for the first time, is setting time limits on CUPs when there is no nexus can sometimes be problematic.

Ms. Kirkman: It would only be problematic if you challenged it. And I do believe that we have full legal authority to impose time limits on CUPs, is that correct?

Mrs. Roberts: You can impose a time limit on a CUP because the character of the surrounding area could be changed and it could no longer be appropriate in that area.

Ms. Kirkman: Right. And that is precisely the reason I am proposing it because there is vacant agriculturally zoned lands that are adjacent to it.

Ms. Karnes: Ms. Kirkman, is your concern really based on those two large parcels adjacent to this?

Ms. Kirkman: I have two sets of concerns. One, that this has only been operating minimally at night, you are now proposing to go to 6 months a year of nighttime operations, VDOT often does its work during the summer, that is when residents have their windows open, so there really is the potential for an immediate difference in the experience of adjacent residential owners. Additionally, this is an area that is very likely to have residential development in the future. And based on that, what we have seen

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is that, what was once compatible land use, because of changes in the future use, the use no longer is compatible.

Ms. Karnes: Okay, I am being told I do not have authority to indicate agreement with this at this time.

Ms. Kirkman: Okay, well you actually do not get to choose but I did want to hear how you all felt about it.

Ms. Karnes: You asked and that is the feedback.

Ms. Kirkman: Thank you.

Mr. Fields: Any other questions for the applicant? Alright, I will open the public hearing at this point. Is there anyone in the room that wishes to speak for or against this proposed amendment to the Conditional Use Permit? Okay, hearing none we will close the public hearing then and move this back to the Commission. It is in the Rock Hill District. Mr. Howard, what is your sense of this?

Mr. Howard: I think there is a valid concern, there are no neighbors here. So I assume they all got the notification. But I still think it is a valid concern. I understand the change, when you are changing, a company that has trucks as large as these are and you are running up and down a road. I certainly understand the why from the business perspective of what is happening, it does make sense. And the letter from VDOT does indicate that they are actually allowing the contractors to expand the hours of operation and the expansion is actually during the a.m. hours when everyone is typically sleeping and there is a lot less traffic on 95. I would like to defer this to the next work session and try to work through some of the comments that we raised today to see if the applicant is willing to work with staff and work through some of those issues.

Mr. Di Peppe: Second.

Mr. Fields: Alright, motion to defer...

Mr. Howard: Let me make a motion. That was a motion.

Mr. Di Peppe: I apologize. I thought you did make the motion.

Mr. Fields: So you did make the motion now?

Mr. Howard: Yes.

Mr. Fields: Okay. And seconded by Mr. Di Peppe. Any discussion on the motion? Alright, those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

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Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? The motion passes 6 to 0.

4. Amendment to Zoning Ordinance - Amendment to Section 28-25, Definition of Specific Terms and Section 28-35, Table of Uses and Standards, and Table 3.1, District Uses and Standards, of the Stafford County Zoning Ordinance, pursuant to proposed Ordinance O09-13. The amendment defines Propane and Heating Fuel Distribution Facility as follows: A Public Facilities/Utility which stores manufactured and natural gas in large containers and distributes the product to the customer. The facility may fill or refill enclosed portable containers of natural or manufactured gas to be sold at retail establishments. This term shall not include the sale of enclosed portable containers of natural or manufactured gas at retail establishments. The amendment modifies Table 3.1 by listing Propane and Heating Fuel Distribution Facility as a type of Public Facility/Utility excluded as a by-right use in the following Zoning Districts; A-1, Agricultural; A-2, Rural Residential, R-1, Suburban Residential; R-2, Urban Residential-Medium Density; R-3, Urban Residential-High Density; R-4, Manufactured Home; B-1, Convenience Commercial; B-2, Urban Commercial; B-3, Office; RBC, Recreational Business Campus; RC, Rural Commercial; SC, Suburban Commercial; M-1, Light Industrial; M-2, Heavy Industrial; PD-1, Planned Development-1; and PD-2, Planned Development-2. The amendment modifies Table 3.1 by listing Propane and Heating Fuel Distribution Facility as a type of Public Facility/Utility which cannot be issued a Conditional Use Permit in the P-TND, Planned-Traditional Neighborhood Development Zoning District. The amendment modifies Table 3.1 by requiring the issuance of a Conditional Use Permit for Propane and Heating Fuel Distribution Facility as a type of Public Facility/Utility in the M-1, Light Industrial and M-2, Heavy Industrial Zoning Districts.

Mr. Fields: Alright, number 4, Amendment to the Zoning Ordinance.

Jamie Stepowany: Item number 4, Ordinance O09-13 is an amendment to the Zoning Ordinance. The purpose of the ordinance is to require the issuance of a Conditional Use Permit (CUP) in the M-1 and M-2 Zoning Districts for a Propane and Heating Fuel Distribution Facility. The ordinance amends Section 28-25, Definition of Specific Terms, 28-35, Table of Uses and Standards, and Table 3.1, District Uses and Standards, of the Stafford County Zoning Ordinance. The Planning Commission believes that a Propane and Heating Fuel Distribution Facility is similar to a light industrial business and it should be limited to the M-1 and M-2 zoning districts. In addition to that, the Fire Marshall's office has raised concerns about the ability to evacuate businesses in surrounding neighborhoods in case of an emergency. And with those factors the Ordinance recommends the issuance of a Conditional Use Permit which gives the opportunity for public input and for the Planning Commission and the Board of Supervisors to address concerns that may be raised by the Fire Marshall's office. Resolution R09-120 refers O09-13 to the Planning Commission for tonight's public hearing. The Ordinance amends Section 28-25, Definitions, by defining what a Propane and Heating Fuel Distribution Facility is, which is a public facilities/utilities which stores manufactured natural gas in large containers for distributes of the product to the customer. The facility may fill or refill enclosed portable containers of natural manufactured gas. This term shall not include the sale of enclosed portable containers of natural manufactured gas at retail establishment. The Ordinance amends Section 28-35, Table of Uses and Standards, and Table 3.1, District Uses and Standards, of the Zoning Ordinance by amending public facilities and utilities to be plural in all cases. There are some cases where it is public facility/utilities and other cases where it is public facilities/utility, so to be consistent throughout it will be plural facilities and utilities. Public facilities/utilities are permitted in most zoning districts except for the types the are generated facilities, substations, switching stations and

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wastewater treatment facilities, in which those types of public facilities require a CUP in most of the zoning districts. The Ordinance adds Propane and Heating Fuel Distribution Facility as a type of public facilities/utilities that is not permitted as a by-right use in all those zoning districts and then it lists Propane and Heating Fuel Distribution Facility as a type of public facilities/utilities that will require a Conditional Use Permit in the M-1 and M-2 zoning districts. That is the basis for the amendment and I will be more than happy to answer any questions.

Mr. Fields: Questions for staff.

Mr. Di Peppe: Just a quick wording, public facilities/utilities which stores manufactured natural gas in large containers for distributes. Do you mean for distribution of the product?

Mr. Stepowany: Yes.

Mr. Di Peppe: That is the only thing. I think it should be “for distribution of the product”. And that is all.

Mr. Stepowany: Correct.

Mr. Fields: Any other questions? With that we will open the public hearing. Is there anyone in the public that wishes to speak for or against this proposed amendment to the zoning ordinance? Seeing none, I will bring this back to the Commission. This is not a specific district. Would anyone like to make the motion for this?

Ms. Kirkman: Yes, Mr. Chair, I would like to make the motion to recommend approval of Resolution R09-129.

Mrs. Carlone: Second.

Mr. Fields: Okay, moved and seconded. Is there any discussion?

Ms. Kirkman: Mr. Chair, I originally brought this legislation to the Planning Commission as a result...

Mr. Stepowany: It is an ordinance, sorry.

Ms. Kirkman: Oh, that was the resolution sending it.

Mr. Stepowany: That was the resolution to authorize the public hearing.

Ms. Kirkman: Right. The motion is to recommend approval of Ordinance 09-13. Mr. Chair, I originally brought this legislation to the Planning Commission as a result of some issues that we had encountered on the Board of Zoning Appeals, so I think this will help clarify what the intended definitions are.

Mr. Fields: Okay. Any further comment? All those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

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Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Very good. That is it for the public hearings. We now move to Unfinished Business.

UNFINISHED BUSINESS:

5. 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) (Deferred at April 1, 2009 Work Session to April 15, 2009 Regular Meeting)**

Mr. Fields: We have Woodstream and I believe we need closed session with the attorneys, is that correct? Is that where we are with Woodstream?

Ms. Kirkman: We were waiting for you to get back to us.

Mr. Fields: Right. And we are ready to do that. So, I have a resolution to authorize to closed meeting. Whereas the Commission desires to consult with counsel and discuss in closed meeting regarding legal advice, Woodstream Preliminary Plan, and whereas pursuant to Section 2.2-3711A.7, Virginia Code annotated, such discussions may occur in closed meetings. Now, therefore, be it resolved that the Commission on this 1st day of April, 2009, does hereby authorize discussions of the afore-stated matters in closed meeting. Is there a second?

Mr. Di Peppe: Second.

Mr. Fields: Alright, moved and seconded. All in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright. We will be back.

CLOSED SESSION: 10:49 p.m. until 11:06 p.m.

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

Mr. Di Peppe: Second.

Mr. Fields: Second. Any discussion? Those in favor signify by saying aye.

Mr. Nugent: Excuse me, Mr. Chair. Just as a point of clarification, I thought that you made a reference to the date as April 1st instead of April 15th.

Mr. Fields: This did say the 1st day of April, it should say the 15th. The 15th day of April, 2009. Alright, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, motion carries. The resolution of Woodstream V. Mr. Mitchell, it is the Aquia District. We have two items actually relating to Woodstream V. We have the preliminary subdivision plan which is item 5 on tonight's agenda which is SUB2800611 and we also have a waiver, WAV290031. So, we have two separate actions requiring two separate motions and two separate votes. Mr. Mitchell? The ball is in your court my friend.

Mr. Mitchell: Mr. Chairman and fellow board members, I understand the legal obligations of this board and in saying that I make a motion for approval of SUB2800611, Woodstream V, Preliminary Subdivision Plan.

Mr. Fields: Do we have a second?

Mr. Howard: Second.

Mr. Fields: Second by Mr. Howard. Discussion? Mr. Mitchell, you have the privilege of being the first to discuss your motion. Do you have anything to say?

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Mr. Mitchell: I think I said it, Mr. Chairman.

Mr. Fields: Okay. All said, I think there were a lot of issues raised and we have discussed, as you can tell in closed meeting, we have discussed a lot of the technical and legal aspects of this decision. I hope that everybody understands that there is a lot of very specific and very constraining detail relating to this plan, particularly to the fact that it was vested going back to 1978 standards, etcetera, and moving forward. So, after a great deal of deliberation, we have come to this point where there is really no legal alternative but to approve the plan as submitted. Alright, all those in favor signify...

Mr. Howard: Mr. Chair, just a comment. And this is just an FYI for whether you are here as a resident or you are watching. It is really not in the purview of the Planning Commission or the Stafford County Board of Supervisors to try to help or facilitate in some of the issues that were brought to us in the public forum. The pool is one example. So, while the Woodstream HOA or the Woodstream developers or certainly some of the home builders in there may not be doing the right thing in terms of how they are advertising, there may be some questionable comments or statements made when people were purchasing homes. The unfortunate part about this is that is not in the purview of the Planning Commission to consider and/or act on, and we do not have the authority to do that. So, for those of you who are wondering, it seemed like we were sympathetic and we are, but why can't we do anything, because it is not in the purview of the Planning Commission to do anything about that unfortunately. But there are other avenues you can pursue outside and I hope that you do that.

Mr. Fields: Alright, are there any other discussions? Mr. Di Peppe.

Mr. Di Peppe: Out of all the votes I have made on the Planning Commission, I am going to regret this one the most and the only reason I have to make it is because legally I have to make it, not because I believe it or want to, but because I have to. Thank you.

Mrs. Carlone: I echo Mr. Di Peppe's and Mr. Howard's statements. It is very difficult.

Mr. Fields: Agreed. Alright, maybe that is why Mr. Rhodes was not here tonight. Ms. Kirkman?

Ms. Kirkman: I am going to oppose the motion to recommend approval for the preliminary subdivision plan. I am opposing the motion based on the fact that the, it looks like it is dated the August 2nd letter of 2004 states that the waiver for the subdivision ordinance street access for the number of street access points is for a project Woodstream, a project of 540 lots. The preliminary subdivision plan that we have in front of us has 485 units plus 350 multi-family units which brings it up to 835 units and, for that reason, I think it is really not in the spirit of the waiver of the access points and I think that is a real safety issue. And so for that reason I am going to oppose the motion to approve.

Mr. Fields: Alright, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

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Mr. Fields: Aye. Opposed?

Ms. Kirkman: Nay.

Mr. Fields: The motion passes 5 to 1.

6. 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) (Deferred at April 1, 2009 Work Session to April 15, 2009 Regular Meeting)**

Mr. Fields: Next item, number 6, the waiver of the subdivision ordinance. request for a waiver to modify lot width to lot depth ratio requirement of Section 22. The hour is late and we want to move forward, but I do want to afford the Planning Commission, do we need any clarification or... because virtually most of our effort was focused on the preliminary subdivision plan. Is everybody comfortable enough to proceed with the terms of the waiver and what is required and set forth in the waiver? Are we comfortable to move forward with it or do we need staff to clarify any issues at this point? By no response I am assuming that we are ready to proceed. Mr. Mitchell? Also I your district.

Mr. Mitchell: Mr. Chairman and fellow board members, I understand the legal obligations of this board and, in saying that, I make a motion for approval of WAV2900031, Woodstream V, Waiver of Section 22-143 of the Subdivision Ordinance.

Mr. Fields: Moved by Mr. Mitchell. Is there a second?

Mr. Howard: Second.

Mr. Fields: Second by Mr. Howard. Discussion? I will say that I think our obligation is different in this case. I think that even the residents who were upset about other issues not related to the vision plan realize that this will allow a more livable and sustainable and I think a better configuration of the lots if they are to be developed. So I will support it. Are there any other comments? Alright, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

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Mr. Fields: Alright, the motion carries 6 to 0. Alright, the next one is deferred.

7. CUP2800697; Conditional Use Permit - Stafford SPCA - A request for a Conditional Use Permit to allow a use not listed within an A-1, Agricultural, Zoning District, specifically an animal shelter, consisting of 10.15 acres, located on the west side of Andrew Chapel Road approximately 2,800 feet south of Courthouse Road on Assessor's Parcel 39-102B within the Aquia Election District. **(Time Limit: June 30, 2009) (History - Deferred at April 1, 2009 Regular Meeting to June 3, 2009 Work Session)**
8. COM2900048; Comprehensive Plan Compliance Review - Jackson/Lovitt Sanitary Sewer Extension - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for the extension of low pressure sewer outside of the Urban Services Area a length of 185 linear feet across Assessor's Parcel 28-122D to Assessor's Parcel 28-125, located on the south side of Courthouse Road approximately 2,000 feet east of Shelton Shop Road within the Rock Hill Election District. **(Time Limit: May 31, 2009) (History - Deferred at April 1, 2009 Regular Meeting to April 15, 2009 Work Session)**

Mr. Fields: We are back to the Comp Plan Compliance Review. This one is from the work session. I think we are once again back into things where we are kind of stuck with those options that are not optimum. Does anybody need to discuss anything with staff or are we ready to move forward? This is in the Rock Hill Election District. If nobody has questions, Mr. Howard?

Mr. Howard: No I do not have questions. We are speaking of the Comprehensive Plan Compliance Review, Jackson/Lovitt Sanitary?

Mr. Fields: Right. It is up to you to make a motion if you care to.

Mr. Howard: I want to make a motion that we recommend approval for COM2900048, Comprehensive Plan Compliance Review on the Jackson/Lovitt Sanitary Sewer Extension.

Mr. Mitchell: Second.

Mr. Fields: Second by Mr. Mitchell. Is there any discussion? Mr. Di Peppe.

Mr. Di Peppe: I will not be supporting this because I believe we are setting up a bad precedent that we will one day come to regret and I cannot support it. Thank you.

Mr. Fields: Alright. Mr. Mitchell?

Mr. Mitchell: It only makes financial sense to vote for this. This was not a planned issue. The issue was there five years between when the incident happened and when it was brought forward for our purveyance. I believe if you are looking at saving the County money, this is the way to do it. We will come out way ahead by approving this item. And, we have already talked dollars and cents in the earlier session.

Mr. Howard: Mr. Chair, just to... and I appreciate Mr. Di Peppe's perspective on this, but I want to urge him to reconsider as well as fellow Commissioners. One of the criteria for approving this type of a situation is when you are trying to avoid a financially excessive impact to the County utility rate payers and this clearly, in my opinion, falls under that. There is a way to solve this financially for

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about \$2,000 as indicated by Mr. Allen earlier this evening which would be a benefit to the utility rate payers in Stafford County and I would urge that the fellow Commissioners support this because of that. I also agree that we do not want to set a precedence. I do not think it is right if, in fact, the homeowner adjacent to parcel 80 intentionally did something that was deceptive. We do not know that. We do not really know the circumstances. It has been five years since the second home was built and the lots were separated in 2004. So, again, I just want to remind my fellow commissioners that one of the goals or one of the reasons that we can allow this is because there could be some financial excessive money to County utility rate payers and this is a way to avoid doing that or having that occur.

Mr. Fields: Alright, any other discussion? Alright, I agree that there is a cascade of less than optimum things that have created this. But at the end of the day the only practical solution is the neighborhood extension which is why we have that program. All those in favor signify by saying aye.

Mrs. Carlone: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Mr. Di Peppe: No.

Mr. Fields: The motion passes 5 to 1.

NEW BUSINESS

9. SUB2800444; Fair Havens, Preliminary Subdivision Plan - A preliminary subdivision plan with 21 single-family residential lots, zoned A-1, Agricultural, consisting of 104.50 acres located approximately 5,000 feet west of Holly Corner Road at the end of Holly Berry Road on Assessor's Parcel 42-8 within the Hartwood Election District. **(Time Limit: July 8, 2009)**

Mr. Fields: Fair Havens Preliminary Subdivision Plan.

Jamie Stepowany: Thank you Mr. Chairman, members of the Planning Commission. This is item number 9, SUB2800444, Fair Havens Preliminary Subdivision Plan. The applicant is Bert Harrison of Harrison Realty and Development. The date of this application is June 27, 2008. The TRC date was August 13, 2008; the staff report may have said October 13, that is a typo. The engineer is Hamilton Palmer, HGP, Inc. It is Assessor's Parcel 42-8, located west of Holly Corner Road and the end of Holly Berry Road. It is 104.5 acres and zoned A-1, Agricultural. This is for proposed 21 lots in the Hartwood Election District. This map is the location of the property. This is Holly Berry Road, this is Holly Corner Road off of 17 and it also connects to this other proposed subdivision to the northwest of it. This is an aerial view and it is basically all wooded right now. There are houses in the existing subdivision that surrounds it and Holly Berry Road does end right there with a temporary cul-de-sac going into the subdivision. This is the preliminary plan showing the primary access, the future access and then it ends down here with the basic 21 lots. This was a previously approved preliminary subdivision plan. Its vested expired prior to getting the subdivision plat recorded. All lots are with on-site sewage disposal systems and wells. The stormwater management will be contained through 26

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bio-retention facilities and they all do have easements. The RPA was located; there has actually been a couple of site visits with the Environmental Planning Office and the Historical Planning Office on this site. There was a Conditional Use Permit a year ago, 2700768, because the road does cross the floodway and at that time it required the issuance of a Conditional Use Permit. And they did have a public hearing in front of the Planning Commission for that and that was approved in March 2008. Staff recommends approval of this preliminary subdivision plan and I will be more than happy to answer any questions that the Planning Commission may have.

Mr. Fields: Alright, are there any questions for staff?

Ms. Kirkman: Jamie, this Fairhavens Lane, as we look at the front page of the subdivision plan, what happens to it after it leaves this plan?

Mr. Stepowany: To the west?

Ms. Kirkman: I do not see the north marker on here, so to the left.

Mr. Stepowany: To the north? The north marker is up here on the left side next to lots 3 and 4. That connects to an existing proposed street on the adjacent subdivision.

Ms. Kirkman: And what is on that street currently?

Mr. Stepowany: It has not been developed yet. It is an approved preliminary plan that has not (inaudible).

Ms. Kirkman: There is an approved preliminary plan?

Mr. Stepowany: There is an approved preliminary plan.

Ms. Kirkman: And how long is that block length that is on the north side?

Mr. Stepowany: From Holly Berry to the cul-de-sac? I would have to measure it.

Ms. Kirkman: No, not from Holly Berry. You are talking about street length; I am talking about block length. Remember, we have had this discussion before. The block is the bounded unit of land, not the street length. And I am asking how long is the block length from the end of that cul-de-sac out to the first break in the block?

Mr. Stepowany: I would have to look at the adjacent subdivision to see how long that is.

Ms. Kirkman: Okay. We will need that information.

Mr. Fields: Are there any other questions for staff? Alright, if the applicant is here, would you like to address the Planning Commission and answer questions?

Hamilton Palmer: Good evening Mr. Chairman and members of the Planning Commission. We prepared the plans for this subdivision. A couple of things on here. The complete subdivision we tried to pay attention to the topography, to the resources that were on the site, and to minimize the impacts. And we put an arch culvert in crossing the stream there to allow for the migration of all the aquaculture in the stream. The roadway pretty much follows what we think is the topography of the site to where

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we have to do minimal amount of cut and fill on there. Some will be necessary but remember, that is a cost to my client. We have fingerprinted the sites for low impact development. The only areas to be cleared are for the roadway, for the house sites and for the drainfields. The bio-filtration facilities, there are 26 of them. Two of them are filter strips that make use of the drainage and act similar to a level-spreader and get the quality on the back side of them with the grass area. And then the remainder of them are bio-filtration facilities that will be constructed on site. We had mimicked as best we can and that was one of the things that you want to look at for low impact development is to mimic the existing flows of water and times of concentration on that site. We think we have done a good job. There is no such thing as a perfect plan but we certainly have tried to do what we could to address the environmental impacts of the site. I hope I can answer any questions that you might have.

Mr. Fields: Any questions for Mr. Palmer? Mr. Di Peppe.

Mr. Di Peppe: Just one. On lot 14, is this pretty steep slopes here? I mean, it looks like the contour lines are pretty close together and right here I am a little concerned where the drainfield is. Is that problematic there?

Mr. Palmer: No it is not. And, ironically, they are getting drainfields on slopes these days where before it used to be just pretty flat areas and some of the AOSE's are saying there are better drainfields on slopes. I am not an AOSE so I do not know.

Mr. Di Peppe: But does it drop off? If you look back where the house site is, it looks like several contour lines which would indicate I think a steeper slope and then it is just flat out all of a sudden right there where the house site is. Is that a big steep slope right on the other side of that house?

Mr. Palmer: It is. We did the lot area tabulation on here to show that each lot had the minimal amount of slopes, 10,000 square feet minimal per lot.

Mr. Fields: You did the buildable area so you excluded... buildable area is excluding RPAs, drainfields, wetlands and slopes greater than 25.

Mr. Palmer: Yes.

Mr. Di Peppe: Thank you very much.

Mr. Fields: I wish you guys had engineered a few other subdivisions.

Mrs. Carlone: Would you mind very much if anybody else on the Planning Commission would like to meet with you on a couple of these lots?

Mr. Palmer: That is fine, I would not mind.

Mrs. Carlone: I would recommend deferral then.

Ms. Kirkman: Well, before you do that, I want to ask a couple things and raise a couple of points. On lot 19, it looks like you have a private access easement on that. Yes, it says ingress/egress.

Mr. Stepowany: It is not a private access easement.

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Ms. Kirkman: Jamie, when it comes to major subdivisions, if you read our section on private access easements, there is no such animal as an ingress/egress easement.

Mr. Stepowany: It is a shared driveway. Lot 18 has frontage on the street so to avoid impact it is recommended to use a shared driveway and a shared driveway in the Subdivision Ordinance requires to have an ingress/egress easement. That is in the Subdivision Ordinance that you provide an ingress/egress easement to the adjacent lot. It is not a private access easement.

Ms. Kirkman: Well, we are back to this issue that we started the evening at in terms of where is the definition in our Subdivision Ordinance of ingress/egress easement, and how is that different from a private access easement.

Mr. Stepowany: A private access easement is an ingress/egress easement to provide access to a lot that does not have frontage on a street. So that ingress/egress easement becomes, in our Subdivision Ordinance, a private access easement. This is a shared driveway.

Ms. Kirkman: Okay, so then you will be able to show me in our Subdivision Ordinance where you can have these so-called shared driveways and the definition? You do not have to get that to me right now.

Mr. Stepowany: I have it.

Ms. Kirkman: Well, what I am saying is I would like you to email me the citation.

Mr. Palmer: I would certainly like a positive vote tonight before I walk out of here.

Ms. Kirkman: Well, the Commissioner already suggested she is going to request to defer it, make a motion to defer it, and I am just trying to get all the issues on the table so that you all can...

Mr. Palmer: That is fine... discuss them. Thank you.

Ms. Kirkman: And then there is the block length question that I raised earlier. And then, so Fair Havens Lane... so the public road ends up... when staff tried to figure out whether or not this needed a 527 analysis... so this has got 21 lots which generates 210 vehicle trips per day. Now, I am assuming that the VDOT public road would be the rest of Fair Havens Lane which means that does the 210 double the traffic from the rest of the... do you see the question I am asking? I am trying to understand how you got to the conclusion that a 527 was not needed.

Mr. Palmer: We filled out the forms and it was not needed. It is that simple. We discussed this with the Transportation Department and we filled out the paperwork on the forms and submitted them and it was not required.

Ms. Kirkman: So for these subdivisions, there is a couple of different conditions, one of which is that if it doubles the traffic on the VDOT road then you need one. What is the VDOT road that you used for your basis? The rest of Fair Haven Lane?

Mr. Palmer: I would have to look at what we submitted.

Ms. Kirkman: Okay.

Mr. Palmer: I think what we did was use VDOT's Holly Berry is what we used but I will find out.

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Ms. Kirkman: Okay, that will be great. Thanks.

Mr. Fields: Alright, Mrs. Carlone, do you want to make a motion to defer?

Mrs. Carlone: Yes. Jeff, what about a schedule so that we will not be here until midnight.

Mr. Harvey: Your next meeting date is May 6 after that it is May 20. There are a number of items from your work session that got deferred to May 20. Right now, for May 6, you have time limits, the PAEs for minor subdivisions and I am trying to remember if Virginia Paving was deferred to the next meeting or not.

Mr. Fields: I think that was the second meeting.

Mr. Harvey: Yes, the next work session. Okay, thank you Stacie. So, we have those three items on work session; presently we do not have any items for public hearing for the May 6 meeting. The work session is fairly light and we do not have any public hearings.

Mrs. Carlone: Let us look at May 6 and see about setting up just to go over this.

Mr. Fields: Okay, motion to defer to May 6

Mrs. Carlone: Yes.

Mr. Fields: Second?

Mr. Di Peppe: Second.

Mr. Fields: Second by Mr. Di Peppe. Any discussion on the motion? Alright, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, we will see you on May 6. Thank you.

PLANNING DIRECTOR'S REPORT

Mr. Fields: Alright, the world's briefest Planning Director's report.

Mr. Harvey: I took care of part of there talking about May 6. Monday the Board had an adjourned meeting to talk about the Comprehensive Plan. They went over the Lane Use Map and I can give you some specific details if the Commission would like. The bottom line gist of it is they set out a timeline for what they would like to see the Comp Plan being completed. It is culminating with a

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recommendation to the Planning Commission probably around May 19 and then a joint public hearing with the Planning Commission for July 7. And that would conclude my report unless you have questions.

Mr. Di Peppe: I promise to be brief. My only problem... I want to get the Comprehensive Plan done more than anybody, but I am just worried about one public hearing on a 20 year plan for the future of Stafford County. I am just very uncomfortable with that. I think everybody deserves two bites of the apple because I have been on the other side of the dye so many times and when those kinds of things happen I just do not think it sends a good message.

Ms. Kirkman: Was there any discussion with the Chair of the Planning Commission? Was there any coordination around the public hearing or was this...

Mr. Fields: Nope.

Mr. Di Peppe: They just decided it at the work session. I do not know the feeling of the other Planning Commission members and, like I said, I would like to get this done myself but I would just like to give the public more opportunity... you know, twice.

Ms. Kirkman: It is late and why don't we think about it?

Mr. Di Peppe: Alright, we will think about it.

Mr. Fields: Okay, anything else?

Mr. Harvey: That concludes my report.

COUNTY ATTORNEY'S REPORT

Mr. Fields: Mr. County Attorney?

Mr. Nugent: I think we have indicated everything that was noteworthy, thank you.

SECRETARY'S REPORT

Mr. Fields: Mr. Secretary?

Mr. Mitchell: Nothing sir.

Mr. Fields: Okay, I think that wraps us up here.

COMMITTEE REPORTS

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

October 15, 2008 Regular Meeting

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November 6, 2008 Regular Meeting

February 18, 2009 Regular Meeting

Mr. Fields: We have four minutes so we will have a motion for October 15, November 6 and February 18 so Ms. Kirkman can abstain.

Mr. Mitchell: Motion for approval.

Mrs. Carlone: Can I abstain? I was in an automobile accident on October 15.

Mr. Fields: Alright, motion for October 15, November 6 and February 18?

Mr. Di Peppe: I think Mr. Mitchell moved.

Mr. Fields: Moved by Mr. Mitchell.

Mr. Di Peppe: Second.

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

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Abstaining?

Ms. Kirkman: I am abstaining. Do I need to state my reason again Mr. Howard?

Mr. Howard: Please.

Ms. Kirkman: I am abstaining because I am only going to vote on minutes that we get within the 30 days outlined in our By-Laws.

Mr. Fields: Alright. You are abstaining because you were in a car accident?

Mrs. Carlone: Yes.

March 4, 2009 Regular Meeting

Mr. Fields: Do I have a motion for March 4 minutes?

Mr. Di Peppe: So moved.

Ms. Kirkman: Second.

Mr. Fields: Moved and second by Ms. Kirkman. All those in favor signify by saying aye.

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Ms. Kirkman: I have a comment. The comment is I like the new format. It makes it much easier to follow and I hope it is easier for you all to do.

Mr. Fields: Yes, we like the new format too. So, should we just direct them at this point forward to stick with the new format?

The Commission members agreed.

Mr. Fields: Okay, good job. All those in favor on the minutes signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright. Unless I am missing something critical that concludes our meeting. Thank you.

ADJOURNMENT

With no further business the meeting was adjourned at 11:37 p.m.

Peter Fields, Chairman
Planning Commission