

STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
May 6, 2009

The work session of the Stafford County Planning Commission of Wednesday, May 6, 2009, was called to order at 5:38 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the County Administrative Center.

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

Members Absent: Carlone

Staff Present: Harvey, Nugent, Roberts, Stinnette, Stepowany and Schulte

3. Declarations of Disqualification

None

4. Review of Proposed Ordinances

Mr. Fields: Moving on to the review of proposed ordinances, we have a lot of stuff moving up to the May 20th work session, so everybody get a good nights sleep before that one.

- a. Elimination of the Preliminary Subdivision Plan Process (**Deferred to May 20, 2009 Work Session**)
- b. Electronic Signs (**Time Limit: July 1, 2009**) (**Deferred to May 20, 2009 Work Session**)
- c. Agricultural Districts Lot Yield (**Deferred to May 20, 2009 Work Session**)
- d. Reservoir Protection Overlay (Deferred to subcommittee - Archer Di Peppe, Ruth Carlone and Gail Roberts)

Mr. Fields: We do have Reservoir Protection. Are we going to address that today? I know Mrs. Carlone was concerned...

Mr. Di Peppe: Yes, thank you. We had a sub-committee meeting, Mrs. Carlone is not here this evening, but we would like to proceed with the details we worked out and would like to recognize Mr. Stepowany.

Mr. Stepowany: Thank you Mr. Chairman and Mr. Di Peppe. Mr. Di Peppe, Mrs. Carlone and the County Attorneys office meet last Thursday and wet over some of the questions and issues that raised concern for the Reservoir Protection. There were some changes made as a result of the meeting and I have presented to the Planning Commissioners, it starts with tonight's date, the Stafford County Planning Commission proposed Reservoir Protection Overlay District, summary of changes. It is basically as you go through the different pages, item 1 we have already talked about, mean high water (MHW) line was changed to maximum pool level. If you go on page 2, underneath B, establishing the districts, it refers to it as reservoir sights, we removed sights. And then, the sentence said, "shall be designated by the Board of Supervisors protect and promote the health safety and welfare of existing and future drinking water supply, reservoirs by managing development and uses within the boundaries

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designated by the Board of Supervisors". We deleted the reference of designated by the Board of Supervisors because it started that way in the sentence. Sub-section C, District Zones and Proximity Zones, this would be on page 3 under District Zones, currently the proximity zone consist of approximately two thousand feet in depth landward from the mean high water line. We changed it to one thousand eight hundred feet in depth landward from the outward boundaries from the buffer zone within the upstream limits of the watershed. The proximity zone is only in the upstream limits of the watershed. It is not a complete circle, it is just where the watershed is, eighteen hundred feet is the proximity zone, and the first two hundred feet is the buffer zone.

Mr. Di Peppe: Just to be clear, there was some confusion. We are saying the entire thing was two thousand feet and the way the other one read it could have been construed that the buffer was and addition and twenty-two hundred feet. That was all that change was to make it clear that is was not twenty-two hundred feet, it is two thousand feet including the buffer.

Mr. Stepowany: It is a total of two thousand feet including the buffer. Number 5, item G, which is the biggest compromise by the sub-committee, the minimum area requirements the five acres for lots served by private on site sewage systems and three acres for lots served by public sewers. That was agreed upon to be deleted.

Ms. Kirkman: Excuse me, could we get the thinking of the sub-committee on that. Because I thought part of the thinking was we were trying to limit impervious surface area in order to slow down the rain trickles and the water flow. How come all of a sudden we decided that was not needed?

Mr. Di Peppe: Go ahead first and I will.

Mr. Stepowany: The first questions that come up, is where did the information come from. Obviously it was modeled after Spotsylvania and it was noted that Spotsylvania does have five acre zoning districts and ten acre zoning districts, which do not exist in Stafford County, so it was not a major impact on land use in Spotsylvania because they do have five acre and ten acre zoning districts. Then the discussion was if five acres was because of drainfields, why minimum of three acres if you do not have drainfields. The reasons that were presented when I was at the sub-committee meeting was to limit the number of drainfields. Again with modeling after Spotsylvania, and having a five acre zoning district and ten acre zoning district, the sub-committee decided not to include it. I will leave it to Mr. Di Peppe.

Mr. Di Peppe: There was also, if I am not mistaken, the issue of if we had five acre lots it would make nine hundred lots non-conforming.

Mr. Stepowany: Between the two of them, over nine hundred.

Mr. Di Peppe: We would create over nine hundred non-conforming lots, where as if we kept it at three acres, it was just a handful. There was no way we could get to none, but the difference was incredible. Do you remember what it was with non-conforming with three acres?

Mr. Stepowany: I would have to go back to the previous staff reports.

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Mr. Di Peppe: It was a very small number and we thought that might be problematic. Honestly, the consideration was, we were trying to get a very good comprehensive Reservoir Protection Ordinance and we were wondering if making nine hundred non-conforming lots would keep it from getting passed. It was a compromise, that was the rational and we can debate that and we can argue. Within the sub-committee that was the discussion, do we want to make over nine hundred lots non-conforming and the problems that would cause.

Mr. Stepowany: The next item, basically is more for clarification, under page 4 for the lot width requirement within the buffer zones we added “which are contiguous to the outward boundary lines of the Reservoir Zone” and not site. That was another modification. Under prohibited uses, for 1 the following use is prohibited within the reservoir buffer, proximity watershed zone because it basically repeating what the main section said. Down to C, where it says disposal of hazardous materials or solid waste there were questions if it was solid waste would that conflict with on site sewage disposal systems that were permitted in the watershed zone. So D was added, “disposable solid waste not included in individual on site sewage disposal systems in zones where permitted”. There was a concern that if we said disposal of hazardous materials solid waste, that may prevent properties especially in the watershed zone from having drainfields. That is why it was changed. When we are talking about solid waste we are not talking about individual on site sewage disposal systems mainly in the watershed district zone. On 3, trash containers and/or dumpsters, trash containers was removed because this was in the buffer zone and there was a concern it might be talking about trash cans next to a picnic table and that may raise a concern. Where houses exist in the buffer zones and by saying trash containers, meaning you could not have outside trash cans for trash pick-up at your property if you have a house in the buffer zone, so that was changed to dumpsters. I was removed for the justifications that it felt the County may within its digression may construct recreation areas including boat ramps, picnic table and other necessities and structures and conduct commercial activities..., that is already being handled in the other Ordinance that is being presented to the Board through the Utilities Department where they talk about specific activities and limitations on County properties. The only other change was on subdivisions plats, final plats shall contain all the lines because Section 28-87 is the contents of a final plat and that was changed to zoning boundaries and existing boundary lines of all the zoning districts, overlay districts, buffers shall be shown. That becomes a requirement on all final plats not because it is pertaining to this. If you are in the HCOD, Historic Gateway, Reservoir Protection, Landscaping Buffering, RPA, all those boundaries would have to be identified on a final plat and that is what the amendment to 28-87 does. Those were the changes that were recommended by the sub-committee last week and I will bring it back to Mr. Di Peppe for any other discussion, suggestions, or directions.

Mr. Di Peppe: Since we are a Committee of the whole, I think we will give it back to Mr. Fields unless you want me to, at the pleasure of the Chair, I think you should probably hold the discussion on this if anybody has any questions or comments. What we thought was, we could hold it in Committee one more time, my one concern was since Ruth was the Chairman of this Committee, and having been here through all of it. It is unfortunate that she is ill tonight, I would like her to be here to recommend this, but that is a technical question. I am sure she will be back in two weeks. First, if there are any concerns about any of these changes, or anybody that wants further explanations we can have a more detailed conversation. Or if there are any other concerns that the other Planning Commissioners might have.

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Mr. Fields: That is sort of where I am at. First of all are, there any questions simply for understanding of what has been presented, by any of the Commissioners.

Mr. Howard: Jamie, you referenced the Spotsylvania Ordinance, are they also using a number of two hundred feet for the boundary line?

Mr. Stepowany: I believe so, is two hundred feet the buffer zone? I know Brenda is more familiar with Spotsylvania's Reservoir Protection.

Mr. Howard: It is more out of curiosity than anything scientific.

Mrs. Schulte: There are actually different buffers in their Ordinances. There are seventy-five foot buffers on up to two hundred and fifty foot buffers in their Ordinances.

Mr. Howard: Nothing exceeds two hundred and fifty?

Mrs. Schulte: It depends on the uses within those buffers as well as the proximity to the Reservoir.

Mr. Howard: Do you have an example of the use where the buffer is...

Mrs. Schulte: Well a seventy-five foot buffer is a buffer on any perennial streams that may lead to within the area of the two hundred and fifty feet, so they require an additional seventy-five feet of buffers to those streams.

Mr. Di Peppe: Is that over the Chesapeake Bay, an additional seventy-five.

Mr. Howard: So the maximum buffer is three hundred and twenty-feet.

Mrs. Schulte: Yes.

Mr. Di Peppe: Brenda, I know there is some concern about this. Can we talk about the rational of why we want a two hundred foot buffer, sorry I dropped that on you. I know the committee looked at a lot of reservoirs, not only in this locality, local, state and across the country. I even looked at some foreign countries like Australia. But it seems to be pretty consistent that you need more than a standard buffer, if Chesapeake Bay is a hundred feet from a regular stream our feeling was, and it seems to play out across the country, that you need a wider buffer if you are talking about drinking water.

Mrs. Schulte: In regard to Spotsylvania, when they established their Reservoir buffer zones, they were established because they were having a lot of issues with failing drainfields adjacent to their reservoirs. Because their reservoirs are outside of the primary settlement district, so they did not have the ability to hook up to public water and sewer. They started establishing those proximity buffers, which is what they call them and certain types of uses are not permitted with those different buffers. They had the additional seventy-five on up to the two hundred and fifty buffer, as I said. It was also tied to particular uses, drainfields and wells, bio-solid usage, things like that.

Mr. Di Peppe: I think one of the biggest dangers to any reservoir is fecal contamination.

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Mrs. Schulte: Which also restricted certain types of agricultural uses, as well.

Mr. Di Peppe: Feed lots and things like that.

Ms. Kirkman: If that is the case, all of our reservoirs are not located in the Urban Service Area (USA), correct?

Mrs. Schulte: Ours, in Stafford County?

Ms. Kirkman: Uh huh.

Mr. Howard: That was going to be a follow up question I had actually, is there any affect on the USA.

Ms. Kirkman: Excuse me, I was talking with staff.

Mr. Howard: I still had questions for Mr. Di Peppe...

Ms. Kirkman: Mrs. Schulte, is all of the area around all of our reservoirs inside or outside the USA?

Mrs. Schulte: I am not one hundred percent, perhaps Mr. Stepowany has looked into that.

Mr. Harvey: I can answer some of those questions. The USA is in close proximity but does not abut Smith Lake, it is adjacent to Rocky Pen that is planned, and Abel Lake is not within the USA.

Ms. Kirkman: So if the purpose of Spotsylvania was to keep failing drainfields from being in close proximity of the reservoir, why...

Mrs. Schulte: That was one of the things they targeted, but the overall reasoning was to protect the water source, obviously. It was through the uses that they addressed that.

Ms. Kirkman: Why are we now in this legislation, permitting the use of drainfields within the buffers.

Mr. Stepowany: The buffer zone does not permit on site sewage disposal systems.

Ms. Kirkman: Where does it say that?

Mr. Stepowany: Go to page 5, number 3. It is a prohibited use.

Ms. Kirkman: Okay, thanks.

Mr. Stepowany: The two hundred prohibits it.

Ms. Kirkman: But do we contradict ourselves then by saying... I think we now got contradictory language in here because H on page 4, says the following uses are prohibited within all the zones, disposal of solid waste not including on site sewage disposal. I just want to make sure we don't have...

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Mr. Stepowany: That is why I said in zones were permitted. That is why we added that, because that was the concern where we have the disposal of hazardous material or solid waste, did that prohibit on site drainfields. The watershed zone takes you all the way up to Fauquier County and all the way up to 610, miles away. Was that the intent to not allow any of those sites to not have drainfields. That was not the intent.

Ms. Kirkman: Has our county attorney reviewed all of this language.

Mr. Stepowany: The county attorney's office was part of the sub-committee, yes.

Ms. Kirkman: Have you guys looked at the final form and approved it?

Mr. Fields: Mr. Howard, you still had some questions.

Mr. Howard: I did Mr. Chairman, thank you. I want to rephrase the question, the way I wanted to ask it. Is there any impact to the USA if you were to take this Reservoir Protection Overlay and overlay it on to the county map. Is there any areas where this new overlay district would overlap, physically, to the USA?

Mr. Stepowany: Without taking out the maps, because of the watershed zone, some of it would go within the USA.

Mr. Howard: If in fact that occurs, how would that conflict be resolved?

Mr. Stepowany: That was part of the discussion we talked about the three acre minimum. As I said if the five acres were to reduce the number of drainfields, why are there three acre lots if you have water and sewer, because if you have water and sewer, obviously drainfields are not an issue. That has been removed, so that is subject to whatever the underlying zoning district is and those requirements. If it is in the USA and has water and sewer the zoning restrictions for the lot size does not change. The only thing this does is actually the width of the lot is the only provision on this Ordinance that is restricted.

Mr. Howard: I am looking for clarification. My recollection is when we had one of the county engineers here discussing the contamination that did exist or they tested for or surfaced during test, the fecal contamination was primarily from wild animals. Is that correct?

Mr. Stepowany: I would have to refer to Mr. Harvey for that answer.

Mr. Howard: That is my recollection, I could be wrong. I guess they also surfaced up that there was also contamination from prescription drug medication, not from being dumped but from being purged from people.

Mr. Stepowany: I remember hearing that discussion too.

Mr. Howard: Thank you.

Mr. Fields: Okay, are there anymore questions.

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Mr. Mitchell: I was looking at the first change, the mean high water line to maximum pool level. The word maximum pool level, does pool carry the same legal definition as reservoir level?

Mr. Stepowany: I believe that is what the reservoir is the pool. That was recommended by Mr. Critzer when he did the presentation, to use the term maximum pool level. They have established the maximum pool level through their engineering.

Mr. Mitchell: I did not know if those two related well together. Also, do we have a total acreage that the proposed Reservoir Protection Overlay District Ordinance would affect?

Mr. Stepowany: I would have to get that information back to you.

Mr. Mitchell: Do we also have a total number of lots that...

Mr. Stepowany: That we do have a list, I know it is close to twelve thousand lots that have to be identified.

Mr. Mitchell: Twelve thousand lots.

Mr. Stepowany: I know that was discussed months ago. Because this is a new overlay zoning district we will have to notify every single property within the overlay district. It may be more like eleven thousand three hundred properties that would have to be notified of this overlay district.

Mr. Mitchell: Thank you. That is all Mr. Chairman.

Mr. Fields: Any other questions of staff? Alright, if there are no questions, I certainly do not oppose waiting until Mrs. Carlone is able to attend, if we want to absorb this for two more weeks. In the interim are there any changes the Commissioners feel that should be made or any changes that were not made that we anticipated? I assume the next movement on this, according to process that keeps changing, we would need to request the Board of Supervisors to refer to us for public hearing.

Mr. Stepowany: Correct.

Ms. Kirkman: Didn't they send it to us?

Mr. Stepowany: No.

Mr. Fields: Did they send this back to us?

Mr. Stepowany: I believe this was initiated by Mr. Cook, if I remember correctly.

Mr. Di Peppe: That is correct, because originally Mr. Cook made me the Chairman and at the time with the Comprehensive Plan and Ordinance Committee, two weeks after he gave it to me I asked him if we could make Ruth the Chair because I was up to my eyelids and she has been the Chair ever since.

Mr. Stepowany: In response to Ms. Kirkman's question, I believe this was initiated by Mr. Cook. That was a while ago.

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Mr. Fields: Do we need a vote, or does everybody agree by consensus to wait two week until Mrs. Carlone is here.

Mr. Mitchell: I would like the information I requested, how many acres was involved. I would rather wait the two weeks.

Mr. Fields: Absolutely.

Mr. Rhodes: I recommend we retain in Committee.

Mr. Mitchell: Yeah.

Mr. Fields: Okay, we have a consensus. We do not need to vote. Good work, I know this has been difficult.

Mr. Di Peppe: It is a important Ordinance and we want it to be right and I certainly want all the Planning Commissioners if they have questions or concerns to be able to get all of those questions answered and all the information they need to make a decision.

Mr. Fields: Absolutely.

- 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 (**Deferred to May 6, 2009 Work Session**)

Mr. Fields: Okay, time limits for plans. Do we have a presentation?

Mrs. Schulte: On April 13, the County Attorney's office sent a draft of the time limits ordinance and additional research recommendations to planning staff. There was a meeting held on April 23, to discuss the draft ordinance as well as additional concerns. It was determined that further work was necessary before bringing a final draft to the Planning Commission for their considerations. Staff has since met and a draft document was sent electronically yesterday to the Commission. However there were additional changes today and you should have had at your seat tonight a revised ordinance proposal. I would like to highlight what you see now in that new draft document and how it was re-written and the changes. After an applicant is notified, of recommendations and the decision of the agent or his designee, the applicant has sixty (60) days to submit a modified plan demonstrating compliance with all of the changes, corrections and modifications. Upon that written request an applicant may obtain a first extension for a period not exceeding sixty (60) days. This is without any need on the part of the applicant to establish cause. The applicant may seek additional extensions for a period not exceeding thirty (30) days per extension. These additional extensions may only be granted by the agent or designee upon verification through no fault of the applicant, the applicant's agent or independent contractor is encountering or experiencing problems or difficulties with the provisions as provided for that is identified in Sections 28-251(i), 22-60(e) and 22-77(e). The applicant is then entitled to no more than four reviews total. If the applicant fails to obtain either approval or a determination for the preliminary plan is complete, the application shall be denied and closed out. In

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regards to a site plan or construction plan or shall receive no further consideration if it is a preliminary plan application. New since the draft document was sent to you yesterday, you will find in Sections 28-251(m), 22-60(i) and 22-77(i), these have been added. They provide that the proposed draft ordinances apply to new applications and pending applications. The pending applications will receive no more than four additional reviews after they have been notified of the recommendations and decisions of the agent or his designee. That is the highlighted version, and if you have any additional questions, I will be happy to address those.

Mr. Fields: Are there any questions for staff? Alright, obviously you have done a perfect job, because we have no questions.

Mrs. Schulte: And the County Attorney's office has work very hard with staff to put this together for you.

Mr. Fields: And again, our next move on this is to request the Board to refer this to us.

Mr. Nugent: Paragraph G, 28-251 second line, notice of recommendations and should be decision instead of decisions. That just hit me in a review here and I apologize to Brenda for not picking that up sooner.

Ms. Kirkman: Before we go any further, I wanted to thank both Mrs. Schulte and Attorney Nugent, because they both worked really hard on this legislation and I think we were able to put together something that is very balanced and will meet the needs of staff, who originally requested that we develop this legislation and at the same time, protect the fairness of the review process. Just to remind folks about why this is necessary, right now we have on the books at least twelve preliminary subdivision applications that have not had any activity for more than a year. We have a preliminary subdivision plan from 1998 and we also, as you will recall, had a preliminary subdivision plan that came before us that was over six years old and that created some difficulties in trying to figure out what was the applicable law at this point. Among the twelve that we have that have not had in activity in over a year, one of those preliminary subdivision plans was submitted by a developer who no longer owns the property, it has been foreclosed on and resold by the bank already. In all of those situations the staff has no ability to close out these plans, so that is really the thinking about this to keep those kinds of things from sitting around.

Mr. Fields: Alright, so we need to move this to the evening session to then request the Board, is that correct? Are you going to make the motion?

Ms. Kirkman: So moved.

Mr. Di Peppe: Second.

Mr. Fields: Moved and seconded. Is there any discussion on the motion to move this to the evening session? All those in favor signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

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Mr. Mitchell: Aye.

Mr. Howard: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Motion carries six (6) to zero (0). Very good, I know that was a long time coming and really took a lot of very detailed work. I really do appreciate all the work that staff, both legal and planning staff did on that. That was not a fun exercise, very technical and hard to get your hands around. They have done a great job. Alright, now we are on to private access easements.

- g. Ordinance O07-71, Private Access Easements in Minor Subdivisions (**Deferred to May 6, 2009 Work Session**)

Mr. Stepowany: Mr. Chairman, we started discussing this ordinance at the April 15 Planning Commission meeting and there was some minor discussions, but staff was not really given any direction and staff is basically waiting for direction from the Planning Commission on this ordinance.

Mr. Fields: Alright, does anybody have anything they want to chime in on for this one?

Ms. Kirkman: Attorney Nugent, this is the piece of legislation that we discussed that was referred to the Planning Commission in 2007.

Mr. Nugent: It appears that because of the ninety (90) day rule, that the approval by the Planning Commission is deemed as a matter of law and I guess the approval now has to go back to the Board.

Mr. Fields: So technically it is out of our hands at this point.

Mr. Nugent: That is right. There is no action required because as a matter of law it has been approved by the Planning Commission.

Mr. Fields: So, if the Board wants us to refer it they really need to just dispose of this ordinance and refer back to us a new ordinance or the development of a new ordinance.

Mr. Nugent: Yes.

Mr. Fields: What are people's feelings assuming that is a fate of complete, we can not take any action on this item. Is there any interest in requesting the Board to send us back a request to work on this? Is there concern that we need to tweak or refine or work on the private access easement? Anybody?

Ms. Kirkman: I was going to say that this came out of a very clear need and I do hope the Board... This is back in the Board's hands and I hope the Board, if they wish to pursue it, will find the correct vehicle to do that whether is it initiating a new ordinance or if they get the go ahead from the county Attorney's office voting on this one. But this ordinance did come out of some problems that were identified in plans.

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Mr. Fields: Alright, so we are done with that. Okay, now moving on we have deferred SPCA, we are still working on South Campus.

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)**

- b. 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 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) (History - Deferred at April 15, 2009 Regular Meeting to May 20, 2009 Work Session)**

Mr. Fields: The Transportation Committee had a presentation on the South Campus project and we asked a lot of questions and had a lot on information presented. We requested that they make a modified version of that presentation at the next work session. I think it helped, the more in depth presentation they made on the transportation plan and the phasing of it, helped make a lot of sense out of what is not as complicated as it looks at first blush, but I know that I came away with a pretty clear understanding of what they are proposing. It remains to be seen how we want to adjust that, but I think after they made their presentation, it was our sense that we were satisfied that we understood their presentation and were fairly clear on what they were agreeing to do. We were not suggesting any major changes, but we were suggesting some ideas. So it is time to bring it back to the Committee as a whole and get us to take a comprehensive look at it. I know Mr. Di Peppe conducted sort of an impromptu field trip and if you want to take a minute, I think that will be fine.

Mr. Di Peppe: We met with the developer and also his archeologist and I brought along D. P. Newton and we walked all over that piece of property. I thought it was a very good meeting, the developer was very open to suggestions and the archeologist. We went through and pointed out a few discrepancies. They are going to come back, when this comes back next time, with some changes in the report. We found some mistakes and also a couple of very good things came out of it. One is that they are going to change the proffers and recommend not only Phase II on certain areas, but with D. P. who has such a tremendous knowledge of Stafford County and where the camps were, he pointed out some things

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they did not know. They agreed to do a Phase II and also make sure that information makes it into the report. Unfortunately, one of the camps that is there has a house that sits exactly on top of it and the land around the house had been farmed numerous times, so all evidence of the camp is gone, but we are going to put it in the record, who was there, what was there, what was that activity. We also found some evidence of some roads that we believe are old roads on that property, that is not something that will hold up the development, but we want to record it in the archeological report. They found a Native American site, and that is one of the areas that is going to get a Phase II and they have agreed to expand that out to part of where that road network is to check that out. They have also agreed that if they find something in those areas, where they can, to actually do some signage interpretation and make that part of the development. I felt it was a very good day and we all had long talks about what was there and they agreed to add some information and to do some further studies and we felt much better about it.

Mr. Fields: I appreciate you taking the initiative and the time and also D. P. taking time to do that. That was valuable.

Mr. Di Peppe: One thing D. P. pointed out was this becomes the record. When they come back twenty years from now, what was on that property, people will know this was on there and it needs to be absolutely correct. Since he is one of the leading experts on what was there they will include that information.

Mr. Harvey: Mr. Chairman, on our agenda we have it scheduled for the work session on the 20th, however when you look at the ordinance schedule it is looking fairly full. I would like to note the applicant has advised me that his transportation presentation will probable take about an hour. So that leads to the question, should we defer it to the regular meeting?

Mr. Fields: Do we have any public hearings at that meeting?

Mr. Harvey: One public hearing on the cold weather shelter that Mica is proposing.

Mr. Fields: So we might be able to do that and move on to this.

Ms. Kirkman: We also have plenty of time on this. We do not have to act on this until July 14. What about just deferring it for one additional meeting?

Mr. Fields: If we can put it in the evening session, I think it would be good. It is kind of fresh in our heads, I would like to go ahead and give it a try.

Mr. Rhodes: And it gives opportunity to get the reactions incase there are other follow-ups and not loose two more weeks.

Mr. Di Peppe: And the follow up on this archeological report might take ten minutes, it will not be a big part of the other presentation.

Mr. Fields: I am sort of anxious to get the Commission aware of the full transportation plan as soon as possible so as we work through this we may need to July 4 even with that knowledge to get this all wrapped up. I think we all think it is a meritorious project, but it is a big project and it has a lot of

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details. We are going to need to make sure we are all comfortable with all of this and if it is okay I would like to plan on that for the evening session. The presentation, an hour sounds like a long time, but it is actually thorough and interesting.

- c. 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) (History - Deferred at April 15, 2009 Regular Meeting to May 6, 2009 Work Session)**

Mr. Fields: Virginia Paving Amendment is going on this evenings' session.

Ms. Kirkman: Are we going to discuss it in the work session?

Mr. Fields: I think they requested we simply move it to the evening session. Nobody from Virginia Paving can be here for this session and requested we talk about it in the evening session. So, I think we are going to talk about it in the evening.

6. Review of Pending Subdivision Plans

- a. 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) (History - Deferred at April 15, 2009 Regular Meeting to May 6, 2009 Work Session)**

Mr. Fields: Now we are at Fairhavens.

Ms. Kirkman: Mr. Chair, in Mrs. Carlone's absence I would request that we defer that. I know she has been working really hard on it.

Mr. Di Peppe: Well, she phoned me today and sounded terrible. I hope she feels much better. She actually did sit down and worked through the problems that were raised. There were a number of changes and the main thing we have to do is get those incorporated in the plan and then we have to give the citizens five days. We can not actually move on this tonight, but can we get the changes?

Hamilton Palmer: Mr. Burt Harrison, owner of the property and applicant is also here. The one issue that I know of that was asked of us, and we went through three issues, block length, drainfields and the location and shared driveway. Mrs. Carlone asked that the lot line be, that we merge two lots together and do away with the shared driveway. Mr. Harrison has agreed to do that. As I understand that is the only outstanding issue that we have. I am not sure what Mrs. Carlone told you Mr. Di Peppe.

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Mr. Di Peppe: She said after having the discussion and the changes that you were willing to make that we have to incorporate those and bring those back. With that being said and agreed to, she felt comfortable and wanted me to recommend that we move forward with this. Like I said we still have to have it for the public to see, before we can actually...

Mr. Palmer: We would like to go ahead and make the changes and bring them back to the next meeting.

Ms. Kirkman: I was the one that had asked about the block length and I do not see anything in our materials from staff regarding that issue. Is it in here somewhere, Jamie?

Mr. Stepowany: Yes, I addressed it in the...

Ms. Kirkman: I have got the memo dated May 6. Okay, I am sorry. I see it right here.

Mr. Stepowany: I measured the distance into Stafford Lakes and added the two and came up with, I did not bring my memo down here with me. It is in the first paragraph of the memo.

Ms. Kirkman: That is okay. I have got it right here. I just want to make sure this was done correctly, because there has been some confusion in the past about the difference between street length and block length. And so, you measured the block, not the street?

Mr. Stepowany: I measured the block between the two streets, yes.

Ms. Kirkman: Okay, thank you.

Mr. Stepowany: Into the next subdivision, yes.

Ms. Kirkman: Thanks.

Mr. Fields: So, we need a formal motion to defer this to the next meeting or..

Mr. Di Peppe: I will make it.

Mr. Fields: I do not think we do if there is a consensus that we are satisfied with all of the concerns and Mrs. Carlone is satisfied with the concerns, but we have to have the new plan prepared and viewable by the public for five days. So we can not, even if we wanted to, we could not technically do this correctly tonight.

Ms. Kirkman: Could we just put it on the unfinished business for our regular session, rather than the work session.

Mr. Fields: For the next session. Yes, I do not think we need to go to the next work session. Do we have to do that technically? Can we move it to the regular session?

Mr. Di Peppe: Do we need to vote to move it to the regular session?

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Mr. Fields: Out of work session?

Mr. Harvey: It never hurts to have a motion.

Mr. Fields: Okay, let me hear a motion to move this to the May 20 regular session.

Mr. Di Peppe: So moved.

Mr. Rhodes: Second.

Mr. Fields: Moved and seconded. Any discussion? All those in favor signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Alright, thank you very much for working with Mrs. Carlone and working with us. We will see you in a couple of weeks. Alright.

Mr. Di Peppe: How about that.

Mr. Rhodes: Time to kill. You run a great meeting.

Mr. Fields: No we are actually getting to the conclusion of some things here. Is there anything from the evening session that we may want to discuss?

Mr. Harvey: Mr. Chair, we still have minutes on the work session agenda.

7. Review of Proposed Comprehensive Plan Amendments

None

8. Other Unfinished Business

None

9. Approval of Minutes

Mr. Fields: We have two sets of minutes. Do we want to make separate motions? Mrs. Kirkman, separate motions on the two sets of minutes?

Ms. Kirkman: Yes, Mr. Chair.

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November 6, 2008 Work Session

Mr. Fields: Do we have a motion for the November 6 work session minutes?

Mr. Mitchell: So moved.

Mr. Fields: So moved by Mr. Mitchell.

Mr. Di Peppe: Second.

Mr. Fields: Second, do we have any discussion?

Ms. Kirkman: Mr. Chair, I am going to abstain because of the timeliness issue.

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

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Abstained?

Ms. Kirkman: One, me.

March 18, 2009 Work Session

Mr. Fields: March 18, do I hear a motion for approval of those minutes?

Mr. Di Peppe: So moved.

Mr. Rhodes: Second.

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

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

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Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Alright, six (6) to zero (0) on that. Very Good. Is there anything from the evening session that we could take a look at?

Ms. Kirkman: Mr. Harvey's memo about the summer schedule. We could also do minutes.

Mr. Fields: Let's look at the summer schedule. Do we have anything pending in the pipeline that would prohibit us from taking a couple of meeting off in the summer?

Mr. Harvey: We have a couple of cases that will probable go forward in June. We have the proffer amendment for Stafford Nursing Home, the project on Berea Church Road, they are asking for some modifications to their proffers. I am not sure of the timeliness of the application for what was known as Stafford Town Station, not it is Cliff Farm Quarter. That is in the mill for potentially sometime this summer and there are a few other cases out there that might come up, but certainly I am not aware from the staff perspective that have to be done in a certain time period. There is some urgency behind the Stafford Nursing Home case and the Mica case which is scheduled for the twentieth of May. Also as I mentioned at the last meeting, there was a request from the Board for a joint public hearing for the comprehensive plan on July 7. I thought I would throw that out there for your consideration regarding scheduling.

Mr. Fields: Alright, any thoughts on this? Do we want to try to take a couple off?

Mr. Di Peppe: It was great last summer. If we take them out and we find out that something comes up and we have to add one back in, we can do it. It looks like we might have an additional meeting in July anyway.

Mr. Fields: We are going to have the joint public hearing.

Mr. Di Peppe: I would love to see those two meetings.

Mr. Fields: Any other thoughts? We will have July 1 and July 7 anyway. July 7 is a joint public hearing, that is a Tuesday night. So, do we want to tentatively agree to take July 15 and August 5 out now? That gives us a six week break or so this summer.

Ms. Kirkman: That would certainly be consistent with the Board of Supervisors.

Mr. Fields: Right. Are we okay with that?

The Commission members agreed.

Mr. Fields: No dissent on that? Okay. Everybody have a nice summer vacation. But on August 19 though I do want a 500 word essay on what I did on my summer vacation from everybody though. Okay. Minutes? Can we do that in our work session, do regular meeting minutes? Is that okay?

Mrs. Roberts: (Inaudible) and then just pass on your recommendation to the regular and just do a real quick vote at the regular meeting.

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Mr. Fields: Okay.

Ms. Kirkman: That is all we do on this.

Mr. Fields: We will just do all that tonight anyway.

Ms. Kirkman: Do we want to take the various reports now?

Mr. Fields: We could. Planning Director's report? Do you want to do that?

Mr. Harvey: Certainly. Yesterday at the Board of Supervisors meeting they referred a Cluster Ordinance to the Planning Commission. A version of it is at your desk. It is looking at cluster regulations for A-1 and A-2 Zoning Districts. It has a new concept with it where we can create a preservation lot instead of necessarily having common open space. But certainly that will be something for future Ordinance Committee discussion. Note that your work session on the 20th is pretty packed so it may end up being a June 3 work session or later. I know June 3 you have coming back the SPCA and I imagine that will probably take the bulk of the time for that meeting. So, I guess we would have to talk about scheduling and when we would want to put that on the agenda.

Mr. Fields: Well, can we tentatively put it on June 3? If we cannot, then we will have to move it.

Mr. Harvey: Certainly.

Mr. Fields: I would like to get going on it really.

Ms. Kirkman: Are we under a 90 day time limit on this?

Mr. Harvey: I would assume so since it was referred by the Board.

Mr. Fields: If possible, we want to get it to June 3. We are losing almost a month anyway.

Mr. Harvey: Last night also the Board repealed the subdivision regulations dealing with buildable area and they deferred the zoning text amendment for buildable area for additional information to be provided by staff.

Ms. Kirkman: What was the additional information that was requested?

Mr. Harvey: They wanted more information regarding 25 percent slopes, specifically, what scientific data backs that up. They also asked for clarification as to why 25 feet was recommended for calculating the length of slope. And there was also discussion about what other zoning categories allow lots for single-family homes that are less than 10,000 square feet in size. And there may be something else I have forgotten but we will be putting that information together for the background report.

Mr. Fields: Mr. Di Peppe?

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Mr. Di Peppe: I was watching the meeting last night and was somewhat distressed watching it. In Spotsylvania it says 15 percent and we have 35 percent trying to get it to 25. But one thing that I hope you will let them know is that the Federal definition of a steep slope is 15 percent. I cannot say for certain that is why Spotsylvania chose it but I know that if you go out and look up online and type in Federal definition of steep slope you will come back with 15 percent. They seem to be going there was no science behind it so I do not know if they will say that number was pulled out of a hat by the Federal Government, but I believe there is plenty of science behind why you should not... And there seems to be some question, they were wondering the science of why can you not have steep slopes in highly erodible soils and they said, over and over they kept going there is no scientific basis to this. And I believe that scientific basis they were reaching for is called gravity. And I wish I could have been here to explain that to them.

Mr. Fields: I am sure they wished that too.

Mr. Di Peppe: Anyway... but I hope you will put in the report that that is the Federal definition, 15 percent, and we are more than twice that.

Mr. Harvey: Mr. Chairman, there was one other thing of interest. The Board brought up for discussion item an ordinance that has been on their deferred list for a number of years dealing with subdivisions and their requirements to access existing public streets. At that point in time we discussed briefly the new subdivision/street requirements that VDOT has rolled out which is going to revolutionize the way we look at things in our Subdivision Ordinance. So we are going to have to take a look at a number of amendments to the Subdivision Ordinance to comply with the new VDOT requirements. The VDOT regulations specify that they would override any local requirements unless the local requirements were more restrictive. But they take a whole different approach than we do in the County. Our County approach so far for a number of access points for subdivisions is based on a lot count which they look at it as a ratio between number of streets and intersections. So, our current Ordinance allows single cul-de-sacs that allow up to 35 lots. Under the VDOT scenario you could not do that; you would have to have at least two streets. So, we will have to take a look at those standards as well as other standards for sidewalks because basically sidewalks are going to be required now for any lots 2 acres or smaller in size. Our standard is 30,000 square feet. There are other things that are in the new standards that we are going to have to deal with.

Ms. Kirkman: When do those new standards become effective?

Mr. Harvey: They become effective July 1. From the plan review standpoint of VDOT, anything that they have started reviewing is to the new standards as of March. So, anything that was approved prior to March can go under the old standards, but anything in the interim has to go under the new standards.

Mr. Fields: How are those standards, if they are getting into things like sidewalks, how are their standards going to interact with our low impact development standards? Because we offer a whole non-low impact development option of development where you do not use sidewalks, etcetera. You do not get to go back to simplified rural ditch sections but you can do non-impervious type of solutions to those issues.

Mr. Harvey: The VDOT regs now will allow low impact development practices in the right-of-way and the engineer swales which has been changed from what the previous practice has been. I

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remember reading some of the information about where there is the ability to have trails in lieu of sidewalks or something like that and that would be something that we would have to work through with VDOT. There are some exceptions but it is not clear who influences or grants the exceptions. I would assume it would be VDOT. For instance, if you property abutted a river, you would not necessarily build a bridge across the river to the next jurisdiction to meet their connectivity requirements. So there are those kind of exceptions; but there is also one dealing with wetlands and that is not really exactly clear in my mind as to what a wetland impact would prohibit an inner-connectivity between subdivisions.

Mr. Fields: I see.

Ms. Kirkman: Right, because doesn't our Ches Bay allow construction of roads...

Mr. Harvey: Yes, roads are exempted uses.

Ms. Kirkman: And can you have staff print up and get to us the standards just at some point.

Mr. Harvey: Certainly.

Ms. Kirkman: Thanks. And what happened with Hills of Aquia?

Mr. Harvey: Yes, that item was scheduled for another public hearing. The Board had continued the public hearing, but for some reason the staff had listed it as deferred business. During the presentations by the public, the Board heard testimony from the citizens. The Board motioned to hold another public hearing on June 2, 2009. That concludes my report.

Ms. Kirkman: Does that mean it has to be re-advertised?

Mr. Harvey: Yes.

Ms. Kirkman: How much does that cost?

Mr. Harvey: It will probably be a few hundred dollars.

Ms. Kirkman: Because there is also notification on that one.

Mr. Harvey: Yes.

Mr. Fields: Also, I had a meeting with the Chairman of the Board of Supervisors, right before this, and I think we have this June 7, public hearing, that is the Board's intent, to refer this back to us and have this public hearing on June 7, which is slightly a few days before the technical sixty days. Unless anybody else here sees a reason to force this into a later time, I do not see any reason to not have the joint public hearing, at which point we will be getting the Board's referral at their next meeting, is that correct?

Mr. Harvey: We anticipate the Board's having possibly their final work session on the comprehensive plan on May 19, 2009.

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Mr. Fields: We will be getting that referred on the 19th and jointly have the public hearing for a vote. Where we take our vote and they take their vote. We will sit together and hear the testimony and then separately vote of course as bodies. We are not taking a fourteen member vote, as we each have to have a discreet vote, but that will be then the finish of the comprehensive plan process.

Mr. Di Peppe: I think you meant July 7.

Mr. Fields: July 7, did I say June 7?

Mr. Di Peppe: I think you said June 7.

Mr. Fields: July 7. Okay, County Attorney?

Mrs. Roberts: No report.

Mr. Nugent: I think we have already advised the Commission of everything that is on our plate.

Mr. Fields: Very Good. Well good grief, we are just charging through stuff tonight. This is the most efficient meeting I have seen.

Mr. Mitchell: Can I do my report?

Mr. Fields: Oh, yes, Mr. Secretary. I apologize.

Mr. Mitchell: I kind of felt slighted, but I will be alright.

Mr. Fields: Okay.

Mr. Mitchell: Sir, I have nothing to report.

Mr. Fields: Thank you Mr. Mitchell. Alright, we can adjourn. Hopefully some food is ready. I am starving. The public, of course, is cordially invited, of course we do not have enough food for everybody, but we are not hiding.

10. Adjournment

With no further business to discuss, the meeting was adjourned at 6:37 p.m.

Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES
May 6, 2009

The regular meeting of the Stafford County Planning Commission of Wednesday, May 6, 2009, was called to order at 7:30 p.m. by Chairman Peter Fields in the Board of Supervisors Chambers of the Stafford County Administration Center.

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

MEMBERS ABSENT: Carlone

STAFF PRESENT: Harvey, Nugent, Roberts, Stinnette, Stepowany and Schulte

E. Declarations of Disqualification

None

F. Public Presentations

None

PUBLIC HEARINGS:

None

UNFINISHED BUSINESS:

1. 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)**

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 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) (History - Deferred at April 15, 2009 Regular Meeting to May 20, 2009 Work Session)**

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

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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) (History - Deferred at April 15, 2009 Regular Meeting to May 6, 2009 Work Session)**

Mr. Fields: We only have one item of business before us tonight and that is the Virginia Paving amendment. Technically we are coming into our work session in the evening session and at that point we will move on to that item. Do we have a presentation by staff or where do we want to start with this?

Mr. Harvey: Mr. Hess can give us a summary.

Mr. Hess: Yes, I do have a PowerPoint presentation put together of all the attachments you saw on your memo so, if that is necessary, I can pull that up for your viewing. But I pretty much provided you with aerial maps showing distances between certain and several key features. I also provided photographs of the site to help get a perspective of the layout of the site with a perspective of the easement that Virginia Paving owns and the proximity to Eastern View. With that they did put together a video presentation which takes about four to five minutes that they are here to show you.

Mr. Fields: Sure that is fine, we have four or five minutes.

Mr. Hess: All right, I will go ahead and set it up.

The Commission viewed a video which was taped from the inside of a Virginia Paving vehicle, which showed the landscaping as seen from a vehicle entering and exiting Virginia Paving and driving on the access road.

Mr. Hess: I will stop it there because the focus was as you are going out and coming in with Eastern View and the rest of it was going towards the asphalt plant.

Mr. Fields: All right. Where does that leave us? Do we have any questions for staff? Do we have any questions for the applicant? Does the applicant have anything that you want to comment on, a statement or add to the video?

Debrarae Karnes: Thank you Mr. Chairman and thank you for your consideration in rescheduling this until 7:30. I think I am just going to make my presentation real short and wait for questions. The things I would like to go over is that this use has been in existence since 1988 and as staff advised you at the last hearing, there has been not a single complaint lodged. The Virginia Paving folks take pride in their operation, in their landscaping and in their buffers. The manager tells me that he drives around neighborhoods at night to make sure there is no impact. At the last meeting we gave you a letter from VDOT indicating the need to increase the number of nights. In short, we believe this will have no impact. With that I will be quiet and await any questions you may have.

Mr. Fields: Okay, are there any questions for the applicant or staff at this time?

Mr. Howard: I do not have a question Mr. Chair. I did visit with the applicant on site over a week ago and took that same ride myself because I wanted to get a feel for it. I also drove in the neighborhood where Kelly Way is, that was my concern. There is a little cul-de-sac there with four or five homes that have backyards that back up to the Vulcan Quarry Road.

Mr. Fields: Is that the area on the first aerial photograph?

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Mr. Howard: Yes. The berm that was mentioned in the video is easily sixteen or eighteen feet high. When the trucks come down from the Virginia Paving location, I was amazed when you are actually on the cul-de-sac because Vulcan Quarry actually has a lot of trucks that go up and down that road. You really do not hear the trucks. When I met with one of the operators of the facility, they actually have a noise meter that they use and they randomly check in the Eastern View Subdivision and also set across the street on Route 610. I was also concerned with the noise, but the noise from the property line is well below the range of what we would expect. They are looking to do the one hundred and twenty nights because they are anticipating with the funding available through VDOT they will be awarded some contracts. VDOT, for the most part, only wants construction on Interstate 95, off peak. Off peak is not a lot of hours but are the hours that most of us are sleeping. I thought they did a great job of landscaping and doing the right things from the beginning when this business was put there, which is probably why there are zero complaints, as we have heard. It seemed to be a very well run operation, which is not something with that type of equipment that you can clean up because someone is coming to visit.

Mr. Fields: Okay. Are there any other questions or comments? Where do we want to proceed with this? We have the condition, the memo addresses these things, we are still researching to see about the expiration of five years. Does staff have a... are you going to present your opinion on that?

Mrs. Roberts: Yes, Ms. Kirkman had asked the question. Due to the length of operation, a sunset clause on the use would not be appropriate, but I do think due to the ever-changing surroundings of different sites, a five year sunset clause on the hours would be appropriate.

Mr. Fields: Okay. What is the applicant's feeling about that? Are you willing to agree to that?

Ms. Karnes: Two points, first of all there was some confusion...

Mr. Fields: We hope you agree to, you understand of course we cannot impose the condition.

Ms. Karnes: I understand that Mr. Chairman. Two points, I think there was some confusion at the last meeting, at least on the part of my clients, that we were talking about a sunset clause for the whole use dating back from 1988. Of course they would absolutely oppose that. Now the last time, the Planning Commission asked if we would consent to the imposition of a sunset clause, as we will say for the additional hours. When I go and research the law it is clear there has to be a nexus for each condition, and I do not think there is a nexus for imposing the sunset condition for the additional hours. I say that on the lack of complain and the area of concern is not even planned for the Urban Services Area (USA) post comp plan. In conclusion, I cannot advise my clients to consent to it. I have told them I would not be surprised if the Planning Commission recommended that condition to the Board, but I cannot consent.

Mr. Fields: Okay, that is fair enough. Any questions regarding that issue for the applicant?

Mr. Di Peppe: I can understand the original confusion, but I am wondering what the hesitation is, if we are just talking taking another look five years out from now does not seem to be unreasonable. We cannot impose it, but it does not seem unreasonable. Is there some reason, other than it will be an expense five years from now?

Ms. Karnes: That is one reason, but the other reason is, I took a look at the case law. Really the only instances I found where this has been done is when a use was proposed that had been a problem in the

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past or something that typically attracted police problems, like adult live music and dancing. I cannot ethically recommend to my client that they consent to it.

Mr. Howard: Mr. Chair, how many nights does the facility operate overnight now, under the current CUP?

Ms. Karnes: Forty-five nights.

Mr. Howard: Forty-five nights.

Ms. Karnes: Yes.

Mr. Howard: Mrs. Roberts, I am not sure I understood the answer, I am just looking for some clarity. Are you indicating that a sunset clause is tough to enforce, but a five year time limitation to return for an additional approval, if the CUP is approved for the additional operation of hours overnight, is more the right way to go? I thought I understood you to say a sunset clause was not really enforceable.

Mrs. Roberts: I think a sunset clause for the use is not appropriate. However, if I recall, currently they had to get permission every time they wanted to extend hours. To me, you are even giving them more than they had. If you would like to say five years and then with the approval of the Planning Director or Zoning Administrator, but right now I do not see how your are limiting them any further then they are currently limited under this condition.

Mr. Howard: For the purpose of the hours of operation, in terms of numerical time, not sunset.

Mrs. Roberts: Correct.

Mr. Howard: I am not sure if the applicant understood that, it was confusing to me a little in the beginning. The question I think the Commission is asking is, if we approve this with requiring the business to come back in five years to evaluate that or Mrs. Roberts would we be approving saying that they have to come back in five years if the hours of operation change.

Ms. Kirkman: Mr. Chair, I worked out some language with the attorneys and so, to be crystal clear, it might be helpful to explain that language so everyone could understand what we are talking about. What the language does, it does not change the conditional use permit or the use, it only places some parameters on the ability to review this in an additional five years, the extended nighttime hours. If folks look at condition number 3 on page 3 of 4 on Resolution 09-195.

Mr. Fields: That was in our packet last time.

Ms. Kirkman: Starting with the paragraph beginning with furthermore on page 3 of the Resolution. We would offer a motion to amend this to read furthermore, and inserting for a period of five years commencing with approval of this CUP, that would be the insertion. And then it would go on to read extended hours of nighttime operation shall be permitted on Sunday starting at 7 p.m., the rest of it. It does say they would need to re-apply after a five year period only for the extended nighttime hours. The reason I have worked with the attorneys on this, it is clear the current owner is responsible and has done a good job of running the quarry, but unfortunately we have had issues with other CUPs, because they run with the land, if the land changes owners and the new owner does not act as responsible. Unless there is some kind of clause, there is no ability to change the conditions. In addition to that, this is an area that could be subject to pressures for residential growth in the future because although it

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is not in currently inside the USA, it is directly adjacent to the USA and we have a Utilities Ordinance that requires hook-ups within certain proximity to water and sewer lines even if they are outside of the USA. This could be subject to some big changes in land use in the not too distant future. That is the other reason it gives the ability, right now it may not be causing problems because there are not a lot of homes around it, but should it develop in the future it could. This just gives the Board the ability to act again.

Mr. Howard: The land use could also become an expansion of the existing facility.

Ms. Kirkman: That is another one. It really is just to provide some protection around over time what might happen.

Mr. Howard: I just want to get some clarification, Mr. Chairman. Furthermore, for a period of five years, and then Ms. Kirkman indicated, that no change would be required if the hours of operation do not change. Is that correct?

Mr. Fields: Everything that they currently are able to do they would be able to do at the end of five years. If they do not re-apply, their ability to operate one hundred and twenty nights would go away.

Mr. Rhodes: What I did not hear in that language was the ability to revert back to the forty-five days as it currently stands. It sounded like for any amount of days, they would actually have to come back with another CUP. What is the cost of a CUP?

Mr. Fields: Ten thousand.

Mr. Howard: Today it is ten thousand dollars.

Mr. Rhodes: So any amount of nights, the way the language is structured now, they would have to come back in five years and spend another ten thousand dollars if they want to go back to forty-five nights. Is that correct?

Ms. Kirkman: That is correct, because we are striking all of the language regarding the forty-five nights.

Mr. Rhodes: That is what I understood. So for any night operation, one or more, they would come back for ten thousand more dollars.

Ms. Karnes: Mr. Chairman.

Mr. Fields: Yes Ma'am.

Ms. Karnes: I did not realize even the striking of the forty-five days was proposed and we would have a real problem with that. That would be taking away an existing vesting right approved in 1988, just for the record.

Ms. Kirkman: Would my colleague consider deferring this to our next session so we can work out the language so there is that protection and we can get the language right around preserving the forty-five days?

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Mr. Howard: I am curious, why would we do this and how many other business have been asked to come in for a CUP with an expiration date of five years from the approval date of the CUP.

Mr. Fields: I would just answer that my philosophy has been, I think we have seen enough instances where the ability to periodically review under changing circumstances is not there because of a vested right. This is simply realizing the dynamic nature of the county. I do not like the idea of requiring people to come in at the expense of a CUP. I recognize that and I am sympathetic to that, but I think it is a question of balance. The citizens and the community all seem to be articulating that, we have a right and responsibility to periodically make sure that this is still being operated in the exemplary manner in which it has been operated. I think obviously if we could guarantee the same owners would be doing the same thing, exactly how they have done it, we would not need to worry about it. I think that is the concern, you never know how things will change. I think that is the only thing we are getting at here.

Mr. Di Peppe: I have a question, I do not even know if it is possible or acceptable. There is no way to put into the wording that in five years it would come back, of course I am not in favor if they do revert back, of taking the forty-five days from them. Is there any way to put in the language that if this comes back in five years, is there any way to waive the ten thousand dollar fee, if that is the sticking point?

Mr. Nugent: I would like the opportunity to look into the possibility to see if, in fact, there would be a way to simply extend that time without the necessity of re-applying for another CUP.

Mr. Fields: But with a public review process.

Ms. Kirkman: With some kind of notification to adjacent property owners.

Mr. Nugent: Yes, it may not be possible but we should at least have the opportunity to look into it. From what I hear the Commission is saying, they do not want to take away what the gentleman already has, but they want to set some reasonable limits on the changes that might be made if the element of time tells the Commission down the road that some other tweaking is necessary.

Ms. Kirkman: Some kind of automatic renewal with a public hearing.

Mr. Nugent: Right.

Mr. Howard: Let me play devils advocate here. If the applicant comes back and says, by the way I am going to acquire the adjacent property and I am going to build and expand my operation, does this Commission still have the same concerns? Anything could happen with the property, I acknowledge that, but I am not sure I understand and I am not sure we have done this to another business.

Mr. Fields: If they were expanding to the other property, they would have to get a CUP on the other parcel.

Mr. Howard: Absolutely, there is no question about that.

Mr. Fields: I think their process to expand would be subject to the normal review anyway.

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Mr. Howard: My reason for asking that is part of the rationale, for the request is the vacant property that is adjacent to their property. If that is taken off the table, I am just asking the question, does the concern go away or is there some new concern that has not been articulated?

Mr. Fields: Speaking for myself, there is a general concern for the impacts into and the adjacent property being one of the many impacts but also including traffic impacts, noise impacts to the community as a whole, which so far they have been an exemplary steward of that process and that is great. But if that stewardship should change, there are several impacts that radiate out on a much broader scale that just the adjacent property that drive my concern for re-evaluation.

Mr. Howard: We have a Zoning Ordinance for sound and we have things in place in the County to protect the residents from those types of issues.

Ms. Kirkman: Unfortunately, some components of the Zoning Ordinance regarding sound just got stricken by the Supreme Court in a case that has application to Stafford as well as a number of other counties. I do think we are looking at some kind of reasonable and balanced solution that will minimize the burden but also preserve the ability to protect the citizens from impacts.

Mr. Howard: We had a public hearing and no one came. I actually went and met with a property owner on the cul-de-sac and they had no issue. People had a chance to come speak about this and I feel like we are penalizing a business in our community that has operated with integrity and has done everything we asked and we do have legitimate concerns with other businesses and the potential change of ownership. I am not sure I understand this one.

Mr. Fields: I think you just hit it on the head, the potential change of ownership. We assume that everything will be okay and we have not had any complaints, but this operation has not been operational one hundred and twenty nights a year. We do not know what the potential for complaints is under the new extended hours of operation. We are assuming everything will be okay, we are assuming everything will be fine in five years. To me if we can come up with of reviewing it without forcing a reapplication for a brand new CUP, that is just a reasonable protection to the community of the trajectory. I hope it is not construed by the applicant to impugn the character or the way he does business. I do not think there is any disagreement that we have a great business here, with a great ownership and a great steward of their land and uses. I think this is just a question of being prudent so that if something should happen, if the ownership should change, or the continuous use of one hundred and twenty nights a year suddenly starts to create a problem that people, even the owner with all of his best intentions had not foreseen, there is some mechanism for the county and the citizens through the county to take another look at it. If everything has been fine, one would assume you would have the reapplication public hearing and nobody would show up because everything has been fine and we would vote yes and move on. If there is no cost to the applicant, seems like a no harm, no foul situation where the county is protected at no particular disadvantage to the property owner or business owner, if they do not have to reapply for a CUP. If there are no issues there will be no issues on the reapplication.

Mr. Howard: It is seventy-five additional nights. They are not asking for one hundred and twenty-five additional.

Mr. Fields: Okay, point well taken, but you know what I am saying.

Mr. Di Peppe: You mentioned other businesses, this is a case by case and it is heavy trucks at night over a long period of time. They have done an exemplary job in the past, my only problem is that

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forever is a long time for as long as the grass grows and the winds blow, and I am a little uncomfortable with not having some mechanism further down the line if there is a problem. I also want to protect, that is why I raised the issue to begin with, I would love to find a way that within five years they could come back and not have to pay ten thousand dollars to address this. I am not trying to put that limitation on.

Mr. Fields: Do we have a major opposition for a deferral to find out if Mr. Nugent can research a way to craft this language?

Mr. Howard: I would not say a major...

Mr. Fields: We can vote for it but I would like to move by consensus if possible.

Mr. Di Peppe: Can we ask the applicant?

Mr. Fields: We can do whatever we want.

Mr. Di Peppe: I would like to get their feeling, are we going down a road that you are going to say emphatically I do not care what happens, and it does not cost us a dime, we would never agree to this, because then we are wasting everybody's time.

Ms. Kirkman: As a point of order, we are not because the applicant does not have to agree to this. We are imposing conditions.

Mr. Fields: We are recommending, not imposing.

Ms. Kirkman: We are recommending conditions to be imposed and so we are not wasting our time.

Mr. Di Peppe: All right.

Mr. Rhodes: So let's not ask. Let's not have a collegial discussion.

Mr. Di Peppe: I was hoping for the collegial discussion because I do not know, they might say if there is a way to do it we would be interested in pursuing it. I understand they do not have to but it is not totally unreasonable.

Ms. Karnes: I have always been taught to address the Chair for questions. Mr. Chair, I am going to be honest, I truly feel there is a legal objection here. Having said that, my clients would not be opposed to a short delay while the Commission tries to work it out. I do want to point out that gaining the opportunity to work at night brings additional jobs and income to Stafford County. Especially if they are going to pick up some of the stimulus money and this may make a difference down the road as to what contracts they can bid for. So we would urge the Commission and subsequently the Board to handle this as expediently as possible.

Mr. Fields: I think that is our concern too. I think we just need the intervening two weeks to work through the language of how we could make this a reality that we all consent. It seems there is a reasonable consensus that we all want to do the right thing for you guys and do not want to do anything that is punitive, but we have an obligation to do our jobs as well to make sure the citizens are protected. I want to repeat over and over again, I think we are all being very clear that we have no disrespect or disinclination to trust the current ownership or the current operation. We think you are

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doing a great job and we appreciate your efforts to bring jobs and employment to Stafford and I want to make sure we do not drag this out because the season is upon us and I am sure you have work that you need to get doing and so I do not want to impede with that. It seems to me a delay of two weeks is not going to, if that is okay, I think would be beneficial to take something that is reasonable and make it and research it as thoroughly as possible and we would have done our jobs as best we can do.

Mr. Howard: I have a question for the applicant. Are there any jobs that you are thinking of bidding on or could bid on that require you now to be able to operate additional hours? The issue is you have to bring the pavement after it is cooked, for lack of a better way of saying it, at the time it is going to be laid down and that can only happen overnight because VDOT is requiring. That will handicap them at the moment.

Mr. Fields: They would still have to have a public hearing with the Board. Even if we said tonight, we are not in business, we would just be moving it to the Board.

Mr. Howard: Directionally they could figure something different out, but I am not sure they know what to do, based on our feedback. I understand that is the normal process.

Ms. Kirkman: Mr. Chair, I hope the applicant takes away that we want to be clear that they have this ability and we are working to find a solution to make sure that they have the ability that could really receive the support of the entire Planning Commission. If the issue is what direction they should go on, I hope they understand the good intent upon our part to make it possible for them to do the business that is good for them and good for the County.

Mr. Mitchell: Mr. Chairman.

Mr. Fields: Yes, Mr. Mitchell.

Mr. Mitchell: Everyone spoke except me.

Mr. Fields: We have been waiting for you.

Mr. Mitchell: In closure I would never support taking away what they already have. I would never support the ten thousand dollar additional fee. To me it sets a dangerous precedent that we could hit every business in Stafford County that needed to come get a CUP. I do not have a real problem with a short interim delay, if legal can work out something reasonable, I would be for it. I think we could be setting a dangerous precedent if we went for the ten thousand dollars, I would never support that and I think we would be doing an injustice if that was part of the compromise. Again, we need to keep it short and brief and let it come back to us as quickly as possible and then we can act on it. Again this is a unit that has had no complaints. When Pete and I were on the Board, I think there was a night club in Stafford County that had complaints every Saturday night, and they operated for months and months until the owner shut it down. This is a reputable firm that does reputable work and I do not want to limit them, especially if we are talking transportation for northern Virginia. If we are really talking it and if we really mean it and all of this stuff for transportation I have listened to for the past eight years on the Board and three and a half years on the Planning Commission. If we are serious we need to move ahead on transportation. Thank you Mr. Chairman.

Mr. Fields: Thank you Mr. Mitchell. I will entertain a motion to defer to May 20th for legal to resolve a solution to the language of allowing a review after five years. Is there a motion to that effect?

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Mr. Di Peppe: So moved.

Mr. Fields: Motion by Mr. Di Peppe.

Mr. Howard: I will make the motion, it is in my district.

Mr. Di Peppe: I apologize.

Mr. Howard: There is a pre-established protocol there. I make a motion to defer CUP2700502, Conditional Use Permit for Virginia Paving, to the next work session.

Mr. Di Peppe: Can I second it?

Mr. Fields: You certainly may.

Mr. Di Peppe: Second it.

Mr. Fields: Is there any discussion?

Mr. Howard: Yes. Just to call out and I think Mr. Mitchell hit on something. We talk about transportation, and we have a great way of talking about things and I do not know enough about Virginia Paving, they are a business, an enterprise operating in Stafford County. They are generating revenue for the county. I think they want to use this location to be able to bid on work, I am not so sure that if there are too many restrictions, and I am playing devils advocate, if it were me, I would withdraw the application and move my business to one of my other locations and would hire people from different counties where I felt I was supported. I am not saying we do not support them, I am just giving you a perspective that I think we need to think about. If we are going to walk the walk when it comes to transportation and safety and we have a company that from what we can tell, has a fairly good reputation of how they operate their business. I am pretty sure VDOT is happy with their work because they have been awarded contracts in the past and can be awarded contracts in the future. They could use a different facility to do their manufacturing and hauling and that is always a possibility as well.

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

Mr. Howard: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Rhodes: Aye.

Mr. Fields: Aye. All those opposed? All right, we will see you in two weeks. Thank you for your time. I hope you understand that we are just trying to do a thorough job.

Ms. Kirkman: Mr. Chair, can we clarify is it deferred to the work session or to the evening session?

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Mr. Fields: The work session.

Mr. Howard: I asked for the work session.

4. 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)**
(History - Deferred at April 15, 2009 Regular Meeting to May 6, 2009 Work Session)

NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

COUNTY ATTORNEY'S REPORT

SECRETARY'S REPORT

COMMITTEE REPORTS

CHAIRMAN'S REPORT

OTHER BUSINESS

Discuss summer meeting schedule.

APPROVAL OF MINUTES

October 15, 2008 Regular Meeting

Mr. Fields: We have the approval of minutes. October 15, is there a motion?

Mr. Di Peppe: So moved to approve the minutes.

Mr. Fields: Seconded by somebody?

Mr. Mitchell: Second.

Ms. Kirkman: Mr. Chair, I am going to abstain for reasons of timeliness.

Mr. Howard: Is this the minutes for the...

Mr. Fields: October 15th regular meeting.

Mr. Howard: I will abstain as well, I was absent for that session.

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

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Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Rhodes: Aye.

Mr. Fields: Aye. The motion passed 4 with 2 abstaining.

November 6, 2008 Regular Meeting

Mr. Fields: November 6th regular meeting.

Mr. Mitchell: Motion for approval.

Mr. Rhodes: Second

Mr. Fields: Motion for approval and second. All those in favor signify by saying aye.

Ms. Kirkman: Whoa, you did not give me a chance.

Mr. Fields: I know you are going to abstain. So, all those in favor, aye.

Mr. Howard: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Rhodes: Aye.

Mr. Fields: Aye. All those opposed? Any abstentions?

Ms. Kirkman: I am going to abstain.

Mr. Fields: Great, that was your opportunity. I was not denying you anything.

March 18, 2009 Regular Meeting

Mr. Fields: Alright, March 18th. Motion?

Mr. Mitchell: Motion for approval Mr. Chairman.

Mr. Fields: Moved by Mr. Mitchell. Second?

Mr. Howard: Second.

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

Mr. Howard: Aye.

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Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Any opposed? Motion passes 6-0.

Mr. Howard: Just a point of clarification, I read the wrong CUP number for the CUP. It should be CUP2900091, with a date of 5-6-09 to be moved to the next work session.

Mr. Fields: Do we need to revote?

Mrs. Roberts: No.

Mr. Fields: We have our time limits that we want to request that the Board refer for action.

Mr. Di Peppe: Do we need to move it to the full.

Mr. Fields: We moved that to the full session. We need to dispose of that now. The motion is to simply request the Board..

Ms. Kirkman: To initiate.

Mr. Fields: To initiate the, it is actually three. Do we need three...

Ms. Kirkman: Four.

Mr. Fields: Four motions.

Ms. Kirkman: Yes.

Mr. Fields: Okay, one for each. So we need a motion to request that the Board initiate a revision to Section 28-251.

Ms. Kirkman: So moved.

Mr. Fields: Moved by Ms. Kirkman.

Mr. Di Peppe: Second.

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

Mr. Howard: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

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Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Now we need a motion for 22-60.

Ms. Kirkman: I move that the Board initiate amendments to that section of the Ordinance.

Mr. Di Peppe: Second.

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

Mr. Howard: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Now we have 22-61.

Ms. Kirkman: I move that the Board initiate amendments to that section.

Mr. Di Peppe: Second.

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

Mr. Howard: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. Opposed? Now Section 22-77.

Ms. Kirkman: I move that the Board initiate amendments to that section as put forth.

Mr. Di Peppe: Second

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

Mr. Howard: Aye.

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Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. All right.

Mr. Di Peppe: I had a quick question before we leave.

Mr. Fields: Okay.

Mr. Di Peppe: We were supposed to move Fairhavens to the full meeting.

Mr. Fields: Fairhavens was moved to the next full meeting. It was moved out of work session to the meeting on May 20th. I think that takes care of everything. Does anybody have anything? Very good, 8:12, not too shabby, since the last two went to midnight. Thank you all for your great work as always. See you in a couple of weeks.

ADJOURNMENT

With no further business the meeting was adjourned at 8:12 p.m.

Peter Fields, Chairman
Planning Commission