STAFFORD COUNTY PLANNING COMMISSION
WORK SESSION MINUTES
May 20, 2009

The work session of the Stafford County Planning Commission of Wednesday, May 20, 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, Rhodes, Mitchell, Howard, Carlone and Kirkman

Members Absent:

Staff Present: Harvey, Roberts, Stinnette, Stepowany and Schultis, Hess and Lott

3. Declarations of Disqualification

Mr. Fields: Do we have any declarations of disqualification? Alright, then we can get right to work on the proposed ordinances. We have the preliminary subdivision plan process.

4. Review of Proposed Ordinances

a. Elimination of the Preliminary Subdivision Plan Process **(Deferred to May 20, 2009 Work Session)**

Jon Schultis: Good evening Mr. Chairman, members of the Planning Commission. To update you once again on the elimination of the preliminary subdivision, the last time we talked about this I had an idea of phasing the reviews and keeping it all within one application and that is, of course, subject to legal opinion on the matter. I have since met with several members of the County Attorney's office and that idea will not necessarily fly as I have proposed it. If we were to elimination the preliminary subdivision plan, all of the facets of the preliminary and the construction plan would have to come together and it would have to operate in the same way that we do a subdivision construction plan. We can, of course, amend the process for Planning Commission final approval but it would have to run like we do a site plan right now without amending the process very much. I would like to remind the Commission that moving forward with this at this point, if that is indeed your will, will require a substantial rewrite of the subdivision ordinance for the most part and changes to other ordinances along the way. Not a task that I am afraid of but just certainly a large task from herein would request some time getting all of that together. With that I am available for questioning.

Mr. Fields: Alright, any questions for staff?

Ms. Kirkman: Who was the attorney that reviewed this?

Mr. Schultis: I spoke with Mrs. Roberts and Mr. Smith, and I believe Mrs. Roberts may have convened with Mr. Howard as well.

Ms. Kirkman: Okay, then good, I am glad it was you Mrs. Roberts so that you can answer some of my questions. Exactly what is the conflict with State Code requirements?

Mrs. Roberts: The difficulty we would have implementing that is the time limit. You cannot extend your time limit and the way Mr. Schultis envisioned it you would get brought a section of it then they would go back and do some more, bring it back and then get another engineering whatever job done

and bring it back. And under the Code, once the application is officially submitted it goes to you and you have sixty days.

Ms. Kirkman: But do we not define officially submitted as when it meets all the requirements? It is not officially submitted the day they turn in the paperwork.

Mrs. Roberts: It is officially submitted after Planning staff reviews it and determines that it meets the requirements of the Code.

Ms. Kirkman: So, I do not understand what the conflict would be since…

Mrs. Roberts: There is no authority for us to require them to submit in phases and they submit one application. What we are asking them to do is really submitting four applications.

Mr. Schultis: And, if I may too, another part of our conversation is the definition of a preliminary plan pursuant to State Code is a schematic representation. If they were to come in with a first phase showing stormwater, transportation layout, utilities connections, and then come back with another review for another phase after we get some approvals on a couple things, I think we agreed the case could logically be made that that first phased review is the preliminary plan and can be treated and vested as such.

Ms. Kirkman: Well, that is because you are still trying to do a preliminary plan and we are trying to get rid of those.

Mr. Schultis: Well, I am trying to fulfill the Commission's request with the guidelines that I have through State Code and being as creative as I can.

Ms. Kirkman: Sure. Let me ask the attorney this, right now I think most of our planning processes require a pre-submission conference?

Mrs. Roberts: That is my understanding.

Ms. Kirkman: And that is what is written into the Code, our local Code. The only reason why we were doing the phasing was to assist the applicant in not submitting something and then having it go to other departments who then say you have to revise this significantly because the water mains are not that size or the road does not go there or whatever. And that is the only reason why we were doing these in phases was really to expedite the process for the applicant so they would not have to make major revisions based on the review by utilities and roads and those sorts of things. Why couldn't those issues be addressed in the pre-submission conference?

Mr. Schultis: Well, they would essentially have to come to the pre-submission conference with an engineered plan and the pre-submission conference would result in essentially what we would have as a technical review committee off the bat with reviewers actually reviewing a plan coming in to trouble-shoot for some of those issues. It is certainly something that we could take a look at. The problem is, getting back to the State Code definition for preliminary plan, could it be argued that that is a schematic representation and is it being reviewed by County staff, could that count as a preliminary plan and cause some troubles along the way. And that is something that we would have to look at. My inclination is that the State Code is not very clear on the subject but it is clear enough in saying that a

preliminary plan is a schematic representation which is rather general and I am not sure how that would be interpreted or what somebody would want to interpret it as and putting together an argument.

Ms. Kirkman: So again, going back to the idea that the only reason we were doing the phasing is because what we heard when all those department people came before us was that they really did not want the applicant to get too far in their planning process because, depending on what Utilities or Transportation might have to say, there might have to be significant revisions in the plan. So, we could still just have one submission, one application, no phases and, if the applicant does not do their due diligence and really work out some of the details ahead of time, that would mean there would be significant revisions before it could be officially submitted. Is that correct?

Mrs. Roberts: We did not look at that; that sounds like it could be a possibility.

Mr. Schultis: Well, as I understand the question and to answer it through my understanding of it is to a degree, when we have stormwater concepts in the preliminary plan in general, a lot of that is to see if certain utilities situations, certain stormwater situations will work out. If we were to put together a phased review all in one application as a replacement for the preliminary plan, that might be a way to incorporate some of the aspects of the preliminary plan and make for an easier plan review process. Because if you are putting all the aspects of a preliminary plan together with all the aspects of a fully engineered construction plan and you are talking for even forty lots a three hundred page plan to have to go through. So, ultimately, some of the reasons behind having the preliminary plan was to get through certain aspects of it and get a general layout which the Planning Commission sees and then take care of the final engineering with the construction plan. To address the second part of your question, I think with what we came with out of the County Attorney's office is it is kind of set up exactly the way you described. Everything would come together in one plan, one large plan, and that is what would go through the review process. So, I hope that answers your question.

Ms. Kirkman: There would be nothing to prohibit the applicant from, say meeting with Utilities in advance on their own or Transportation in advance to make sure that they have the proper understanding of what the infrastructure is in the area.

Mr. Schultis: I do not see why that would be an issue.

Ms. Kirkman: Okay, thank you.

Mr. Fields: The question we have to get back to though is at what point does all this create a level of vesting, of effort, on the part of the applicant that puts us back to where we were with this preliminary subdivision plan? Are we still moving forward in the idea of getting these are things that would then be far more proximal in terms of time to the actual development? Because I am assuming once you start you have some claim to vesting once you start this process of submitting plans to the County. I doubt if you get through a long lengthy process of a review with the County and if it actually gets challenged in court, you do not end up with some claim to some vested rights after all of that effort and expenditure. That is the legal principle that vesting works on, whether it is a certain way or not. So I am concerned that if we go through something as arduous as this, which I am not afraid of but at the end of the day have we accomplished what we accomplished which is what we are trying to accomplish, or at least what I am trying to accomplish, is that you cannot be vested in a plan that can just lay on the shelf with minor updates for thirty or forty years. The idea here is that once you are ready to build the project is when you start getting the reviews and the review by the Planning

Commission and the citizens. So, if we can accomplish this with this then I think we are on there. But I just want to be sure that we have not opened up another layer of vesting or for people where they can let these things sit for a long period of time.

Mr. Schultis: If I may make a suggestion, Mr. Chairman, I know that the Planning Commission is looking at rewriting the Subdivision Ordinance, or updating the Subdivision Ordinance, along with the Comprehensive Plan, and a good time to tackle a lot of this may be then because a lot of the Subdivision Ordinance is going to be changed as a result of this. This is simply just a suggestion.

Ms. Kirkman: What is the timeframe for updating the Subdivision Ordinance? Do we have something that was roughed out?

Mr. Harvey: We are currently working with the attorney's office on that. My recollection was that Mr. Nugent was estimating it to be twelve to eighteen months from the time we started which probably was in the February/March timeframe. So, we will probably be looking at summer of next year I would assume.

Ms. Kirkman: Thank you.

Mr. Fields: Alright, any further questions? Well, where do we want to go with this? Do we want to keep asking staff to come up with a way of implementing this idea? Yes? No? Any thoughts? Nobody has any ideas or thoughts on this whatever?

Ms. Kirkman: Well, I do and I do think we should continue to pursue this. It does seem like although many objections have been thrown out that there is a way to do it and I think we should continue to pursue it, particularly since the General Assembly seems more and more inclined to make vesting last forever and a day.

Mr. Fields: Well, that would pretty much be my opinion. I think in a perfect world it certainly is not the optimum way of going about it but we have seen every single growth related problem in Stafford has been a result of vesting, of vested zoning, of vested preliminary subdivision plans, of vested this or vested that, it has been a result of a concept of decisions made twenty or thirty years ago coming back to impact the current day without the citizens having any ability to say how they want the future of their county to look. And this, even though there are not public hearings on preliminary plans, obviously when you have a preliminary plan in front of the Planning Commission, or when you have a plan in front of the Planning Commission, it generally will generate the interest and the comments and the input at that time and if that is within a reasonable time of when that is going to be built then the public, through the Planning Commission and actually the public and any other interested party, will have a reasonable shot at having input on it. If the plan is approved and then sits dormant for thirty years, nobody probably involved at any layer of government or the public will have had anything to do with that plan and that just seems to me to be unfair to the citizens of the County. So, as tough as this is, I would like us to keep moving forward with it.

Mr. Schultis: Mr. Chairman, when would you like me to bring an update back to the Commission?

Mr. Fields: Well, if you decide that integrating it with updating the subdivision plan is the most effective way to go and we are converging staff time at the same point, maybe when you get a handle on that, maybe the next or two sessions from now just tell us if that looks like that is going to be

workable, that you are going to be able to converge this process with the update of this process. Does that sound good?

Mr. Schultis: Yes, thank you.

Ms. Kirkman: Mr. Chair? I am a little hesitant to move forward with this as part of the Subdivision Ordinance change because it has become pretty clear that that is not going to happen for a long time. So, that is my concern and if we are going to be changing fundamentally the way we do the planning process, we should start as that as the basis rather than what are the changes to the Subdivision Ordinance and how do we work this in. So, I just want to note my concern about putting it off to that process because I think the chances are good we will not be seeing that happening for a while.

Mr. Fields: We have X amount of time so I am trying to see, maybe if staff, if Mr. Harvey, could talk about this with staff as Director and maybe give us an update next meeting of how you see your staff time being able to… if the only way to get any of this done is to get it done together or if we push this as a separate project ahead of the update of the Ordinance does that simply push back the Subdivision Ordinance update. Can you give us some sort of ballpark? I know this is kind of nebulous stuff.

Mr. Harvey: Sure. Mr. Chairman, I would request that we send it to you in your second meeting in June because the June 3 work session is for the SPCA application which I assume will take up a good chunk of that work session.

Mr. Fields: No doubt. Okay. That sounds good. Thank you Jeff.

Mr. Rhodes: Mr. Chairman, if I could just follow-up on the issue. We have been working this a while. There were some reservations earlier on and it has been highlighted for a while that we would be, I think if I recall correctly, the first County that we identified that did not have preliminary plans if and whenever we get to that point. So, I would just reinforce the potential for second and third order effects that were unknown, unintended, going through a process like this that we just ought to work very carefully as we go forward.

Mr. Fields: I think, just to be technically correct, your point is well-taken Mr. Rhodes, I do not know that every county has a preliminary subdivision plan. We would probably be the first one that had a preliminary subdivision plan that went backwards. There are some counties like Floyd that do not even have zoning so I do not think they have preliminary subdivision plans.

Ms. Kirkman: And some of us view it as moving forward and not backwards.

b. Electronic Signs **(Time Limit: July 1, 2009) (Deferred to May 20, 2009 Work Session)**

Mr. Fields: Alright, electronic signs. Could we hope beyond hope that we could actually have something to move forward with today? Though we have to wait for the Board at this point anyway.

Jamie Stepowany: Thank you Mr. Chairman. The County Attorney's office has finished their review and edits and modifications of what was sent to them and to give you a quick overview of the reasons for any modifications I would like to do a presentation. The members of the Planning Commission had a subcommittee meeting on January 21, 2009, which made some modifications which mainly deal with

illumination and other items, especially Section 28-122 which prohibited signs on how to regulate illumination of signs along edge of street. That was a result of the Boards' action from the public hearing in December of 2008. So, modifications were made back in January and February and it was referred to the County Attorney's office for review. The Planning Commission was supposed to have a recommendation to have a public hearing to the Board by March. Under the review of the County Attorney's office there was concern that that may expire so Resolution O09-138 was moved by the Board to grant an extension for public hearing and recommendation by the Planning Commission by July 1.

Ms. Kirkman: Excuse me, July 1 or July 31?

Mr. Stepowany: July 31, sorry. Basically, the primary emphasis on the Ordinance was modifications on the amount of illumination permitted at the edge of a street which was and we talked about either .5 or .3 or .8, and this Ordinance was decided upon as part of the subcommittee that no greater than .8 foot candles if the sign is in commercial office, business, industrial or planned development zoning districts and no greater than .3 foot candles if the sign is located in residential or agricultural zoning districts. Then there were discussions as part of the subcommittee on how to measure the amount of illumination at the edge of the street and, if you remember, Deputy Hamilton and myself went out to a couple of the signs and we provided the grid and everything else of what the foot candles of the various signs would be. And then we had it written in the Ordinance but we were not quite sure if it was exactly given proper direction and that is when it was sent to the County Attorney and this proposed Ordinance has it as 45 degree angle to each sign image and/or message when the sign is perpendicular to the nearest roadway edge and you are facing oncoming traffic. That sign is facing oncoming traffic. Or a 90 degree angle to each sign and/or message when the sign is parallel to the nearest roadway edge. So, that was added into the Ordinance as part of the modification. Then through the review of the County Attorney's office, additional modifications for clerical and consistency was identified and made changes. And that led to the amending and addition of most of the additional sections. As a brief overview, changed "lineal" to "linear", changed any reference of "premise" to "parcel of land" because there is no definition of premise, changed "maximum size of sign" to "maximum area of sign" because in the measurement section of the ordinance it refers to maximum area of signs, to be consistent. When there is any reference to "height of sign" we added "above ground level". Changed "electronic bulletin board" which was originally known as "EBB" to "electronic message center". That came out of review of a lot of the judicial decisions where they always refer to these signs as electronic message centers so to be consistent with that is where that terminology came from. Changed "freestanding building" to "pad site"; there are some sign regulations that say if it is a freestanding building these are the sign regulations so we changed it from "freestanding building" to "pad site" and added the definition for "pad site". Changed "office/professional center" to "office park" and added the definition for "office park"; we already have a definition for industrial park and shopping center so to go with the criteria that if it is in a shopping center or industrial park or office park it is consistent with the definition. Changed "store or industry" to "building"; this comes again with a lot of commercial type signs where if it says it is a store or industry, what if it is not a store or industry, it is a building. Changed "right-of-way" to "street, highway or public street" because we do not have definitions for right-of-way but we do have definitions for street, highway or public street. Changed "each building frontage" to "front and side exterior wall" because in those same sections there are already regulations for signs on the rear wall. So, there was confusion that frontage also meant the side and in talking with the Zoning Administrator it did mean front and side exterior wall. And for some additional language we list regulations in order and the first regulation would be the area of the sign, the second regulation would be height of sign and

then the third regulation would be the location of the sign. In some of the sections you would have pretty much the same regulations but the first part would have area, height then location and the second part would have height, location then area so it looked like the whole thing was struck out and rewritten but really all we are doing is re-organizing the order. One of the more major changes, in the RBC zoning district we permit model home signs. RBC regulations were within Section 28-127. The other zoning districts that 28-127 refers to which are the RC, SC and B-3 do not permit model home signs. So to try to clarify the difference, all the regulations for RBC were removed from 28-127 and then a new section was created, 28-138, just for RBC signs and includes provisions for model home signs. That is a general overview of why a lot of these changes were made and, as I said, they kind of duplicate it because it carried over in each section and that is why it became a lot more extensive. But mostly, as I said, it was for clerical and consistency purposes. I will be glad to answer any questions the Planning Commission may have.

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

Mr. Di Peppe: Jamie, could you go back to the first slide. On the one sense, if you go down to the second bullet, we changed the term "freestanding building" to "pad site", but then we changed on the fourth "store industry" to "building". So, we have a different definition?

Mr. Stepowany: We have a definition for building but the problem was in some of the sections, especially in the commercial sections, they have, especially for freestanding signs, they have criteria for shopping center and industrial park or office park you are allowed to have signs so large based on building frontage and then it says if it is for a freestanding building you can have a freestanding sign based on blah blah blah blah blah. So, it was better defined we are dealing more with individual pad sites and defined the pad site and the building on it. Just like you have the center as one whole property, you have the pad site as part of the center and that is how it is defined.

Mr. Di Peppe: So the definition of pad site includes…

Mr. Stepowany: A single building. It is in the ordinance.

Mr. Di Peppe: Okay, because I am just wondering, we have gotten away from using freestanding building in one and then two bullets down we go back to using the definition of building for something else.

Mr. Stepowany: If you would like, I can read you the definition of pad site.

Mr. Di Peppe: Go ahead.

Mr. Stepowany: Okay. It is any part of the land originally developed as a shopping center, industrial park or office park containing or intended to contain through sale or lease one freestanding building designed, planned, constructed and/or managed on an integrated and coordinated basis with the shopping center, industrial park of office park. So we are saying the pad site contains the freestanding building.

Mr. Di Peppe: What is your definition for building? The reason I am going through all this is we had changed the first one from building to something else obviously for a reason and then we were changing another one to building and I was just wondering if there was a problem. If we had gotten

away from using the word building in the one, why are we using it in the other? That is where I am going with all this.

Mr. Stepowany: Okay, a building is s structure having a roof and enclosed with exterior walls or firewalls built, erected and framed with component structure parts designed, maintained or intended to be used for the shelter and enclosure of persons, animals or of property of any kind. When a building is divided into separate parts by firewalls from the ground to the roof each part so divided shall be deemed a separate building.

Mr. Di Peppe: But I am just wondering why we went from store or industry to building in the two…

Mr. Stepowany: The problem was when you had a store or industry, what if you had a church. What if you had a type of occupant that was not a store, which we assume is retail. Is a bank a store? What is industry? Is industry anything that (inaudible).

Mr. Di Peppe: So you just went to a broader definition so that you would not be caught up in that.

Mr. Stepowany: So even a little unit within a strip center is a building and each little individual unit of a strip center is entitled to its own requirement, so that is why we went with building.

Mr. Di Peppe: Thank you. That answers my question.

Mr. Fields: Alright, any other questions? Alright, hearing none then what we are doing now is waiting for the Board of Supervisors then to re-refer this.

Mr. Stepowany: Let me ask Mr. Harvey and Mrs. Roberts on that question. I know that is in the staff report but… is that still the direction we are taking?

Mr. Harvey: The Commission's recommendation will be sent to the Board. The initial discussions I had with Mr. Nugent were that we would have to have a new resolution initiating the ordinance amendment and then go back through the public hearing process. I understand that the County Attorney's office is still looking into that and it may end up being that the Board can hold another hearing and dispose of it or maybe even take action on it, I am not certain. There are still some issues to be resolved as to how it ultimately will be disposed but your recommendation will be sent to the Board and the attorneys will tell us what to do.

Mr. Fields: So, should we ask for a recommendation this evening then?

Ms. Kirkman: But as I recall from the previous discussions I thought the opinion of the attorneys office was that the most conservative and for the safest route was that the Board initiate a new resolution and go through the entire process so that it would not be challenged. Has the thinking changed on that?

Mrs. Roberts: I was not aware or involved in any discussions that Mr. Stepowany had with Mr. Nugent.

Mr. Stepowany: Mr. Harvey had it.

Mr. Harvey: My discussions with Mr. Nugent was he felt that these changes were substantial enough that he felt the Board should initiate another resolution to refer it back to you for a public hearing.

Ms. Kirkman: So, I think what we want to do here is to, as we have done with other new ordinances, is send a request to the Board for them to initiate this resolution, is that correct?

Mrs. Roberts: That is fine.

Mr. Stepowany: Correct.

Ms. Kirkman: I just want to get moving.

Mr. Di Peppe: Just one more question because I thought we were going to discuss some other things here. Can I ask one more question?

Mr. Fields: You can ask as many questions as you like.

Mr. Di Peppe: I brought this up this afternoon with you. The question I raise, because there had been some question about candle power and whether the measurement mattered whether you did it in the daytime or the nighttime, whether that would be a problem. Does it make a difference and should we put "as measured at nighttime"?

Mr. Stepowany: Right. Or certain hours.

Mr. Di Peppe: Or certain hours. That just was a technical question.

Mr. Stepowany: Yes. I can refer that to County Attorney's office to see if that is something we can add. The question is, Mrs. Roberts, is when we have the provision for how to measure the illumination, the foot candles, and what angle and at the edge of the street and what height to hold the measure, should we require it to be measured at nighttime? Because obviously the illumination during the bright day is going to be different than, I assume and I can talk to Deputy Hamilton, the illumination at night. And that is what Mr. Di Peppe is recommending, maybe where we talk about how to measure the illumination that we add "at night".

Mrs. Roberts: And I suggest you speak with Mr. Nugent since he prepared this.

Mr. Stepowany: Okay.

Mr. Di Peppe: And the point being that we went through all this trouble and we do not want to leave a loophole where someone could say they measure it in the middle of the day and go we meet the requirement because the regular light washes it out and you cannot measure it, it does not measure that high in the daytime.

Mr. Stepowany: I understand and I will run it through Mr. Nugent and ask him if we can add that provision in that section where it talks about measuring illumination and at the angles.

Mr. Di Peppe: And I do not want to hold this up but that occurred to me when we were discussing that. And just for the Commission's… where this is going, one of the problems in enforcing things is

that the better you have a measurable criteria, the less problems you are going to have in enforcement. And one of the reasons this came back to us originally was that question of candle power. So we just wanted to make sure that we were not unintentionally causing a serious problem and allowing a whole lot of boards to come through before it got changed again because we did not address this issue.

Mr. Stepowany: Right, and that is why at the beginning of my presentation I said after the subcommittee meeting it was requested to have more emphasis on how to measure and where to measure and what device to measure, which was in here, but I agree with you that we should. I will run it to Mr. Nugent about saying it has to be conducted at night.

Mr. Howard: Mr. Chair, are we still in discussion?

Mr. Fields: Absolutely.

Mr. Howard: Alright, so just for the purposes of playing devil's advocate, let us say it is twelve noon and a wicked thunderstorm is coming to the area and this illuminated sign all of a sudden creates this glare but it is twelve noon. Does it matter? I think it is a great point but I think whatever measurement we come up with should be the standard no matter what time of day, right? So if it is twelve midnight or noon in the afternoon, why would you not want the sign not to illuminate greater than X candle…

Mr. Stepowany: I would have to talk to Deputy Hamilton to find out if you measure foot candles at twelve noon of one of these signs would it be different than… because I would assume sunlight is going to cause some of the measurements to be obscured because you have another source of light other than the sign and the primary purpose of this is to try to measure the light being illuminated from the sign and not by any other source.

Mr. Howard: Absolutely, and that is my point. I would not want to box us into a situation where we had somebody was being cute and during the day, because some of the signs do have a way to increase the brightness and the contrast and so on and so forth, so I think certainly get the attorney's advice but I am just playing devil's advocate. It should be really during anytime that the sign is lit.

Mr. Di Peppe: Well, the question arose and we wanted to ask the Deputy is there a difference because you think about twelve noon, you are obviously getting light from another source, that why we said if you measured it no more than this at night then you have a much better chance of measuring the actual light coming off that sign.

Mr. Stepowany: It may have to be specific hours as opposed to nighttime.

Mr. Fields: Well, there has got to be an industry standard for this.

Mr. Howard: I would think so.

Mr. Fields: I mean, I do not think we have to reinvent the wheel here. There is obviously a standard way that these people measure this stuff. I understand your point, I understand both points, but I am not sure that our opinion of when they get measured or do not get measured has any value whatsoever because I do not know the entire engineering behind the device that measures it or how it measures it. Do you know what device you use to measure the candle power?

Mr. Di Peppe: Well, you guys were measuring candle power, the little field trip you took with the Deputy. Weren't you measuring candle power?

Mr. Stepowany: Yes.

Mr. Fields: Were you doing it during the day or at night?

Mr. Stepowany: At night.

Mr. Fields: Deductive reasoning and science is sometimes a very dangerous thing, but I am just assuming that if you want to measure the light coming off of a sign, when you do it when there is ambient daylight you would be next to impossible. I cannot imagine the device is so directional in its scope that it could do that. Which is why I am concerned that us putting night in… it seems logical to me but what do I know, I am not an expert on electronic signs.

Mr. Stepowany: I can bring some light to the subject on a whole different item from a previous experience.

Mr. Fields: Staff is not allowed to make jokes, you know that.

Laughter from the Commissioners.

Mr. Stepowany: I know that.

Mr. Fields: That is the only reason we are here. You guys actually have to come up with the right answers, we just make jokes.

Mr. Stepowany: There is a jurisdiction that requires telecommunication facilities to have balloon tests and to notify the public. Well, one of the telecommunications company put a little two inch ad in the newspaper and said that we are going to have a balloon test on such and such a day at six in the morning. And they went and had it and, similar to the Planning Commission, argued well you did not have a sufficient ad and you did not have the balloon up at a time that met the intent that people would see it. And they said well you did not see it, you did not require the ad to be so big and the balloon to be flown during certain hours and they went and changed their ordinance. I understand what you are saying but it someone may come back and measure a sign at twelve noon and say it is .5 foot candles and that is fine.

Mr. Fields: So, obviously we are not ready to move this forward. We need to have the technical process of how this is measured and then once we are aware of the technical process of measuring foot candles then we can create the appropriate language to see that that technology is used and implemented.

Mr. Stepowany: I will check with Mr. Nugent to add that and, if you feel that we should bring it back to the next meeting with that change then…

Mr. Di Peppe: The only other alternative is to move it forward with the recommendation that the Board check that out.

Ms. Kirkman: I do have a question. Is it possible to measure illumination at any time other than night?

Mr. Stepowany: I would have to ask Deputy Hamilton that.

Ms. Kirkman: But would that not be the first thing to find out? We do not need to write it into the Code if the only time you can measure the illumination because of the ambient lighting is at nighttime.

Mr. Stepowany: Obviously you are going to get some illumination during the daytime. My question is that actually coming from the sign or is it coming from sunlight?

Ms. Kirkman: We have been working on this how many months now?

Mr. Stepowany: I understand. Two years at least.

Mr. Fields: Yes Ruth? Do you have a joke or a comment?

Mrs. Carlone: I was laughing but I just think this is, as far as the daylight illumes, the light dilutes any sign. I just think it is a discussion that is not that relevant to this because of the daylight.

Mr. Di Peppe: I did not use to be paranoid before I was on the Planning Commission.

Mr. Fields: Well, since we are awaiting that answer and since we need to request the Board, do you think we can do two things at one time and make a motion today to request the Board to re-initiate this ordinance for public hearing while we get the answer to see if we need to add that language before the next meeting which would be the meeting where we have to officially vote to advertise the public hearing? Do I hear a motion?

Mr. Di Peppe: So moved.

Ms. Kirkman: Whoa, whoa, wait a second. Could you please state what the motion is?

Mr. Fields: Well, Mr. Di Peppe is making it but the motion I had in mind would be to just simply request the Board to re-initiate the ordinance to send the ordinance to public hearing. Since we cannot vote to send it to public hearing tonight anyway, while we are waiting for authorization from the Board, we can get the answer to the illumination measurement, put it in before we go to public hearing and then have it all taken care of.

Ms. Kirkman: Okay, so my understanding of what we need to do now is not send it to public hearing. What we need to do is ask the Board to initiate the legislation…

Mr. Fields: That is correct.

Ms. Kirkman: Which is a little different…

Mr. Fields: I did not say to send it to public hearing. I said to ask the Board to initiate the legislation. That is exactly what I said, for the Board to do. For them to initiate it so that we can then have the

authority, at our discretion at the next meeting, to vote to send this to public hearing. While we are waiting to do that we can get the answer to this question.

Ms. Kirkman: I think we have to have… when the Board initiates that legislation, they have to have the language in there. Is that not correct?

Mrs. Roberts: No, I believe the Board can allow you, just like they did in the last one, refer something down and then allow you to make amendments to it.

Ms. Kirkman: Okay. Thank you. I just want to make sure we do not have to start over again in a couple of months.

Mr. Stepowany: Mr. Chairman, we can make sure that that provision is part of the resolution if you…

Mr. Fields: Just make sure the Board is aware of what we are doing here. We are trying to move forward here on two fronts.

Mr. Stepowany: Right. We will include that in the Board package.

Mr. Fields: Okay, thank you. So, moved by Mr. Di Peppe. Is there a second?

Mrs. Carlone: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, the motion carries 7 to 0.

Ms. Kirkman: Mr. Chair, aren't what we are supposed to be voting on now is to send it to our regular meeting and at our regular meeting… we cannot vote it to the Board in our work session I think is our process.

Mr. Di Peppe: Aren't we on new ground here because ever since we have had to send it to them to ask them to send it back to us, can we do that? Because all we are asking them to do is allow the public hearing. Can we do that? I did not think it was the same as the old process.

Mrs. Roberts: Say again? I am sorry Mr. Di Peppe.

Mr. Di Peppe: It is a little confusing because in the old days we used to just vote for public hearing, to send it to public hearing. Now we have to ask them to allow us to have a public hearing and I did not know if there was any regulation whether that happened during a work session or during a regular meeting.

Ms. Kirkman: So, just to clarify, we are not asking the Board to allow us to have a public hearing. We are asking the Board to initiate legislation.

Mr. Fields: We are all aware of that.

Mr. Di Peppe: Okay, but we did not use to have to do that I believe.

Mr. Fields: No we did not. We are doing this now because the Code of Stafford requires that the Board initiate the ordinance changes. Even though the Planning Commission may develop and recommend proposed ordinance changes, ultimately the final process has to come from the Board.

Mr. Di Peppe: Because in the old days we would have to put it in the regular meeting to have the…

Mr. Fields: To go to public hearing.

Mr. Di Peppe: Right. But since we are not going to public hearing, we are asking them to do something, I did not know if it mattered.

Mr. Fields: I do not know if it matters at all, but if we need to move it to the evening session. Do we need to move it to the evening session?

Mrs. Roberts: You would have to amend the evening session agenda since it is not on there.

Mr. Fields: Is it okay to vote it out of work session like we just did, as far as you know?

Mrs. Roberts: We never have to my knowledge. We have always moved it up to the regular session and then voted.

Mr. Fields: It is not on the evening agenda?

Ms. Kirkman: I thought we had ordinance committee on there?

Mr. Di Peppe: Usually at the end of the meetings…

Mrs. Roberts: Is it one of the committee reports?

Mr. Di Peppe: Yes. Can we do it at that time?

Mr. Fields: I do not care, as long as we get it done. This is just so ridiculously cumbersome to vote something out of 6:20 to 7:20 and revote it; that is just a ridiculous waste of everybody's time.

Mr. Di Peppe: Do I need to make that motion to move it to the…

Mr. Fields: Yes.

Mr. Di Peppe: I move that we move it this to the regular session.

Mrs. Carlone: I second.

Mr. Fields: Boy, we would not want to do something too efficiently. Alright, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, moved to the evening work session where we will get to talk about it once again.

c. Agricultural Districts Lot Yield **(Deferred to May 20, 2009 Work Session)**

Mr. Fields: Alright, agricultural districts lot yield. Is County Attorney still reviewing that?

Mr. Stepowany: The County Attorney is still reviewing that and we will have a prepared staff report…

Ms. Kirkman: We have a staff report dated May 20. What is the review?

Mr. Stepowany: The Planning Commission requested that staff submit the proposed amendments pertaining to the agricultural district lot yield to the County Attorney's Office for review. And we have not put together the County Attorney's thoughts and ideas and recommendations for tonight and staff requests to wait till the next meeting to discuss.

Mrs. Roberts: The County Attorney did provide them with their input, it was just that it was shortly before this was going to go out. I thought they were bringing them tonight.

Mr. Stepowany: No. We were going to ask for them to go to the next meeting.

Ms. Kirkman: Did the County Attorney's office recommend any changes?

Mrs. Roberts: Yes. Not major, but to the definition of the parent parcel. It was not a major change.

Ms. Kirkman: The why can't we just deal with that now? Why do we need to wait?

Mrs. Roberts: I thought that was what we were going to do.

Mr. Stepowany: It is up to you and…

Ms. Kirkman: If it is just a minor…

Mrs. Roberts: I do not have it with me.

Mr. Stepowany: We have not discussed exactly how the definition should be changed, unless you have an idea.

Mrs. Roberts: Well, I sent you the wording that I suggested.

Mr. Stepowany: It was not complete. I can go get it but it was not complete.

Mrs. Roberts: It was just the definition of the change of the parent parcel.

Mr. Stepowany: I would have to look at it.

Mrs. Roberts: Okay.

Mr. Stepowany: I can go retrieve it.

Mr. Fields: Okay, well, let us move on then. Please retrieve that and maybe we can get to it today.

d. Reservoir Protection Overlay (Deferred to subcommittee - Archer Di Peppe, Ruth Carlone and Gail Roberts) **(Deferred to May 20, 2009 Work Session)**

Mr. Fields: Reservoir Protection Overlay.

Mr. Stepowany: That was deferred to tonight so that Mrs. Carlone could be present for any kind of motion.

Mr. Fields: Any further comments on it?

Mrs. Carlone: The changes have been made that we requested. I do not see anything unless anybody else has anything. It has only been three years and this is County drinking water.

Mr. Fields: Do you want to move this to the evening session?

Mrs. Carlone: Yes, I would like to make a motion to move to the evening session our Reservoir Protection Overlay.

Mr. Di Peppe: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Okay.

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)

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: While we are waiting for agricultural district lot yield, we have some folks here from the South Campus group. Did we want to… Mr. Harvey, do you have some ideas on what we can do with that?

Mr. Harvey: I think that one of the ideas is to potentially go over the most recent changes to the proffers and also we do have Virginia Paving to be discussed too.

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) (Deferred at May 6, 2009 Work Session to May 20, 2009 Work Session)**

Mr. Fields: Right. I am thinking maybe we should take Virginia Paving first because we can probably dispose of that item. South Campus is already on the evening session as well. So, if we got a little behind we could roll that into one thing. Let us go ahead with Virginia Paving, if that is okay with the Commission.

The Commission agreed.

Joey Hess: We provided a total of three attachments. One of them was actually in your packet you got last week and two of them were actually handouts today. One is a single page with draft on it. It is actually a fourth version for condition number 3 because staff, in their memo that went in your packet, provided you with three different versions for condition number 3. And then a second memo was typed up today at the request of Commissioner Howard. He had some further questions of staff, so we answered those today and created the memo. But that is also a handout we gave to you today. I am here to answer any questions unless there is something you would like me to go over and further explain from what has been prepared and provided to you all.

Mr. Fields: Are there any questions of staff from the members of the Commission?

Mr. Howard: Yes. Just to get some clarity on the questions and I appreciate staff getting the answers because I only sent you the questions earlier this morning. For clarification, no one contacted the adjacent property owner to understand what type of development they are thinking about or have they even thought about the type of development. That is the second question.

Mr. Hess: That is correct. No one from our staff has contacted the property owner to ask them what their plan was or intentions were with the property to be developed.

Mr. Howard: We currently do not track the businesses that change hands that had any CUP conditions on the business at the time the business changes hands. We have not tracked that?

Mr. Hess: Correct. When ownership changes and there has been a CUP that has been issued for that property, the ownership is not tracked by planning or zoning staff.

Mr. Howard: And then, I guess there are three CUPs that, according to the county records, that have actually been revoked. And those revocations took place and were initiated by the county, and pulling

the business owners before the Board of Supervisors and the Board of Supervisors revoked those CUPs for being in violation of the conditional uses, is that correct?

Mr. Hess: That is correct. These all predate me being here, but if you want us to further elaborate on those three revocations we certainly can.

Mr. Howard: The reason I was asking the questions is I recognize that the sunset clause is off the table, but it does appear as though staff, according to the memos, is recommending that the applicant be required to come back in five years and have some type of review of the conditional use permit that is CUP2900091 which is different than the conditional use permit they currently operate under. They are asking to amend their current CUP to this new CUP which gives them additional hours of operation on the overnight. So staff still believes that is the right way to proceed and that we should have this business, and this would be the only business, in the history of the county to date that would have to come back within five years to have their hours of operation reviewed once the CUP was granted. So you still believe that this is the right way to proceed is what I am asking.

Mr. Hess: I think regardless, the CUP they have right now there is oversight in the sense that they do have to give two weeks notice prior to utilizing any of their nighttime operations to the Zoning Administrator. And then on top of that they operate for fourteen consecutive days they would have to give prior notice to the Zoning Administrator on that as well. The way we try to craft these is at least in two cases the Zoning Administrator would still be notified upon what their request would be after the five year process and we were more or less trying to craft these based on the ideas that were being tossed around and pitched out from your previous work session two weeks ago. So, if we missed a different version I do apologize.

Mr. Howard: I have never been in agreement or thought it was a good idea for any property owner or business to come forward with a CUP, be granted the CUP and then have to come back and have it reviewed in a period of time. In other words we are putting an expiration date on the CUP. I am not sure why we are doing that if, in the past, we have a history in the County of revoking CUPs. We also have Ordinances that govern noise and maximum decibel levels. And some of that is actually enforced by the Stafford County Sheriff's Department. So, another question I have is, what is the maximum decibel level permitted for an eighteen wheel truck in Stafford County?

Mr. Fields: I think it is just decibels. I am not an expert, but I do not think we…

Ms. Kirkman: We do not specify for trucks. Also, I believe there was some communication that as a result of a Virginia Supreme Court decision that many sections of our Noise Ordinance are now null and void and cannot be enforced.

Mrs. Roberts: Correct.

Mr. Harvey: Mr. Chairman and Mr. Howard, just to clarify, staff provided three versions of a draft ordinance based on the Commission's last meeting and discussion. We have not made a recommendation as to which one is the best, if any of them are the best for the application, so we are laying these out as alternatives. Also, Ms. Kirkman had a proposal too that was passed out, all for the Commission's consideration.

Mr. Howard: Thank you for that clarification. It is my understanding, and I could be wrong, but in the County of Stafford there is a maximum decibel level permitted for various types of vehicles that operate on the roads and I guess I am hearing tonight that is not the case.

Mr. Fields: I have not heard that. My sense was that a noise complaint, if you exceed a certain number of decibels, day or night, at "x" number of feet and that sort of thing. It is one of the problematic things with noise ordinances, it is similar to the light emitting issue with the electronic signs. It can be somewhat nebulous to define when somebody is violating the noise ordinance.

Mr. Howard: I think the ordinance prohibits the operation of a sound source, as it is written, something that creates a sound or a sound level in a residential zone between the hours of 11 p.m. and 6 a.m. in excess of fifty-five decibels when measured at the property line. And then between the hours of 6 a.m. and 11 p.m., you are actually allowed to have sixty-five decibels at the property line. So, I think we have an Ordinance in place that measures this. I could not find the exact wording for the Vehicle Ordinance, I could only find a reference on the County's website that gave the Sheriff's non-emergency phone number to call and register a complaint if you thought the noise was greater than allowed, or the noise was disturbing you or whatever the case was, between the hours of 11 p.m. and 6 a.m. I guess, where I am going with most of this is I think we are trying to regulate things that already exist in the County and that are enforceable and have been enforced on past businesses and past CUPs. And the other concern I have, and I did not ask the applicant this so I do not know their answer, if they were to go for financing or have to do something with their business, placing this type of limitation on the CUP in terms of how they can operate, recognizing the reason for the change in their hours of operation they are seeking to acquire more work from the State of Virginia, from VDOT, based on some of the stimulus money that is out there and they are bidding on projects which would require overnight work, much more so than any other time in the history of paving and road work that is taking place on the I-95 corridor. It is tough anytime of the year and it is getting even tougher up to eight or nine o'clock at night. So you certainly can understand why VDOT wants the overnight hours of operation more so than they want normal business hours. I do not want to handicap a business that is a local business to us and I am not sure that, and maybe the applicant can answer this, if this impact any of the financing that they have to go for in order to sustain the business, purchase new equipment or grow at a rate that would allow them to keep up with the amount of work that will hopefully take place through VDOT.

Mr. Fields: Does the applicant have an answer to that question?

Debrarae Karnes: Mr. Chairman , this has not been an issue in the past, however, current underwriting changes in financing being what they are, we are not willing to say it will not be a problem.

Mr. Fields: It has not historically been a problem though.

Ms. Karnes: But underwriting is changing, as we speak, everyday.

Mr. Fields: So are a lot of things. I am just saying, we are basing a lot of the discussion, rightly so, on past performances as a guideline. That is all I am getting at. But we are making the same arguments as far as our history with CUPs and how those are performed as a valid reason for how the future performance of this CUP is, so asking past performance on financing is consistent with that approach I think. In the past, the length of your financing has not been dependent upon your conditions of hours

of operation. The applicant's ability to finance his capital, expansion and/or maintenance, whatever he needs to borrow money for to operate has not be effected by the hours of operation.

Ms. Karnes: I think that goes even way beyond my ability to answer the question. I cannot say it has not been an issue involving hours of operation.

Mr. Fields: Can the applicant answer that directly?

Ms. Karnes: No.

Mr. Fields: At this point we are not able to… Mr. Howard's point is well taken. I am not arguing against his point, I actually think it is a very important point which is why I am pushing on it. As we reiterated, our first job here is to do no harm. We do not want to impede the economic viability of a local business, we are just trying to make sure that we have, the public always has the appropriate amount of say in something. I am concerned about the noise thing. I do not have the actual CUP; that was in the last packet I guess. Is there a condition on there about noise, violating the Noise Ordinance as a condition that could cause a revocation of the CUP?

Ms. Kirkman: Mr. Chair, what I can tell you is that violations of the Zoning Ordinance itself can be the basis for revoking a CUP, so usually they do not specifically state. The issue though, and I can say this because of another instance that I have been intimately involved with regarding another CUP, is it is terribly, terribly difficult to enforce the Noise Ordinance even if it still stands constitutionally. In fact, Mr. Harvey, are you aware of any instances where we have been able to enforce the Noise Ordinance?

Mr. Harvey: I am not particularly familiar with recent cases. I remember there was a case in the early 1990s where there was a manufacturing operation next door to a residential neighborhood and somehow it got remedied. I am not sure if we ended up going to Court or they modified their building to deaden the noise.

Ms. Kirkman: Mr. Chair, I did have some additional questions for Joey about the memo he prepared. In here you were asked about problems with CUPs and you state there were current violations on one CUP. That was violations of the conditions of the CUPs, is that correct? And that is only for what is going on currently. How many instances in the past have there been violations of the CUP?

Mr. Harvey: Ms. Kirkman, yes, there is a current violation of one CUP we are currently working on now through Zoning Enforcement. We would have to go back and check the records as far as what other CUPs may have had violations of the conditions over time.

Ms. Kirkman: And this is only referring to conditions of the CUP, it does not even address whether or not there were other violations of the Zoning Ordinance.

Mr. Harvey: Correct. In two of the conditional use permits, they had previously been revoked for dance halls. The violations were mainly dealing with issues with ABC violations and loitering and things that are not necessarily a part of the conditions of the CUP but are parts of County and State laws.

Ms. Kirkman: We do not keep a record of complaints, is that correct?

Mr. Harvey: Just in the case file, if there is something that ends up being a violation and could potentially go to court, we keep a case file. But those records are essentially sealed similar to a criminal case.

Ms. Kirkman: Mrs. Roberts left, but I do know one way, on the Board of Zoning Appeals, we have special exceptions which are the same thing as a CUP, they are just decided by the BZA. In one way we were not so much imposing time limits but getting some certainty about what would likely happen was that we were making the special exception run with the ownership of the land. But my understanding is that we have gotten legal opinions that we cannot use that mechanism, is that correct?

Mr. Harvey: Correct. The approval runs with the zoning of the property rather than an individual.

Ms. Kirkman: Okay. Thank you.

Mr. Howard: Mr. Chair? The reason for question 4 on the memorandum that I think Mr. Harvey put together or maybe Mr. Hess was, in the memorandum that came out for the work session, it is really the third bullet point under the first paragraph, it indicated that there were current issues with CUPs that were approved in the past that are problematic today. It is really addressing that statement that was made at the prior meeting and that is what I was really asking the staff to search for. And they did come up with there have been some issues in the past and CUPs have been revoked based on Ms. Kirkman's point that they were not incompliance with what was required of them in the CUP. I agree with the noise control element or aspect of this because from the beginning that was a concern I had. I went to this property several times and met with some of the neighbors. They all indicated during the day there is some noise because there are two types of businesses operating, one is Virginia Paving and the other one is a quarry. But even when there has been overnight work there really has not been an issue. I still have the concern obviously, I think a good point has been made we do not know what the adjoining properties will become. They could very well become more industry, they could become more business or they could also become residential in the future, so recognizing that I do agree that there needs to be some language in there that allows us to enforce this through our Zoning Ordinance in addition to the CUP process which can be revoked. To add things like making sure that it is in compliance, because there are two different Noise Ordinances or controls in place in the County, and they are for those periods of time I referenced earlier, one is overnight and one is during the day.

Mrs. Carlone: Mr. Chair, we have in the past had certain stipulations within the CUP, specific stipulations. For one a bar/restaurant on 610 had repeated violations and it was eventually closed down. I was trying to think now what would be the violations of this? Number one, noise and another issue would be the number of trips. Who is going to sit out there and count the trips per evening? We do have a limitation, so many per year. I just do not know how to handle that.

Ms. Kirkman: We do not have any limitation on the number of trips.

Mr. Howard: Number of nights.

Mrs. Carlone: Excuse me, number of nights; I misspoke. Anyway, I just have a concern there, if there was something to be written in. They state here they are limited to so many nights of operation but there is not going to be anybody monitoring, I am sure. How is it going to be monitored?

Mr. Howard: Mr. Chair, actually that is a great question. They currently can operate forty-five nights. So, I think if they were inclined to cheat they probably would not be paying $10,000 to come before us again to get additional nights. And I agree, I do not know how you would monitor that. I think that is sort of on the honor system unless you were going to sit there and count the number of nights. I do know there are some requirements that they have to notify the County and one of the suggestions prior to commencing on the night work. That would be one way to monitor that and understand the activity.

Mr. Fields: Is there a condition of reporting a log, they report their activities to the Zoning Administrator?

Mr. Hess: That is correct.

Mr. Fields: So, they actually have to submit a document that one would assume was signed and notarized, that they are making a legally accurate statement that they operated this many nights. I would assume if there were complaints from the residents around that we would look at the log and probably get proactively involved. Generally our zoning enforcement is driven by complaints to a large degree so I am assuming that that would occur in those cases.

Mr. Hess: Correct.

Ms. Kirkman: My understanding of where we were at the end of our last session on this was at that least a majority on the Planning Commission seemed to agree that because conditions could change and because this is going to be a substantial change in the operation of the business itself, it made sense to have some kind of review process. So that was the first point of the majority agreement we had. The second point of majority agreement I think we had was that at the same time we did not want that process to be so cumbersome upon the applicant that they would have to go through the entire CUP process over again and pay the $10,000 application fee. And the third point that I think we had reached some agreement on was that we also wanted to, although there is no such thing as vesting in conditions, we did want to preserve the applicants current ability to operate for up to forty-five nights per year as they can do on their existing CUP. And when we got the suggestions from staff about how to do those things, they had I think three alternatives each of which did some piece of that but did not address all three of those points. I did work with the Attorney's office to come up with language that does that. That is the handout that folks have that says proposed amended condition number 3 and that came in front of your desk tonight. Basically what it does is the first thing it does is that it says that instead of having to reapply for a new CUP, it says that it can be extended in five year increments following the Planning Commission recommendation to the Board and public notification and advertisement which would give the public the opportunity to come forward and comment on the operations. And because it is an extension of the existing CUP it does not require CUP application and the $10,000 application fee. We were able to get it to meet the concern about both having a public review process and yet not requiring the applicant to pay $10,000 and go through the whole process over again. And in the second paragraph that is underlined, takes the language in the existing CUP and puts it in here so that it preserves their forty-five days that have got now. So that is what this language does is it actually addresses all three points that the Planning Commission seemed to have reached some agreement, at least the majority of the Commissioners, at our last meeting. And the Attorney's office has reviewed it. The one point the Attorney's office raised is we would have to specify who would pay the cost of the advertisement which is a couple hundred bucks, either the County or the applicant. And I have no opinion on that.

Mr. Fields: So we are saying the cost of this review at five years is about $200 to hold public hearings and notify and all of that kind of stuff?

Mr. Harvey: That is sort of the general cost today for running an ad in the newspaper. It does not account for any staff time or work associated with generating reports and those types of things.

Mr. Fields: Though I am not in disagreement with the concept, it does bring a little bit of a concern. The reason a CUP application costs $10,000 is not because we want to penalize people for getting a CUP, it is because it takes a tremendous amount of staff time to prepare, just like a rezoning application does. If we do not have a fee for this that reflects the actual staff time, then we are making a decision to subsidize the cost by the County, which is okay, but you have to realize there is a fiscal reality to all these things that happen. Which is why a CUP, having been on the Board when we raised these fees a couple three times, our goal was that our Planning and Code departments would be generally fee driven from a budgetary fiscal policy that the real estate taxpayers of the County would not be subsidizing the work that was done primarily for the private sector in these things. And so the private sector would pay its own freight as far as the actual staff time involved in these. These numbers are a reflection of the consensus among Mr. Harvey and his department and the County Administration Staff and etcetera, etcetera. I am concerned that if we are talking about a review that requires both the Planning Commission and the Board of Supervisors to have all the information necessary to review the performance of this entity over five years, notify and hold two public hearings, that is a fair amount of work. Who is going to pay for that?

Ms. Kirkman: Mr. Chair, I guess what I would say in response to that is first off this would be different than a CUP because, for instance, you would not need a site plan. It is a far less costly mechanism to the County to give them an opportunity to terminate a use than having to litigate in Court because of complaints from neighbors. And really I would see it as a check-in, are there any problems with how this is going and if there are no problems it should be a fairly rapid and relatively non-resource consuming process. If there are complaints and it does require resources, I would submit that this is a far less costly process to the taxpayers than having to issue zoning violations, go to the BZA when those zoning violations get appealed to the BZA, go to the circuit court if it does not work out there or go to the circuit court to revoke a CUP. So I would actually submit that this is a far less costly process than the alternatives.

Mr. Fields: That is a perfectly logical point. Any other comments on this? Mr. Mitchell.

Mr. Mitchell: Mr. Chairman, I still am concerned that we are setting a whole new precedent here in reference to a business and how it operates or how it gets to operate. I am concerned that we allowed a CUP on several dance halls that served alcohol, that had possible underage drinking, possible violations of the ABC codes, but we gave a CUP with open arms without any provisos of changing it. The only provisos were if they violated the CUP then it would be pulled back. But to take a business that does not serve alcohol, that does not have the same problems that we encountered under the dance hall CUP and set them up so every five years you have to go through a process, I think we are setting a precedent for business in Stafford County.

Mr. Fields: Alrighty. Any other comments or questions? Mr. Howard.

Mr. Howard: While I certainly appreciate Ms. Kirkman's perspective, I do think, I know the applicant is not certain about this, but I do think if the applicant is financing their inventory or financing new

equipment, anytime you go before underwriters or a bank or a financial institution you have to lay out your plan and my experience has been that is a very critical piece of the business plan. I do think that there is going to be some impact to that just based on my own experience being involved in that. I do not agree that we should create a process that circumvents all the existing processes that we have in place in the County that regulate CUPs today. I do not think it is cheaper for the County, certainly waiving the fee of ten thousand dollars is great for the applicant not the County, and the applicant is going to end up spending money anyway if they have to come back every five years for review. That costs them money to come before the Planning Commission and the Board and they will certainly be represented by an attorney. It is requiring additional fees and imposing additional costs on that applicant that they ordinarily would not have to submit to in prior cases. Their prior CUP did not require that and I do not see evidence of anything that suggests that this current CUP should require that. There have been no complaints, we do not know who the adjoining properties will become in the near future and we do not know that about any other business typically, even operating businesses go out and new businesses or new residential types of units come in. We have a CUP process, we have a process of Zoning Ordinances, we have a process to enforce conditional use permits, we have a process to enforce zoning. You can argue maybe we are not as good as we need to be, but to require this applicant to come back in five years for a full review, which is way different than what we have done with any other applicant, I am not in support of. And I was not in support of it at the last work session and I still stand and say I do not think this is the right thing to do. With that being said, I am going to make a motion to move CUP2900091, Conditional Use Permit Virginia Paving Amendment to the evening session.

Mr. Di Peppe: Have we decided which…

Mr. Fields: Do we need a second?

Mr. Mitchell: Second.

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

Ms. Kirkman: And, Mr. Chair, I am going to make a motion to amend the motion which is my motion to amend the motion is to substitute the language for condition number 3 that was brought to us before tonight. Is there a second to that motion?

Mr. Howard: The Chair should ask that.

Mr. Fields: Yes. Is there a second to the motion to amend the motion?

Mrs. Carlone: I second it and for the reason I still have concerns…

Mr. Fields: Second by Mrs. Carlone. Now we are in discussion.

Mrs. Carlone: Okay, I still have concerns about the adjacent neighbors to this road. For one thing you say there have been no complaints but there is going to be quite a change apparently by the number of night operations. So what that does at the five years, it does like a couple other locations that did have their CUPs questioned and revoked, it gives us a chance to evaluate what is happening as we have not talked to those people to see. Gordon, did you talk with any of the neighbors in that subdivision?

Mr. Howard: I did and what I want to point out too Mrs. Carlone, it is really an additional seventy-five days. While the CUP is requesting one hundred and twenty days they are currently operating forty-five nights now and it is an additional seventy-five overnights, which is basically roughly three additional months. I have the same concerns as you have and explored it the best I could. As the representative for Rock Hill, I could see no evidence. I spoke to two of the neighbors in the subdivision where the trucks I thought just from a headlight perspective, but the trees are so thick and there are fifteen foot berms, I drove it several times. The applicant is also willing to change the way that interior road runs in the event they do get a complaint. They will make physical modifications down the road if in fact neighbors indicate they are not pleased with what is taking place. They have indicated they will do whatever it takes to make the neighbors happy, that was their first and foremost concern. They also have a noise meter and they go to two different points and they measure the sound when their trucks are coming through. I think they do that twice a year. I do not know if they report that to the County but I know they keep track of that and they have not been over the .55 decibels allowed by County Code.

Mrs. Carlone: Where they took the evaluation, was it in that subdivision?

Mr. Howard: They have gone onto the property line and right where the two lines would adjoin, I think there is an easement from the rock quarry, they have gone on there to the backyard of the homeowner to measure. Those are great questions.

Mrs. Carlone: We have our winterscape and we have our summerscape so was one of the testing times…

Mr. Howard: That is why they measure twice a year.

Mrs. Carlone: So they have done it both summer with leaves on and winter without?

Mr. Howard: Yes.

Mrs. Carlone: Okay.

Mr. Fields: Mr. Di Peppe, you had a question?

Mr. Di Peppe: I have a question of legal. I do not believe we have ever done this before with a CUP, saying we are going to grant you a CUP but you have to come back in five years and essentially renew it. Are we setting ourselves up for legal action in this case? I am just worried. Over and over and over again I say lets be fair to everybody and do everything the same way for everyone. And I was originally in favor of this because of all the original discussion of what could happen five years from now with residential growth. I was one of the ones that said can we at least entertain these ideas. But I am wondering now if we can impose in a CUP, whether we call it a sunset clause or not, essentially an additional burden on a CUP applicant that we do not do to anyone else.

Mrs. Roberts: You can always face a legal challenge. The research I did, I have found cases for example there was an alcohol one where they had to review in three years. I found a case similar to the rock quarry where they had to. A sunset clause regarding the CUP definitely would not be appropriate and I do not think it would withhold the challenge. You are right, I do not think we have ever done it but dealing with just whether they can continue to operate night hours, we could be challenged and I

think we would be upheld. Another alternative, how we have it now, the Zoning Administrator is the one who can determine, and that is another possibility. The Zoning Administrator is the person who would know if they had complaints and therefore if it would be appropriate to keep the one hundred twenty days without causing the applicant of going through the expense of going through public hearings.

Ms. Kirkman: That would be the same office that decided the crucible was a school, right?

Mr. Fields: That is not really relevant.

Ms. Kirkman: But the point is there is not public process around that. And public process brings out citizens who may have something to say that would not say it in other circumstances. The other point here is that as we have seen, with certainly another situation that Mrs. Roberts and I have been working on, that things can operate quite well under a CUP for ten years, for fifteen years, and then ownership of the property changes. The second owner is not nearly as responsible as the first owner in how the conditions of the CUP are implemented. And yet your hands can really be tied. So this is really about preserving the County's ability to protect adjacent property owners should something change in the circumstances of the development of land in the area, should something change in how it is now responsibly operated but may not be responsibly operated in the future or should the property change hands. So that is really what this is about because revoking CUPs is a very difficult and nearly impossible process.

Mr. Fields: This is a very interesting problem to think through and I appreciate all of the Commissioners' well thought out and very diligent efforts on this. I think we have really looked at this in a very fair and balanced way. I do not disagree with every one of Mr. Howard's points essentially. My problem is that they are somewhat contingent, as Ms. Kirkman has eluded to, on a system that certainly I wish was the way things are which means that the very honorable and responsible way that the property has been managed by the very honorable and responsible owner has been looked over and vouched for by the very honorable and responsible Planning Commissioner from the Rock Hill District. Unfortunately, at the point where Mr. Howard's accountability and diligence and the current owner of the property's tenure ends or changes, now we have a circumstance where unfortunately, despite all the value I ascribed, the personal value of that becomes inoperable, not matter how much we wish it were true. Since the CUP cannot be tied to ownership of the property, the conditions of the CUP then continue forever on that property unless they violate a code, which I agree. My other concern is that having, not only on the Board of Supervisors, but I actually professionally dealt with sound as a musician, I understand decibels and sound properties and acoustics maybe a little bit better than some. The technicalities of a noise violation versus the realities of potential detrimental noise impacts are very different. Again, with all due respect to Mr. Howard's point and he makes an excellent point on this point, I will give you a classic example which is anecdotal but I think germane to the problem with sound enforcement and the way acoustic properties in terrain and land can change things, is that my first year on the Board of Supervisors the City of Fredericksburg had a concert series down on Caroline Street which is now a building but it used to be a parking lot there between Sophia and Caroline Street. And of course they had bands there and it was a great idea, a community event. The City of Fredericksburg police were very diligent in standing right on the sidewalk on the property line as the code describes measuring the sound values coming off of the band, which were at the prescribed sixty-five or seventy decibels. The reality is how sound travels. When it came up into the George Washington District across the river and up the hill to Chatham, the Stafford County Sheriff's Department measured it at ninety-two decibels, which is a very obnoxious level of sound, particularly

at nighttime. Well, according to the Code and even the cross jurisdictional things, there was nothing Stafford could do to enforce that what was technically a violation of the Stafford County Sound Ordinance. It was absolutely in violation of every ordinance we had on sound but because (a) it was being at the property line and (b) in a separate jurisdiction, which is not the case here. But I only bring that to point not to argue with your points but just to be illustrative just to say that relying on the Ordinances we have regarding sound to be one hundred percent effective in controlling the sound impact of this throughout all time, no matter who operates it and who sits on the Planning Commission and Board of Supervisors, is well-intentioned but personally, with all due respect, I feel not realistic as far as sound measurements go. So with that, personally, I am supporting the five years though I do respect the Rock Hill Commissioner's prerogative in crafting what he feels is best for his district and I do respect every one of his points and do not disagree with them. I think the possibility for citizen input on something like this over the period of time is a reasonable thing to ask and so I will support that.

Mrs. Carlone: Mrs. Roberts, you mentioned an example of a quarry that did have I believe a three year CUP sunset clause.

Mrs. Roberts: It was not a sunset clause. And actually I believe I gave the case to Debrarae, she may remember the facts more. But in that case it was a little different because there was a condition that when the quarry stopped running it had to put the property back to how it was. So this was not so much their hours of operation, but a way of monitoring that when it stops the property is back.

Mrs. Carlone: Okay.

Mr. Fields: We need to proceed forward. We either have to recess and take this back up at the evening session or take the vote. The motion on the floor is the amendment to the original motion to require the proposed amendment to condition number 3 version 4.

Ms. Karnes: A thirty second statement Mr. Chairman?

Mr. Fields: Thirty seconds.

Ms. Karnes: The reference that the attorney gives needs to be qualified. That quarry that she is talking about there was a suspected problem. Just like the dance hall there was a suspected problem. There is no suspected problem, there is no reported problem, there is no nexus for this condition. As stated before, my client opposes it.

Mr. Fields: Which I understand and I think it, at the end of the day, is a reasonable balance of public and private interest. Alright, any other comments? We really have to move on. So, the vote now is on the amendment to the original motion. All those in favor of the amendment to the original motion signify by saying aye.

Mrs. Carlone: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Fields: Aye. All opposed?

Mr. Rhodes: No.

Mr. Mitchell: No.

Mr. Howard: No.

Mr. Fields: Alright, the amended motion passes 4 to 3 and now we are back to the motion to move this as amended to the evening session. Am I getting that correct?

Mr. Howard: I thought her motion would have included my motion which was to move it, so her motion should carry with the changes moved to the evening session, I believe.

Mr. Fields: Then we moved it to the evening session. With that we are going to take a recess for dinner and we will be back at 7:30.

6. Review of Pending Subdivision Plans

None

7. Review of Proposed Comprehensive Plan Amendments

None

8. Other Unfinished Business

None

9. Approval of Minutes

November 19, 2008 Work Session

December 3, 2008 Work Session

December 17, 2008 Work Session

10. Adjournment

The meeting was adjourned at 7:07 p.m.

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Peter Fields, Chairman
Planning Commission

STAFFORD COUNTY PLANNING COMMISSION MINUTES
May 20, 2009

The regular meeting of the Stafford County Planning Commission of Wednesday, May 20, 2009, was called to order at 7:34 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, Carlone and Kirkman

MEMBERS ABSENT:

STAFF PRESENT: Harvey, Roberts, Stinnette, Baker, Stepowany, Schultis, Ansong and Lott

E. Declarations of Disqualification

None.

F. Public Presentations

Mr. Fields: Public presentation time is a time when any citizen, member of the public, can come and speak on any topic not scheduled for public hearing before the Planning Commission. So, just to be clear, our only public hearing tonight is the Conditional Use Permit for Micah Ecumenical Ministries Cold Weather Shelter. So, if you want to speak on that, you will have your chance when we open the public hearing. If you want to speak on any other topic, now is your time. You have three minutes to do so. You need to state your name and address for the record. Is there anybody that wishes to speak? Also, the light system. The green light goes on when your time starts, when the yellow light goes on you have one minute left, when it is red your time is up.

Donna Dawkins: I am here again about the SPCA. I know it is not on the agenda but I did not want to wait until the next meeting for you all to consider our views or my views. I have done some investigation since this all started because as a concerned citizen I am trying to figure out how the process works and everything else. After looking back and everything, I just find it funny that in February of 2008 Mr. Hoyt was appointed to the Parks and Rec Commission. Then in May of 2008 from the Parks and Rec Commission minutes, which I had read, Mr. Hoyt said that he purchased the property in the Brooke area for an SPCA. He was also going to build a 3-acre dog park there. Then in July of 2008 he wrote a letter to the law offices of Leming and Healy. So he hired them and he wrote this letter because he wanted to request an interpretation for his purpose, the non-profit SPCA which he felt it would meet the definition of a club/fraternal organization or a community use and he did not feel that it met the definition of a kennel. I do not know what you do and what you call a place where you put 100 dogs and 400 cats but other than a kennel. He said that he was going to operate as a non-profit 501(3)(c) and, as of March of 2009 at the meeting, he still did not have this. His second point again was that he was going to put the dog park there which this is what he meant by community use. If we all show up and play at his park he met his community use. He said that the existing landscape provided adequate buffering from existing neighbors. It is not true. I could see everything he is doing up there and hear everything he is saying. The other day they were working and somebody sneezed and I heard the guy say God bless you. I mean, it is ridiculous. He has taken every definition and turned it to fit his need. He bought the property anyway in August of 2008. In September, the Board wrote back and said that it did not meet the definition so in October he came in front of the Supervisors and Mr. Milde had requested that the Board support him and submitted the application for him. This saved Mr. Hoyt $10,000 which I find ridiculous that the Board is spending my taxpayer money for one person for one project for himself. And he did not consider anything else so I am paying for that in the long run. This was done with the last ten minutes of the 1:00 session. Mr. Milde said we had been notified. If I had been notified, I would have been there to protest this. The perception of this is that Mr. Hoyt has been planning this since back in February of 2008 and he has been laying the groundwork to make sure that he met every criteria and he covered it up as far as if you got a skunk and put a costume on it and dressed it as a dog it is still going to stink because it still does smell like a

skunk. And I just find this unacceptable and I wanted you all to know this before you all make your decision in the next few weeks. Thank you.

Mr. Fields: Is there anyone else that wishes to speak on a topic other than the public hearing topic? Alright, hearing none I will close the public presentations, which moves us to the public hearings which is the Conditional Use Permit for Micah Ecumenical Ministries. I assume we have a staff presentation?

PUBLIC HEARINGS:

1. CUP2900122; Conditional Use Permit - Micah Ecumenical Ministries Cold Weather Shelter - A request for a Conditional Use Permit to allow a use not listed within an A-1, Agricultural Zoning District, specifically a cold weather homeless shelter, on Assessor's Parcel 58-36 consisting of 2.05 acres, located on the south side of Kings Highway approximately 1,500 feet northwest of Forest Lane Road within the George Washington Election District. The shelter would operate from November 1 to April 15 each year, and provide overnight facilities for the chronic homeless. **(Time Limit: August 18, 2009)**

Mr. Harvey: Yes, please recognize Amy Ansong.

Amy Ansong: Good evening Mr. Chairman and members of the Planning Commission. Tonight I stand before you to present the Conditional Use Permit (CUP) for the Micah Ecumenical Ministries Cold Weather Shelter. The applicant is Micah Ecumenical Ministries, the tax map in question is tax map 58-36 and this parcel is located on the south side of Kings Highway approximately 1,500 feet northwest of Forest Lane Road. The purpose of this CUP request is to allow a cold weather homeless shelter as a use not listed within the A-1, Agricultural Zoning District. Currently the existing zoning for this parcel is agriculture, as you can see. Here is the Land Use Plan for the parcel, which is outlined in red. Here is an aerial photograph of the parcel that I am referring to, parcel 58-36 outlined in red. And here is a zoomed-in version of the same photo of the aerial photograph for Micah Ecumenical Ministries. Background. Currently on the site buildings do exist on the site; it is not a vacant parcel of land. The Micah Ecumenical Ministries Cold Weather Shelter plans on locating themselves within the old Little Falls Elementary School. The site area is 2.05 acres; the square footage of the building in question is 3,156 square feet. The current use is community facility and the proposed use is community facility and cold weather overnight homeless shelter. The shelter will serve as an overnight facility to be operated from November 1st to April 15th each year. The applicant is proposing to transport people to the site from the City of Fredericksburg because, right now, they have a building on Princess Anne Street and the plan is to transport people who need to be housed in this overnight shelter from that facility, either using church vans because they do have partnerships with several churches in the area. So perhaps using church vans, like Fredericksburg Christian School or other modes of transportation, perhaps maybe even using Fred, but those are options that they are looking at. At the Micah shelter, the plan is to house thirty to forty individuals, the maximum is fifty. There will be at least two to three paid staff at the shelter and there will also be several volunteers who will come in from area churches to help out. There will be no meals served on this site. There is public water and septic, and there are no physical changes to the sites. Here is the Generalized Development Plan (GDP) for the Micah Ecumenical Ministries Cold Weather Overnight Shelter. We saw this picture earlier. Here is a zoomed picture of the actual area. What you see outlined in yellow is the current daytime facility. This building is used to assist those individuals that are suffering from mental health, mental retardation and substance abuse issues. And the green building is where the Micah Ecumenical Overnight Shelter plans on moving into. If you are standing on the property and you are looking towards the right side, this is what you will see, this is the view. If you are standing here where the arrow is and you are looking out onto the road, this is the view you will see. And then

if you are standing on the left side of the property and you are looking out, this is what you will see. There is a house on the southeastern boundary, so this is what you will see if you are standing in the parking lot of 58-36. Here are some pictures of the property. As I said before, there is currently a daytime facility which is used for people who are suffering from mental and substance abuse issues. Here is the daytime facility currently on the parcel. Here is the greenhouse that is located between the daytime facility and the proposed cold weather shelter which is located on the right. This is the front of the proposed cold weather shelter. This is the side of the of the proposed cold weather shelter. This is the back of the proposed cold weather shelter. The list of the following proposed conditions for the Micah Ecumenical Ministry Cold Weather Shelter: in terms of operation, it would be limited to operation between November 1st to April 15th, hours of operation would be 7 p.m. to 8 a.m. Maximum capacity, as mentioned earlier, will be fifty people excluding staff members or volunteers and there will be a staff member on premises during the operational hours. No individual utilizing the facility shall be permitted to enter the site unaccompanied by a staff member or other authorized personnel. Transportation will be provided to and from the site by the applicant. There will also be limited outdoor activity. Also, the Sheriff's Office will work with the applicant to address Crime Prevention through Environmental Design concerns, also known as CPTED, and the Sheriff's Office will also be willing to work with the applicant to go over any safety issues and to address safety issues concerning the site if there are any. The Micah Ecumenical Ministries staff will also undergo any necessary training. Alcohol and illegal drugs will be prohibited on the sites. The southeastern buffer shall remain undisturbed, and the applicant will get an Occupancy Permit (OP) from Code Administration. Staff believes the request, with the proposed conditions, meets the standards for the issuance of the Conditional Use Permit. Also, I think you might have in your staff reports that some different division submitted letters of support, such as the City of Fredericksburg Police, Stafford County Social Services and the Fredericksburg Continuum of Care. Staff recommends approval of this application with the conditions specified in R09-234. Any questions?

Mr. Fields: Are there any questions of staff at this point?

Mrs. Carlone: I just have one question. I think in some of the statements in the beginning, it says there will be a regular security officer, just during the daytime though?

Ms. Ansong: From what I have understood, they are going to have one paid security officer so there will be one paid officer from 7:00 to 10:30 because I believe 10:30 is the time that lights go off, and then that shift will end. Then the next shift will end in the morning from like 6:00 a.m. to 7:00.

Mrs. Carlone: Okay. I was more concerned about the evening hours. So the volunteers would actually do the training to provide any security work from that 10:00 to 7:00?

Ms. Ansong: Probably, because I guess the idea is that at 10:30 everyone should be asleep so lights will be out. So they are going to have one paid staff member who should be trained and then they will probably have other volunteers, so yes they probably will be trained. We spoke to the Sheriff's Office and one concern that came up was making sure that people know when to call 911 and things like that concerning security. So I think that will handle that issue.

Mrs. Carlone: I was just concerned about the responsibility on that volunteer. But there will be a paid trained employee at night?

Ms. Ansong: Yes.

Mrs. Carlone: Okay, that is it.

Ms. Ansong: Okay.

Ms. Kirkman: I have a question.

Mr. Fields: Yes ma'am.

Ms. Kirkman: In your staff report, you reference that this is on private septic and that the applicant is working with the Department of Health right now on that issue. What kind of sewer capacity, onsite sewage disposal capacity, do they need? How many gallons per day do they anticipate needing to treat and what is their current capacity?

Ms. Ansong: We know right the now that the capacity is supporting the daytime facility. But in terms of being able to support the overnight shelter, we have spoken with the Health Department and the Health Department is scheduled to go out to the site this Friday to check on that to make sure that it can meet the capacity of the overnight shelter. And if it does not, then the applicant will have to work with the Health Department to ensure that it does.

Ms. Kirkman: But currently, there is no… we do not know if they have the capacity now to do that?

Ms. Ansong: I am not sure, I will have to check on that and get back to you.

Ms. Kirkman: Do you know what capacity is needed?

Ms. Ansong: No, I do not.

Ms. Kirkman: Alright. And where are these people coming from? It references transportation, so are they coming from the courthouse area? I mean, where are these people coming from?

Ms. Ansong: Well, the plan is to have them meet at Micah's Headquarters, which is in Fredericksburg, Princess Anne. Right now they have a center there that deals with homeless people, so the plan is for people to eat there at that building and after they have had dinner, then collectively they will get on the bus at that site and all come to the overnight homeless shelter.

Ms. Kirkman: So they are coming from Fredericksburg?

Ms. Ansong: Yes, I think that is the main place.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Alright, are there any other questions for staff? Alright, I assume the applicant is here.

Charlie Payne: Mr. Chairman and other members of the Planning Commission, Charlie Payne with the law firm Hershler Fleisher and I represent the applicant. Thank you for the opportunity to speak to you about this project. I guess that starting out this discussion, part of me is pained by the fact that I have got to be here today to talk about a situation that ills many communities and a community as wealthy as the Fredericksburg region and this community, that we have got to talk about the fact that there are a significant amount of homeless people that live in our region. It is amazing actually to know just the full scope and spectrum of who those people are. They are children, they are adults, single mothers, especially during a very difficult time with our economy that those numbers have creeped up, have

increased. Literally many people are a paycheck away, one healthcare instance away, from being on the street and it is sad, it is very sad. But what warms me is, for someone whose family has been in this area for 300 years, specifically in Stafford County, is how welcoming Stafford is, compassionate, tolerant it is and a community leader that it is. I have had the labor of love of representing on a pro bono basis Micah for the past few years and have watched them and the compassion that they have for disadvantaged people in this community. It warms your heart to see that and I am proud to say that I represent them. I am also a member of the Fredericksburg Regional Continuum of Care. I just want to read you some things that I recently learned that did surprise me. The point-in-time count as of January 2009 of the number of homeless people in this area, 145 adult homeless people, 57 children homeless, that is 202 total. That is just the Housing of Urban Development (HUD) definition. The Department of Education has that number of children at 401. Those are people sleeping in hotels; parents are literally living there week to week. We have a unique opportunity here in working with our friends from the Rappahannock Area Community Service Board, as many of you know, already provide services at that site. To provide us a low cost opportunity because it is free, to shelter our chronic homeless who otherwise would be sleeping on the streets, sleeping outside in the wintertime, something we as a community I know do not ever want to happen. In fact, no one in such a wealthy country should be homeless. To address a couple of the issues that came up, Ms. Kirkman asked where these people are coming from. Most of these people we have provided in our impact statement a breakdown of the population and where they come from. Stafford County has a total I believe of 24 adults and 8 children under the HUD definition, a total under the Department of Education definition of 153, so a total of 185 that are homeless in Stafford County. The regional community has about 603, if you add both the HUD definitions and the Department of Education definitions. What we are trying to address are the chronic homeless, those who have been homeless for a significant period of time and those who otherwise would not qualify to be in other shelters because of the time limitations and the specific limitations of those shelters. The fact that we are able to bring them into a location basically at night and they leave in the morning when it is dark; we bring them over from the Micah center, which is the center in which traditionally many of the homeless have gathered. They eat there for breakfast, if many of you are familiar or have volunteered at that center, they eat breakfast, they shower there, they receive many of the things that they need for purposes of their day-to-day living. I am happy to answer any other questions you may have, I know my time is up. But again, we think this is a compassionate, smart, logistically positive opportunity for the people we are trying to protect. We believe it is low impact and obviously there are no traffic issues and it is well buffered. Again, the community would not see them coming in and would likely not see them leaving in the morning. We will have fulltime personnel there all night long and security will be present until 10:30, which is traditionally the time when everyone goes to sleep. We have not had one incident at the shelter that has been held at Bragg Hill for the past several years. These are good people, very good people; it is a tough time and most of their conditions are things that they did not cause. I ask, knowing how compassionate this county is, that you work with us and that we are happy to be a partner and to assist you in any questions or issues you many have. And I thank you.

Mr. Fields: Thank you Mr. Payne. Are there any questions for the applicant?

Ms. Kirkman: Yes, I had asked about the onsite sewage capacity, the treatment capacity. What do you anticipate, in terms of gallons per day, that you are going to need and what is the current capacity?

Mr. Payne: I do not know that answer to that; we have hired a consultant to assist us with that. I do know that the owner of the property believes the capacity is sufficient. The county asked us to work with a department healthcare consultant to confirm that with them. Because of the bad weather last week, we could not get out there to do that. But they are going to work, it is my understanding, with

the county on Friday to confirm what the owner believes to be sufficient capacity, which is why we have maxed the number at fifty because he believes that is the proper number.

Ms. Kirkman: Part of the reason why I asked about where folks were coming from, I actually got my start working in shelters for homeless women with children and typically you try to locate those. Where the people are getting their services during the day and this is actually a somewhat isolated spot, and so I am trying to understand why people are being bussed so far away from where they are during the day.

Mr. Payne: I would not say we are bussing them far away from their services, I think we are less than three or four minutes from downtown Fredericksburg. They are not getting any services other than a roof over their heads at that time period. You have to remember, they are in here at 7:00 at night, which is after social services are being provided and then they are leaving first thing in the morning. Some of these people have jobs and others are going to their programs for the next day. They go to the Micah center, that is where they initially meet and we have healthcare partners at the site, in Micah in which we provide the services and assistance they need at that point. So, it is basically just a place for them to sleep. We are not taking them away from their services.

Ms. Kirkman: I know but typically you try to get all of that co-located. Is there a reason why that cannot be done in this instance?

Mr. Payne: We cannot find a logistically cheap convenient place in the city to do that, if that is your question. And this is close enough to those services where we can logistically handle this.

Ms. Kirkman: Is this going to replace the capacity that you have out at the Bragg Center or is it going to increase your capacity?

Mr. Payne: No, it is replacing, the Bragg Center is over after this year. The services are over after this year and, in fact, that ended in April.

Ms. Kirkman: And why did that location come to a termination?

Mr. Payne: It is more of a scheduling issue with Bragg Hill, it is a cost issue. Logistically, it is very tough for us as well; many of our volunteers come from Stafford, believe it or not, and this is a more synergized place for us to be.

Ms. Kirkman: So, what were some of the issues? Why was Bragg closed?

Mr. Payne: You have to remember, we have an agreement, a contract with them if you will and we pay a fee for that. We have to utilize the funds for other things, that is one thing. Secondly, Bragg Hill Family Life Center is evolving to do other things and we would conflict with those things. Night basketball for example; the homeless people stay in the gym so we would be conflicting with their night basketball events and things like that that they would want to hold there. So, it just became much too complicated to try to resolve that. So, this is a very good option for us.

Ms. Kirkman: I don't know at what point you came into chambers but if you heard part of our previous discussion on a Conditional Use Permit, one of the things that we have been considering is a way to create a public review process, without the applicant having to go through an entirely new CUP application and not have to pay the $10,000 fee. Is your client going to be willing… the condition gets

imposed but would your client be amenable to a process whereby there is a review in a set number of years to extend continued operations for this use.

Mr. Payne: Well, I will say this. I think that a review of our ongoing operations and successes that we are accomplishing there are more than invited from my client. I do not know the details of what your specific review process is, so I will defer on that answer. But I will say this and I am hopefully going to make this clearer. This is not a Spotsylvania problem, this is not a City of Fredericksburg problem, this is not a Caroline County problem, this is not a King George problem, this is not a Stafford County problem. This is a community problem. This is something we all need to chip in to address. I think that these issues sometimes get somewhat confused as to the fact that as you said, these people will go to where the programs are. As you know, the City provided lots of programs and sometimes they bear the burden, the unfair burden, because many of these people come from the counties. They are from here, people I went to high school with, it is amazing. So, I would say that the important thing to take from our presentation is this is a community effort and we are reaching out to Stafford County to play a role in that.

Mr. Fields: Any other questions for the applicant before I open the public hearing? Alright, thank you Mr. Payne. Stand by if we have any questions raised we of course will revisit them. At this point, I will open the public hearing. Again, the process is the same. You come to the microphone, state your name and address for the record. And the light goes on you have three minutes, when the light turns yellow you have one minute and when the light is red you need to come to a very rapid conclusion. Is there anyone here tonight that wishes to speak for or against the Conditional Use Permit for Micah Ecumenical Ministries?

Tina Deboeser: I am a member of the Ebenezer United Methodist Church and I have had the privilege of working at the cold weather shelter I think just one season or one and a half seasons. Thank you all for your time tonight and listening to our concerns; and your staff did an excellent job. I learned more tonight about the facility then I knew. I would implore you to find a home for these people. Please help Micah help those who cannot quite help themselves right now. And this is a community problem; I have talked with these people. They are from all over, as far north as Alexandria and as far south as Richmond. This is not a Fredericksburg problem and we are lending a hand, this is a district problem. So I encourage you to look upon this favorably. Thank you.

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

Linda Vanputte: I too have volunteered for the last two years with Micah in several different capacities but at the cold weather shelter and I also have spent four years at Fredericksburg Christian Health Center as a volunteer. And, statistically speaking, the uninsured that are seen there, about thirty percent are from Stafford County. I really believe that when you look at the numbers, if you look at the numbers for those who are being served at Micah and the homeless shelter, that you will find that many of them are also from Stafford County and it is definitely a national tragedy. But, in our case, our planning district 16 has a significant number of people in need and it is up to the entire community to come together and serve them. I just ask that you look upon this favorably as well. Thank you.

Mr. Fields: Thank you.

Belinda Tierney: I wasn't going to speak but I will, since I am here in support. I have volunteered for the last year at the cold weather shelter. Just two aspects in support, if we are able to get this facility then they would be able to open up earlier than they were able to before. And I know I heard many complaints because of not being able to open up earlier because of how cold it was. The gentlemen

would walk miles and miles and miles to get to the Fredericksburg Center to find out that they could not stay overnight somewhere and they would have to go and find somewhere to stay at night. And it was very, very cold and they could not find out if it was going to rain and that made it even colder. So they were very, very upset because of the funding and because of not having this certain place to stay at Bragg Hill. So that to me would be of comfort to me to know that, yes, I am volunteering that night because I know it is definitely going to be open at 7 and they are going to be able to have a place to stay and be warm and not have to walk miles and miles and miles for no reason. Another thing is they do come from all over the area. Even though that one location is in Fredericksburg, they do walk miles and miles just to get there because there is not a place right here locally to go. They may be walking all the way over there just because that is where the place is. So, I am in support of it and I do volunteer there. And that is the only reason I am standing here. Thank you.

Mr. Fields: Thank you Ma'am.

Jeff Van Curen: I am a youth organization volunteer and I have a youth group that has helped Micah Ministries in the past. And to see my boys go down there and provide care to someone in need, someone not necessarily relying on government support, it is an organization goes down there and helps. In a time where a lot of people are asking for taxpayer money, this is an opportunity where organizations volunteer to help their fellow citizens out and to have a place to do that, a safe place to do that. Like I said I am a youth organization leader and my youth have gone down and helped me serve meals and also set up the facilities. And it is a safe environment and it also puts a face on a problem that this country has. I just recently was down in Fredericksburg with some of my boys and to walk the streets and to see those people in a normal environment where some people might feel threatened or something like that by somebody. My boys do not feel that way. They have met these people, they have talked to them and they have served them. It puts a little bit of dignity and respect into those people that that they know people in the community and people are willing to come out and help them. Again, I ask that you guys support this initiative and it is a good opportunity for organizations to help their own within the county. Thank you.

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

Terry McNally: I am the Executive Director of The Community Foundation. I am a volunteer at Micah cold night shelter and I am also on their fundraising committee. I am here tonight to speak on behalf of a volunteer and the good that it does in our community, and it is in the general community. First of all, to the question of why Bragg Hill, the difference between the new space and Bragg Hill is that this will be a place that is completely dedicated for the project. At Bragg Hill, cots have to be put up every night and taken down during the day and so if you can have it at the school then they will be able to stay up there and we will be able to get the people in there earlier. Secondly, it is closer than it is to Bragg Hill, so if you take it from Micah and go to the old school it is a closer sense. And thirdly, we have a youth and philanthropy program with thirty-five young people. They have volunteered there, they have funded Micah and they will continue to fund Micah. I urge you to continue working with them. Thank you.

Mr. Fields: Thank you Ma'am. Anyone else? Alright, this is your last chance. I am closing the public hearing then. I do not believe there are any questions for the applicant. So, at this point, are there any further questions for staff or the applicant from the Commission? Hearing none, this is in the George Washington District so I will be happy to move approval of Conditional Use Permit R09-234.

Mr. Rhodes: Second.

Mr. Fields: Move and seconded. A motion is on the floor, is there any discussion? Mr. Di Peppe?

Mr. Di Peppe: My wife and I for a number of months did some volunteer work, we are both former school teachers, for the original old site of the Fredericksburg Homeless Center. One thing you learn is that the stereotypical impressions some people have of homeless people is wrong. They are just like you and me and they *are* you and me. It is a tragedy how many people in this country are one paycheck away from being homeless. And the people that we saw and worked with over those months were trying as hard as they could not to be homeless and they were doing everything they could to change that situation. We need to have facilities because if anybody thought this was a bad idea, if you do not give people a place to sleep, they sleep where they can which is often under bridges and in the woods. So, these people do not disappear at night, they are still in your community. And so the compassionate and the safe thing to do is to provide for these people because they are you and I. And I will be supporting this.

Mrs. Carlone: Mr. Chair, I am certainly supporting this but my comment will not have to do with this issue. What I am concerned about is what happens when they are taken back downtown, you say you bus them back or haul them back into town and the ones who are not working, who takes care of them and the children?

Mr. Fields: I guess even though this is discussion on the motion, if you really have a question then we can let the applicant answer. I have no problem. I think we are all on the same page here.

Mrs. Carlone: Let me make it into a question then.

Mr. Fields: Mr. Payne will be happy to answer that. It is a good question to ask.

Mrs. Carlone: Would you eventually be looking at expanding perhaps at this location to take care of the people during the day?

Mr. Payne: That is not the plan Mrs. Carlone. What would happen and what happens now is they would be sent… they go back to the Micah Center which is on Princess Anne Street, they will be served breakfast, many of them have some things stored there that they will be able to pick up, they take their medication, they work on the computer to fix their resume and they might see a social worker there. We work with Rappahannock Area Community Services Board; they have personnel in the Micah site. So we are a good nexus or a good connection if you will to their programs and to the services that they require. And just one other point, I think it is extremely important to understand that when they are sleeping somewhere and they are not outside, that means they are not being picked up by law enforcement, so we are not utilizing resources that we should be using elsewhere. We are not using taxpayer dollars to put them in the Regional Jail, they are not over at the emergency room, whether in Stafford or in the City of Fredericksburg, costing the taxpayers a lot of money. So, it is extremely important that we do find them shelter and keep them out of the cold. But to answer your question, we do not just drop them off; we obviously transcend them to their other services.

Mrs. Carlone: Okay, thank you.

Mr. Fields: Is there any other discussion? Alright, I think we all support this and would just like to say personally it is very much of a privilege to be able to support Micah Ministries. Having served on the Board and served on the Board of Social Services and the Community Policy and Management Team, I have certainly seen firsthand the overwhelming need for many, many things in this community. Until Micah stepped in, of course we have the Thurman Brisben Homeless Shelter, but

that has a different sort of mission and a slightly different structure and a different set of rules. I do not think that a lot of people were aware that there was still a large gap of misery happening in this community even with the best efforts of the Thurman Brisben Homeless Shelter. And I just want to say that my respect and praise for Micah is pretty much unlimited with what they have done. It is a privilege really I have always felt even when having discussions on the Thurman Brisben Homeless Shelter, I had always articulated that I was happy then as the George Washington Supervisor and as a Planning Commissioner to offer that part of the county. Even though it is in Stafford, I think the question of why move from Bragg Hill… when you live down there you realize how much of an extension of the City of Fredericksburg it is and that is why I work in downtown Fredericksburg, my wife works in downtown Fredericksburg and it is really very close to downtown Fredericksburg. It is closer and easier to get to because of Route 3 and the good history of land use vision of the people that have governed that part of the County. Route 3 is not already clogged with traffic unlike a lot of the other counties. So, you have easy access to downtown Fredericksburg. But, at any rate, it is a real privilege for the George Washington District and Stafford to be a part of this. With that, if there is no further discussion, cast your votes. All those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright, thank you very much. Keep up the good work. What we do is easy, what you do is hard.

UNFINISHED BUSINESS:

2. 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)**

3. 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: Alright, South Campus. Are you guys ready? Have you had time to tweak the presentation and make some notes?

Jonathon Schultis: I have been thinking about it a lot.

Mr. Fields: Thanks for your indulgence and time. I know you guys have been waiting a long time.

Mr. Schultis: Mr. Chairman, members of the Commission, once again good evening. Tonight we are talking about South Campus once again. When we met previously, a number of issues came up. I would like to just go over them briefly. The information is consistent with what you received in your memo. There were some staff concerns with the proffers. We have worked with the applicant and staff believes that the proffers are satisfactory and will recommend approval fully at this point. Additionally, there was some question with regard to Section 28-203 and the investment disclosure. That information was provided and hopefully satisfactory. There were also some citizen issues that came about with regard to fencing along the property lines and a water connection. The fencing has been proffered, the water connection is still being negotiated with the adjacent landowners. Also, there was a few issues with regard to the historical study and this evening the archaeologist is here and he has a presentation. Also, the Planning Commission Transportation Committee met on this issue and, Mr. Chairman, you requested that the Transportation folks give the same presentation that they did in that meeting and they are here and willing to do so. So, there is certainly a lot on the plate this evening as far as South Campus is concerned but, hopefully, the sufficient information to quell a lot of the concerns. And that concludes my presentation. I am available for questioning.

Mr. Fields: Alright, do we have any questions of staff at this time or do we want to move right to the Transportation presentation first and then start taking questions after we have seen all of that?

Ms. Kirkman: Before we move onto the transportation issues, the applicant might need to answer this question.

Mr. Fields: Sure, and technically even though we are in the evening session, we are still in the work session format here so we are here to work through any and all questions. I am just trying to make sure we do it sufficiently so anything you have to ask or need to ask let us go ahead.

Ms. Kirkman: So, following the public hearing I had requested the applicant to put some language in the proffers regarding lighting, shielding lighting and that sort of thing and I did not see anything in there. Missed it? Okay. And then also there were some statements made about the economic impact of the project and I had asked for the data supporting that and I did not see that in our materials.

Mr. Schultis: I will leave that to the applicant.

Sherman Patrick: Thank you Mr. Chairman. With respect to the questions that were raised at the last Planning Commission meeting, we did make a diligent effort to try to address all of those. I am sorry we overlooked the lighting and the downward shielded fixtures. That is something that is easily done. What we brought back this evening and shown to staff is essentially a draft proffer that attempted to address all the concerns that had been raised previously, and we realized also that we have a couple of technical reports that we provided to you that bear better explanation. One of those is the

Archaeological Report and the other is the Transportation Impact Analysis which you all have already mentioned. With respect to the Archaeological Report, a couple of issues came up after the last Planning Commission meeting and Mr. Di Peppe had brought a couple of things to our attention. And what we would like to do if it is acceptable to the Planning Commission, is to start with an overview of the archaeological issues or questions that had been raised that we were not able to meet or answer at the last meeting because the Archaeologist was not with us. He has about a 15 minute presentation to review. And then with respect to the economic analysis, that question I thought was related to the CDA, the Community Development Authority, and we thought that we would try to field that issue and discussion after the Transportation Impact presentation, if that is acceptable. Thank you.

Mr. Fields: Alright, are there any other questions? Okay, do we want to move to the Transportation presentation first or the Archaeological presentation first?

Mrs. Carlone: Were you talking questions in general or just to those two subjects?

Mr. Fields: Questions in general.

Mrs. Carlone: Okay. I was going to ask you if on page 16 of 19 under Environment, paragraph C, this would be for clarification. It says "retaining walls, if any, when parallel to an RPA boundary, shall be set back a minimum of 10 feet" and if it could be added "from RPA to allow access…". It is not that clear, just to add that.

Mr. Patrick: I think we can add additional clarification, the intent there being that a retaining wall would not be built up to the edge of an RPA. What we are trying to do is create a space that…

Mrs. Carlone: No, I understand what it is for but that would just clarify it to say it is from the RPA.

Mr. Patrick: Yes.

Mrs. Carlone: And then there was just one more. You do have for the structures, if you might take out the metal panels for the building materials. Architectural and Site Designs, Façade Treatments, paragraph 1, about the fourth sentence down, to take out the metal panels as a façade material and that is it.

Mr. Patrick: Thank you. Mr. Chairman, Dane Magoon is here from Cultural Resources, Inc., and is ready to do the quicker of the two presentations.

Mr. Fields: That sounds good. That sounds like a good plan. Let us go ahead and get the archaeological thing done then we can move to transportation.

Mr. Schultis: Mr. Chairman, if I may also submit, I brought Environmental Planning staff with me here too should there be any specific questions with regard to environmental concerns.

Mr. Fields: I appreciate that, thank you.

Dane Magoon: Good evening. I am Vice President and Senior Principal Investigator with Cultural Resources, Inc. I wanted to go over some of the issues that have been brought up regarding the report and also to go over the Phase 1 Study as well. We have completed a Phase 1 Level Cultural Resources Identification Survey for this project. Three specific issues have been raised regarding the Phase 1 report, the possible location of a union encampment in the vicinity of one of the sites that we

identified, Site 44ST1044, the general location of the project area on a series of historic maps in the report document, and the possible presence of a Civil War-era road within the larger development parcel. First, of course, I did want to go over what we did. The Phase 1 Study, we did a standardized survey methodology, systematic shovel testing throughout both of the study parcels, we excavated shovel tests throughout these parcels, we used a standard 50 foot interval which was accepted by the Virginia Department of Historic Resources, it meets their guidelines, also the Secretary of the Interior Standards for this type of work. Each of these holes measured between 1.0 and 1.25 feet in diameter, so they are not little holes. Each shovel test is excavated into sterile subsoil which is generally between ¾ and 1½ feet below modern grade, so they are big holes and they are fairly deep holes. All of the soil that we excavate from these holes is screened through ¼ inch mesh and you can see a crew down here doing that activity. And everything that we find, except for very modern materials, is taken back to our labs for study, inventory and analysis.

Ms. Kirkman: Excuse me, can I ask you a question?

Mr. Magoon: Yes.

Ms. Kirkman: Why is it that you do not do shovel tests on slopes that are 15 percent or greater?

Mr. Magoon: It is a basic rule, sort of an understanding of how people live on the landscape. If you ever go camping, just the basic hands-on level, you are going to definitely pick the high flat elevated well-drained area, you are not going to want to necessarily be on the side slopes. Even though we do not systematically shovel test those areas, we still walk them and we still look for other types of things that might be on the resource in a particular project area. If you live in an area that is extremely hilly, you have to look on the hills because that might be the best place to live. Alright, here is an overview of the testing that we did. You can see all the holes that we did dig within the larger parcel as well as the smaller parcel. We identified archaeological resources in both areas. You can see the areas outlined in blue our shovel tested produced cultural materials. We identified four archaeological sites. We also identified three isolated finds and technically these are resources that are so small in size that they do not meet the formal definition of an archaeological site. Generally they are three artifacts or less. And we have one here, one here and one here, and by definition these are not recommended for further work. This is an overview of the resources we identified during the Phase 1 survey. They are all archaeological resources. We have four archaeological sites. Two were recommended for additional work, one being a mid-19th to 20th century domestic site from what we had identified it from the material culture, the other one is a prehistoric site dating to the Archaic and Early Woodland period. The remaining resources, which we did not recommend for further work, were either more modern or did not have distinct materials that we could associate with specific prehistoric cultural periods. In terms of issue number one, the potential of a Civil War encampment being at 44ST1044, you will notice that the site we identified is almost as large as the entire parcel that is being looked at. We formally identified this as a domestic site associated with the 19th and 20th centuries in terms of its occupation. That period does include the Civil War. We did not recover any military type artifacts during our survey work. We have recommended the site to be subject to a Phase II level study so we have recommended it for additional work. And if we do identify Civil War materials within the site area, we will address that during the evaluation process for the resource. Our information on this being a potential encampment site came from D.P. Newton, a Stafford County community member, and he had knowledge of an individual who had done some testing and found some things here in the past, with a metal detector. Most of the military items that we would identify are metal so more metal detecting, less stuff for us to find and say it is a military site. But we did it as being associated with that period and if we do find information about the Civil War in the site area, it will be addressed in an appropriate fashion. The second issue, Historic Maps. Six historic maps were utilized in the Phase 1

report. Five of the 6 maps have the project area actually placed in the wrong location. Generally, this is a slight shift from where it was intentionally placed in an earlier version of the report. The cause of the location shifts are what can be referred to as scrivener's errors. Specifically, it is document formatting changes, different settings and different desktop platforms in Microsoft Word, shifts in picture placement on individual pages during document editing, and finally conversion of MS Word files into Adobe .pdf format can shift the overlays that we put together of the project area, a label and a map. And these subtle shifts can, after a couple iterations of report, move things around a little bit. It is not as noticeable with text as it definitely is with maps. The implications of the map shifts on our findings and recommendations. No changes to either the report findings or recommendations. We do recommend the issuance of five replacement pages for existing copies of the report document, and no other maps in the report document will require replacement. And I did bring two examples of those maps. If you look at the Warner map of 1737, you will notice that the proximity of the project area on this map, which was in the original MS Word document, is between Aquia and Potomac Creeks. You notice in the .pdf version it shifted slightly to the south. These are the level of shifts that were discussed as being notable in terms of public comment. Another example, the Gedney map of 1864, we have the original version from the Microsoft Word draft, compression of the photo and conversion to Adobe .pdf shifts it slightly. The final Word version of the report, third iteration of that document, shifted over here. As you notice from the level of detail in these maps, roads, stream networks, here much more general, not really something that is going to impact what we find physically and material within an archaeological survey area but more impacting the historical context development for the report. Historic road traces within the project area. According to local sources, the project area has the potential to contain road traces that were not detailed in the Phase 1 report. One possible road trace identified on historic maps was the New Corduroy Road. A walk-through was conducted during May to examine the project area and that involved Mr. Di Peppe and D.P. Newton. The identified road traces were mapped subsequently with GPS while others were projected through contour line patterns on the project area CAD maps. And I have a series of graphics to show you. Here is the map from our report showing the location of this road that is shown as a single dotted line next to the more major road here, so almost paralleling but not quite. Here we have a graphic provided by D.P. Newton showing Old Potomac Church Road, also the New Corduroy Road over here. And we went ahead, after getting this information, and created an overlay on the USGS topo map showing the study parcel. Here you have the small parcel and the large parcel over here, and you can see the projected location of that road cutting through the project area. You will also notice that nothing really truly matches up. These drainages are generally in the right location but they are off. We used as reference points this intersection here and this intersection here to help nail down those overlays. And this is the one that showed sort of the best fit for all. Here we see the road traces that came from the May walk-through. These are the ones that we went out and GPS'd in subsequently, D.P. Newton and Mr. Di Peppe. We also looked at some of the contour lines and were able to sort of plot this one road here just from mapping, and also a little bit of a road right here which runs through one of our testing areas. One concern about the Corduroy Road was it being a possible wood-laid road bed. During our testing through this upland area we did not find any trace of it, no heavy logs or any sort of under structure for that potential road trace. Here is an overlay showing the topo-quad, the project area, the historic map road trace and our projected road alignments through the project area. Some hint at being related to the Corduroy Road, others do not. And I should say that the parcel has been subject to logging in the past. Some roads could be associated with the Corduroy Road alignment but it is difficult to tell based on what is there. Our recommendations for the historic road traces, they do represent possibly a variety of road uses in the past, pedestrian traffic, logging, agriculture. Road traces are typically described as landscape features and not archaeological resources and they are also not typically eligible for listing in the National Register of Historic Places. None of the road traces reported with GPS are clearly associated with the Corduroy Road, however, one of the north/south trending contour cuts may represent a portion of the road. In conclusion, we will include the information in any new data that

comes out of the Phase II level studies into the upcoming Phase II report. So, whereas, we think it would be most appropriate to issue replacement pages for the five historic maps. This would be more appropriately detailed in the upcoming Phase II studies which have been worked into the proffer statement. Any questions?

Mr. Di Peppe: I would like to thank D.P. Newton who came out with us on our field trip. I know that on the map it shows slight variation but it actually put the site in the wrong watershed. It was between two different rivers and so it might be slight but the point that D.P. made at the time was this document becomes part of a historic record so it needs to be right. We were not saying at the time that it needs to find something here to stop this development but we were all very concerned that whatever did come out of the document since people were going to read it in the future and say this is what was there. I think it is obvious from D.P.'s map that that Corduroy Road *does* go through the property and, as much as we can, we would like to make sure that that is part of the historical record. The Corduroy Road was built by the Union Army because they were moving major supplies and artillery and everything else, it was part of the defensive system of the Union Army while they were here. And certainly we are not saying oh, you cannot build here because of that, but we want the record. Also, I hope you will go back and talk to D.P. Newton about the small site because I think he does have some… here again, that house is right on top of where the camp was and it has been farmed for years and so much of the camp has been destroyed and here again the idea is that we get into the document. And I think he has some pretty good information for you who exactly was camped out there and when and that is all we are trying to do. And I do appreciate that the go back and change this and I have to thank D.P. Newton for participating in this thing because he is such a valuable resource to this County for any kind of Civil War camp. And thank you.

Mr. Magoon: Thank you.

Mr. Fields: Any other questions? Alright, thanks very much for your presentation and thanks to Mr. Di Peppe and D.P. as always for their above and beyond. It is important to see that all this record is straight and accurate.

Mr. Di Peppe: The applicant also was there and went out of his way to be there and listen and to make sure that the information got in. Like I said, I appreciate that.

Mr. Fields: And we are very thankful for that. Alright, Transportation.

John Riley: Good evening Mr. Chairman and members of the Commission.

Mr. Fields: I will not tell everybody how this comes out because I have already seen it.

Mr. Riley: I am with Kimley Horn and Associates and we conducted the traffic impact study for this proposed application. And a couple folks have seen the presentation. There have been a couple minor edits to clear some questions up from the Transportation Committee meeting we had several weeks ago, so you may see a couple new things. This presentation is about 18 slides. It really breaks down into two parts. One is to look at the overall and far larger context of the transportation issues in the Courthouse region and this part of the County and to identify a lot of the issues and initiatives that are going on outside of this project that went into some of the assumptions and how they relate to this project and in particular this project's study area. The second part of the presentation focuses on largely painting a picture for your better understanding of how to interpret the proffers with respect to transportation. The proffer language is very detailed and frankly, as a person that thinks visually and I think probably you all think visually as well, we have structured the presentation to show you the

different ways that the roadway elements can come online and be phased in order to support the traffic projections that this project is anticipated to generate. So with that being said, I will start off with the whole County. I want to highlight just the Courthouse interchange area and sort of this radius of influence where we fall. We are roughly in the middle of the County. There are several other interchanges at play which supply the local arterial network and, as you are aware, this interchange in the Courthouse area has a good bit of traffic to it and also has a very large project associated with it that is out there in the future and we will be talking a little bit about that. There is a whole lot of background to that interchange project. This is one excerpted document from the early 90's and my understanding is that there is all but a mandate to at some point build a new interchange at Route 630. What that will look like and when that will happen, those are some things that are yet to be determined, but VDOT we understand is studying and coming up with a revised footprint for that. And so we have been anxiously awaiting those details and that information. But we have been moving forward nonetheless with our piece of the study. This is a copy of your Board's Resolution from last November 20 outlining a number of transportation initiatives that the Board would like to see with respect to the new interchange and I have highlighted number 4 on page 2 that the new interchange should have a connector road coming east from I-95 touching down on Route 1 in the vicinity of Peake Lane. And this project, the South Campus application, has some direct association with that proposed touchdown point that we will be talking about. This is a document off the County website illustrating a conglomerate of footprints combined into one from past iterations that VDOT has done to identify footprint options for the Courthouse Road interchange. So what you see there, this darker colored area represents all of those options overlaid together in the area of influence with the parcels and so forth that fall within them. With a click here we bring up the two parcels associated with this proposed application, the larger 71A shown here and the smaller 16A shown down here. This is, just again, for overall context and reference. Zooming in, one of the other initiatives that is going on and that we are also anxiously awaiting the outcome of is the Courthouse Area Redevelopment Study. This graphic illustrates the boundary drawn for that study. Here is the interchange for reference, the intersection of Courthouse Road and Route 1 and, again, our property is shown here and here. Both fall within the redevelopment area. Now, to summarize all of the overall transportation elements that are in play if you will that are in this area, this is a large overall aerial showing *a* conceptual interchange footprint, that is certainly not *the* interchange footprint, but we just selected one of the many that VDOT had presented last year and put it on the map to show the scale and magnitude and rough location. Essentially it is south of the existing interchange shown here and is substantially larger. The majority for the reason of that size is the lot of directional ramps which eliminate weaving and merging and allow traffic to free-flow from one direction on and off the interchange. Coming off the east side is this connector road I mentioned earlier that was item 4 in that Resolution from last year. This is, again, a conceptual alignment of approximately where that road could touch down on Route 1 in the vicinity of Peake Lane. And so that is just shown for schematic purposes. These green lines that come in here are other roads that the Board has, in writing, expressed an interest in having, again, just shown conceptually for a matter of discussion. There is a north-south road here that roughly parallels I-95 and would potentially connect to the connector road, either grade separated if necessary or at a signal, and would provide some north-south movement between I-95 and Route 1. The Jason Mooney extended roadway here, again another conceptual alignment which would extend Red Oak Drive past the new fire station and tie down roughly in this area and that would be across from Hospital Center Boulevard. So from north to south, some of the other items that play, the new hospital here, that campus is shown in orange, Hospital Center Boulevard also shown in orange which is substantially built out but I do not think it is yet connected at this northeastern point. The blue parcels are the applicant's parcel 71A here and 16A down here. It is also worth noting that there are other parcels that the applicant, Old Potomac Church, LLC, controls presently. Those are shown in this lighter purple. So it is an assembly of land and there may be some questions about that so we have included that in this overlay. The red lines that are dashed indicate the connection points that we analyzed in our

traffic study. And those are the lines that are included in the various phases in the Proffer Statement, and I will be going into more detail on those at a later point. You will note that this roadway, the main I guess focus of this application from a transportation perspective, a lot of the focus has been South Campus Boulevard and what that roadway might do, where it might be aligned, but essentially it is an extension potentially of the proposed 95 connector through the site to tie into Old Potomac Church Road which is shown here, and then to carry into the site and at some point after it passes through the site by others to be potentially extended in and connected to Spartan Drive and then hooked back over to Courthouse Road to the east. These are all the issues. We are somewhat of a small player in this larger sea of transportation issues and initiatives that have been going on for years and are still going on.

Ms. Kirkman: Could you go back please? So, the larger context that you are operating in, the proposed I-95 connector road, the Jason Mooney… does that say extender?

Mr. Riley: Extended.

Ms. Kirkman: Extended, and the proposed connector road, the north-south I-95 connector road, and then the green line, keep going west, that green line there. Where are those coming from? They are not on any transportation plans now.

Mr. Riley: Those are, I believe they are written into the Resolution as roadway elements that the Board would like to see as part of this larger interchange project. The interchange itself has a design that will be forthcoming, we all assume, and it will impact the land uses and I guess the Board has seen fit to identify some other transportation initiatives that they would like to see happen around the interchange. So we have attempted to just graphically show some of those. Are they funded? I do not know, not to my knowledge. But we are showing those as potential elements for the future transportation network.

Ms. Kirkman: But my question is the Resolution is words. How did you get these paths? If we could go back to the slide please, whoever is controlling the computer here. So the particular paths of all these connectors, those are not specified in the Resolution, or are they?

Mr. Riley: The alignments?

Ms. Kirkman: Yes.

Mr. Riley: Not precisely, no.

Ms. Kirkman: So, where did these particular pathways come from?

Mr. Riley: We just drew them conceptually with dashed lines at starting points that I believe were identified in the Resolution and terminus points that were identified, and what happens in between is just a line that we have drawn conceptually just for discussion purposes. There is no attempt to call this a defined alignment. I do not think these are yet in the transportation plan but we want them to be on the map so we can look at future potential circulation patterns in and around the interchange and the Courthouse area.

Ms. Kirkman: So you have not gotten any conceptual drawings from anybody that depicts these things in this kind of way.

Mr. Riley: No. We received language throughout the process. There was two points where we received different sets of language from the County culminating in the Board Resolution that talked about some of the initiatives and so we have been using them in presentations all along, identifying them as conceptual in nature.

Ms. Kirkman: Okay, thank you.

Mr. Riley: Sure. We conducted a Chapter 527 scoping meeting in November of 2007, actually before the Chapter 527 regulations were implemented but foreseeing that this project would carry through the implementation period and the green dots that you see here define the quite extensive reach of the study area for this analysis. Again, our properties are over here. We started with the local roadway network in the vicinity of the hospital and up at Route 1 and 630 we included the interchange thinking that this would be impacting as far away as the existing interchange. After discussion at the scoping meeting, this intersection was added to the study area at Red Oak and also this intersection at the existing jail facility down here. So, it grew during the scoping process but this is, again, to give you a sense of the extent of the study. There is also an urban service area which we fall in and dropped it in here. That is a rough boundary we have drawn based on County documents but you can see that both parcels fall within that urban service area. Trip distribution for this site, there is a number of things that we factored in. We started with the traffic study for the hospital which was done several years ago and looked at the distributions for that study as a basis point. But we also looked at the area roadway volumes. Our site will be attracting, as a potential medical office and possible mixture of retail uses, it will be attracting employees, visitors to the medical facilities and potentially shoppers, so we have outlined here where we, in coordination with the County and with VDOT, where our scoping process outlined the trip distributions for this site. And so you will see there is not quite one-third to and from the south. We think that given we are a good bit south of the interchange up here some traffic will elect to use the interchange to the south, the more newly constructed one. We have a combination of about 32 percent coming from I-95 and another 8 percent to the west on Courthouse, 13 percent from the north, a relatively small percentage from the east on Courthouse, and rather than doing internal captures specifically on our site and you are probably familiar, internal captures are where you have a mixture of uses and the trips originate and terminate within the development and never impact the study area, rather than capture them onsite and never have them touch one of the roadway networks, we elected instead to have them cross back and forth over Hospital Center Boulevard 10 percent of the trips so that we could at least show some impact to our network and we think that if this is a medical office use largely that certainly there will be plenty of traffic crossing back and forth. So that is sort of our version of internal capture on these two larger projects here. We also have shown the vehicles per day that sometimes we use existing traffic volumes as a measure of trying to estimate where people are coming from and going to on a regular basis and using that to factor in. If there are questions about those we can come back to those. That covers the big picture and the scoping of the study. Now we are getting into some slides that address the proffer language per se. So, there are several phases, four phases and some of the phases have different lettering. If you read the proffer language you know that and let me step you through the different phases and what level of build-out occur and what roadway elements we think are necessary to bring those phases online. A couple very broad assumptions that we hammered out with County staff during this process. Number 1 there was a request that all entrances where our development connects to the near roadway network be operating at the level of service of C or better in the build-out year. And we projected our build-out in about year 2016 and with the Chapter 527 regulations, they require another six years added on as a sort of conservative step forward so that there is some buffer there; you just do not take it up to a borderline C or D deficient level of service at build-out, you actually go beyond. So we have actually analyzed out to year 2022 with this study. In doing so, we have targeted a level of service C for our connections at the network immediately around our site. We have also not allowed any road that we are constructing or any

connection point exceed 10,000 vehicle trips per day without jumping up to a four-lane road. So you will be seeing some of those things, why is that two lanes, why is that four lanes. There is a 10,000 vehicle threshold. Again, we hammered that out and established that with the County. And essentially the big picture is this project at full build-out needs six lanes of road to serve it and meet those criteria. So whether you put two lanes here or four lanes there or four here and two there or two, two and two, and that is what these phases will illustrate, we need six lanes of roadway capacity to meet this criteria. So if you can keep that in the back of your minds, I think these next slides will make a lot more sense. Phase 1 is using existing Old Potomac Church Road, which has partially been reconstructed by the hospital. It is using that available capacity and extending it a short distance to our site. And we believe we can comfortably handle up to 40,000 square feet of development. That is based on the typical section that road was designed to which I believe is 11 foot lanes and the capacity in VDOT's road design guidelines that 11 foot lanes should support. So that is Phase 1. At 40,001 square feet we go to Phase 2.

Ms. Kirkman: The 40,000 square feet… how many vehicles per day is that going to generate?

Mr. Riley: I think it is a few thousand. I can look up the exact number if you need that or we can come back to that.

Ms. Kirkman: Well, not right now.

Mr. Riley: It is not even close to 10,000. I think it is two or three thousand. Phase 2, after the 40,000 square foot threshold is exceeded, our next threshold is at 80,000 square feet. So Phase 2 accommodates from 40,001 square feet to 80,000 square feet and, in order to have a roadway that meets that volume of traffic, we would be upgrading Old Potomac Church Road to 12 foot lanes all the way into the site.

Ms. Kirkman: And the right-of-way exists for that?

Mr. Riley: We would be dedicating the portions that we control and I believe the existing alignment has right-of-way dedicated.

Mr. Patrick: It has to be engineered. We do not know exactly how much more (inaudible).

Ms. Kirkman: Because there are houses right there and I am assuming you do not have the right-of-way on those properties, is that correct?

Mr. Patrick: Or they would have to purchase (inaudible).

Mr. Riley: Phase 3A, after the 80,000 square foot threshold is exceeded, we need two more lanes of traffic. So, 3A proposes those two lanes to be this proposed South Campus Boulevard. Again, this is the general alignment shown here, a two-lane road section. And I sort of neglected to mention the smaller parcel over here, the 10,000 square foot parcel. Let me back up one slide just to clarify. This parcel can only be developed to about 4,000 square feet. That is what we have proffered as the maximum with its connection at Peake Lane. We have held that number because that is the number that does not require turn lanes to be built on Route 1. So we have proffered a very low threshold of development on that site. Once we go to Phase 3A and extend a road past that site, you will see that number steps up to 10,000 square feet and that is the cap on that particular site. But the bigger driver of traffic, by far, is this 71A parcel. So, Phase 3A is a phase that allows up to 250,000 square feet of development with this additional set of two lanes. This would contemplate a traffic signal at Route 1

and necessary turn lanes and this intersection here will continue to operate with stop control at Hospital Center. And I would note that that threshold is actually quite a bit below what we could push it to and still have level of service C. We sort of hedged back just to give a little bit of buffer. I think the actual number was over 300,000 square feet but we picked a quarter million, essentially 250,000, and held that. 3B would contemplate a totally different approach to getting that second set of two lanes and that would be an eastern entrance over here, aligning with what is marked today as Carol Lane. That is not the emergency access to the hospital; that is shown here just for reference. Carol Lane is the roadway that loops into the hospital complex. And we would align there at the existing median opening, build a two-lane roadway and, again, that would contemplate a traffic signal at some point with the necessary turn lanes.

Ms. Kirkman: And do you control that property?

Mr. Riley: Not presently, no. And one of the reasons for this modularity is there are some unknowns. Property we do not control, future costs of construction and things of that nature that would emerge between the zoning and the permitting phase. Phase 4A, now we are going to take things even further with development. This takes this larger parcel to full build-out, 531,868 square feet. We would propose first building the eastern connection and then as part of that same phase adding the fifth and sixth lanes, I mentioned earlier six lanes of roadway being South Campus Boulevard coming in as the final phase with the signal. So this would be one version of how those six lanes might come about. Obviously the two-lane connection at Old Potomac Church then the two-lane connection, eastern connection, and then the final two-lane South Campus Boulevard for six total lanes. A different version of that could be Phase 4B1 which would just be a four-lane divided South Campus Boulevard. So, in the Phase 3 scenarios, there was a two-lane version of South Campus. Essentially it would widen that version to four lanes and that would be all. That would create the six lanes needed. And I would reference, of course, the typical section over here, we have drawn it in plan view in two lanes just for simplicity, but the typical section shown here would be what is proposed in that phasing. A different version would be Phase 4B2 where we first construct the two lanes as described before, the two-lane section of South Campus, and then a two-lane eastern connection over here, so two lanes here, two lanes and two lanes is six lanes again. And hopefully that sort of unpacks all the language in the proffered phasing and gives you a visual picture. This is the modular flexible phasing approach to construct the six lanes that are needed to meet the level of service C that the County requested and the 10,000 vehicle trip threshold. Under any scenario where you see it just a two-lane road constructed, that means that the projected traffic on that road is less than 10,000 vehicles a day. And to summarize sort of the five broader points of the proffer summary, the phased access provides six lanes of service, as I just said level of service C at all of our connection points, and we do not exceed 10,000 vehicles per day without four-laning any of those roads. And it includes an upgrade to Old Potomac Church Road, widening it to twelve lanes. The right-of-way dedication, I believe, as written is up 150 feet for the South Campus Boulevard alignment. If I can back up to that, that is a significant length of road. We have calculated that to be about 12 acres of right-of-way dedication for that facility. And that wider right-of-way can easily accommodate a six-lane divided facility. We do not anticipate needing that road to be six lanes just for our site, but certainly if the interchange were to align there or if other development were to occur, etcetera, one could envision a six-lane divided roadway. And staff requested that we provide that amount of right-of-way to account for that potential. We believe that that footprint for that future six-lane arterial would provide up to 20,000 vehicles per day in excess of what we are going to generate. And then lastly the signal and the turn lanes at US 1 at the South Campus connection would be the other major proffer.

Ms. Kirkman: When you say 20,000 plus vehicles per day, that is just 20,000 above the parcels that are the subject of this rezoning.

Mr. Riley: Yes.

Ms. Kirkman: So, what about the traffic generated by the other parcels owned by your client?

Mr. Riley: Well, those would be subject to future traffic studies. If they are by-right, certainly the Chapter 527 process still applies. And that was also the subject of much debate during the series of meetings we had with the County and VDOT. We originally proposed right-of-way for four lanes and there was great concern on behalf of the staff that if those parcels did develop, or even others, others that are not controlled by the LLC did develop, what accommodation would be made for that capacity, at least in terms of right-of-way. So the maximum right-of-way at 150 was established to account for that possibility. This is the last slide…

Ms. Kirkman: So, if those other parcels that are owned by your client were developed at their maximum capacity, roughly how many vehicles per day would they generate?

Mr. Riley: I do not have a number for that. That was not part of our analysis since those are not… we analyzed unapproved developments in accordance with the Chapter 527 criteria so I do not have a number for what that might generate. But, bear in mind that those potentially could have other access points to Route 1 as well. This South Campus Boulevard may not be the only facility serving them.

Ms. Kirkman: So, your TIA that you did did not take into account the potential future development of the other parcels owned by the client.

Mr. Riley: That is correct.

Ms. Kirkman: Thank you.

Mr. Fields: Alright, are there any questions? Is it all crystal clear to everybody?

Ms. Kirkman: I actually do have… if you could go back to one of the first slides that shows all the different colored lines. So, the future South Campus Boulevard by others, you are no longer… it seems like in one of the versions we saw you were going to build-out all the way to Courthouse Road, is that correct?

Mr. Riley: That is not the intent. It should say by others on each slide. But that is beyond our control, beyond the blue property boundary. This is the power line easement, this lighter blue area here. We would contemplate that would be by others.

Ms. Kirkman: Oh, okay. And then the South Campus Boulevard going out to US 1, even there… there is no way out from 71A where at the full build-out you now control all of the land that you need to do those improvements, is that correct?

Mr. Riley: The South Campus Boulevard alignment does fall on land controlled by the LLC.

Ms. Kirkman: But it looks like at the very end there it does not.

Mr. Riley: That would be my error drawing that boundary; it does.

Ms. Kirkman: Because on the big site plan we have got it also falls outside of that parcel owned.

Mr. Riley: No scrivener's error there. (Inaudible). It does fall on Potomac Church LLC's property.

Ms. Kirkman: So it will exit out of that property and not out of other properties. So that is your only way out where you control all of the right-of-way.

Mr. Riley: Other than Old Potomac Church Road.

Ms. Kirkman: But we have already established you might not.

Mr. Riley: We may not but we will check on that to see what the right-of-way situation is there.

Ms. Kirkman: Okay, thank you.

Mrs. Carlone: Mr. Chair?

Mr. Fields: Yes Ma'am.

Mrs. Carlone: In 71A, if you go back to one of your other slides, you show the road ending in the middle of 71A. From where it is mid-71A going to the east to Spartan Lane, it says by others. Would by others be starting in the middle of your 71A to do that portion of it? It is a little confusing.

Mr. Patrick: (Inaudible). The right-of-way would be dedicated all the way through 71A

Mrs. Carlone: Okay, so right now you are showing more or less to the middle of 71A.

Mr. Riley: That is correct. There is a area to the east, I am not sure how it is defined, it is not included on any of our exhibits but I believe it is in the application that is being left undeveloped for environmental reasons, but we have identified an alignment through it which we think is feasible. But the applicant is not proposing to construct that, only to dedicate the right-of-way for it.

Mrs. Carlone: So, someone would be building on your property a road, is that correct? If you end where it shows now, you are dedicating a space for that road out to Spartan. Would you or the others, as the map shows, would others be building the road on your property or are you going to be responsible to build on your property?

Mr. Riley: The right-of-way would be dedicated.

Mrs. Carlone: But that is not building it.

Mr. Riley: Correct. This application does not assume construction of that road all the way to the property line, only the dedication of the right-of-way.

Mrs. Carlone: Okay, so then your other maps that show a connection is not necessarily going to be done.

Mr. Riley: It may not but in discussions with staff I think there was a desire to see that connection. It is a logical extension of the interchange over to Courthouse Road and would complete the bigger vision of Courthouse Road realigned, and so we wanted to show that I guess as a concept illustrating that vision.

Mrs. Carlone: I just cannot imagine someone else building a road on your property to facilitate an exit there. I think that is a little misleading. Okay, thank you.

Ms. Kirkman: If people follow this future South Campus Boulevard out to Courthouse Road, we already know the traffic going to the east is pretty minimal. So they are just going to have to turn left and go back up to the intersection that they are trying to avoid.

Mr. Riley: Turn left from South Campus?

Ms. Kirkman: See where you have the future South Campus Boulevard meeting up with Spartan Drive? So once they get there, from your own traffic counts we have already determined most of the traffic is not coming and going from the east, so once they hit that spot the only place for them to go is west back up to the intersection with Courthouse Road.

Mr. Riley: That is true unless some other destination emerges. There is a school there, but…

Ms. Kirkman: What other destination would emerge?

Mr. Riley: That is not our property. It would be speculative at this point to…

Ms. Kirkman: But I am trying to understand the impact this would then have on the intersection with Jeff Davis and Courthouse Road if that traffic is emerging there and just turning left and going back up to that intersection.

Mr. Riley: Well, if I could just go back to the slide with the vehicles per day. You are correct. There is a lower number of trips today to the east. The whole vision of the Courthouse Road interchange reconstruction was to, in some form or fashion, realign Courthouse Road out of this congested area and divert the traffic to I-95 in a more direct route. And, at this point, if the interchange were to be to the south and were to align with our property, then we want to show conceptually what that vision would look like with this newer South Campus alignment. And that is really all. Is it an attempt to divert trips away from this intersection for our property? Not necessarily. Our project attempts to tie into Route 1 and to Hospital Center Boulevard and, again, to paint a picture of other things that may play, other visions that have already been established. I think the Courthouse Road realignment is a vision that has been established, and show those conceptually. It would require a regional model analysis. I am not sure of the level of analyses that have been done by the Courthouse Redevelopment Area study but, to determine the trip diversion, etcetera, would require a gravity model analysis. It is more suited for a Comprehensive Plan update type of study or regional transportation modeling study. This study is more of a microscopic analysis. The trip assignments that we did did not account for that extension, they only accounted for those roads we proffered and showed in the phasing exhibits, the eastern connector, Old Potomac Church Road and South Campus Boulevard. Does that clarify your question?

Ms. Kirkman: Yes.

Mr. Fields: Since our presentation, I asked the question I had wondered I guess have you guys thought about it any more or looked at any more data, when the hospital was proposed and got off the ground, for years before that we were always being told its primary mission was to serve the essentially 70,000 plus people that live in the general Garrisonville area. And it still seems that traffic counts, if that is the primary area purpose of the hospital and generating traffic there, I am still a little surprised that the

largest single count is coming from the south on Route 1. Have you guys looked at that at all any more or thought about that any more since we raised that in the Committee?

Mr. Riley: We have not updated any analyses and again, as I stated at that time, these percentages were defined through scoping. If there is a specific request to do a different level of analysis I suppose we would be open to that. I think this has been thoroughly vetted though through the County and VDOT and deemed acceptable to them. And I think that is about the most I can offer at this point.

Ms. Kirkman: When you are working with County staff, is that Fulton that you are working with?

Mr. Riley: Mostly Sara Woolfenden and Jonathon Schultis. Sara was, for the most part, the representative for Transportation and she is the one that helped us hammer out those issues I identified earlier. The level of service C and that she wanted to hold very tightly to that 10,000 vehicle trips per day before we exceed the threshold for four-lane roads and also some of the discussions about which properties are included and how we accommodate those with the right-of-way.

Ms. Kirkman: And she is the one that has spoken with you about this vision of the Courthouse Road realignment?

Mr. Riley: I do not have the specific recollection of who said what but during the whole process we have had planning staff, we have had Economic Development, Sara, Fulton has been in some meetings, Jon Schultis, Mr. Harvey, Mr. Johnson with Economic Development and everybody has had a look at these.

Mr. Howard: Mr. Chair?

Mr. Fields: Yes Mr. Howard.

Mr. Howard: I think that I attended one of the Transportation Subcommittee meetings and when I did, this presentation was gone over. I know it has changed since then; I think that was back in January. But Sara was there and I thought Sara used the Stafford County or the regional area model that we have that helps us identify what the future growth is and what the future capacity of the roads are, kind of the rate of the roads. And my recollection, if you go back to slide 1B if you do not mind, or figure 1B, is the reason for that future South Campus Boulevard I thought came from us, meaning the County, to allow if people wanted to get off at Exit 140 and avoid Courthouse Road it just gives them that option. So this could be a variety of people, this could be people looking to go to the hospital, this could be people that are residents that live east of Courthouse, these could be people that want to dump off on Route 1 if that connector, that interchange is really built that way, giving us that proposed I-95 connector road. And I know she ran a few models and I know she ran models rating them. And it seemed like the traffic flow and the ratings of these roads got better over a period of time as she ran the model anticipating the growth and the usage of these roads. So, I do not think she used the applicant's percentages. I believe she was using the model that we have used in the past. So, I do not want to speak for the applicant but Mike, you were involved in that too, Mr. Rhodes, so I do not know if you have anything to add to that but that is my recollection. Again, that is going back to January.

Mr. Harvey: Mr. Chairman? I do recall that map. I guess we could have Sara pull it back up. But my recollection was if you added this road into the network it made the overall system go green so to speak around the Courthouse.

Mr. Howard: Yes, that is exactly right. The rating, as we went from an F to like a B or something.

Mr. Harvey: Also, to give a little bit more background as to the Board's Resolution, it has been discussed for quite some time in the staff level that we would prefer to have the interchange come out onto Route 1 somewhere not lining up with the hospital's entrance because the hospital is a big traffic generator and is a significant need to have traffic flow well out of that area because of the critical nature of people trying to get to the hospital, ambulances as well as individuals. So that was part of the rationale of trying to force the connection point for the new interchange further south on Route 1, and also to try to minimize the bottleneck that we have at Route 1 and Courthouse Road because there are a number of historic structures in there and it would be difficult to do major renovations. Part of the seeing is that when this application came along, we saw that there was some opportunity that you could have another parallel road network to Courthouse Road and form sort of a grid between Courthouse Road, Jason Mooney Extended and the Hospital Center Boulevard and also this South Campus Boulevard.

Ms. Kirkman: Mr. Harvey, what have been the discussions about when it turns at Spartan Drive at Courthouse Road, where is that traffic going to go?

Mr. Harvey: There have not been any specifics as far as turn lanes or traffic volume discussions, it has been more or less let's take a look at it from a broad system approach. And Mr. Howard said we kind of ran an overall model to see how it would work when you look into overall land use but we have not gotten into the specifics. Here the trips split from that intersection like the kind of level of analysis that Mr. Riley would do for a traffic study. We have not gotten into that level…

Ms. Kirkman: Is there any discussion of a similar connector running from that point northward?

Mr. Harvey: Not to my knowledge at this point in time. But that is one issue that we see for the Courthouse area is there is still a problem with getting traffic north of Courthouse Road through the wayside area and that whole vicinity. It is a bottleneck in the current condition. So, that will probably end up being something we will have to focus on in the future, again, continuing to discuss how we are going to get traffic around the Courthouse area. This is all sort of a southern type of approach but you are going to have to deal with it north too.

Ms. Kirkman: Because people coming from the north are going to have to go further south to get to the interchange.

Mr. Harvey: Yes. And one of the issues we have with the north area is it is pretty much built up so the corridors you are going to be choosing are going to have a lot more impact and are going to be more problematic.

Ms. Kirkman: And could we get Sara here to show us how this makes everything turn green? Because based on the vehicle counts it seems like the bigger problems are the north/south, not the east/west flow. I would just like to see how this makes everything turn green.

Mr. Harvey: Sure. Again, that is my recollection and we can certainly have Sara come by and provide that. And ultimately it is going to end up being based on the Comprehensive Plan that has been adopted so the model run she did is based on the I guess the latest land use projections that the Planning Commission had, if you recall from back in the winter.

Ms. Kirkman: And could we also get Brad Johnson here from Economic Development to talk to us about what their thoughts are more largely for this area?

Mr. Harvey: Sure.

Mr. Riley: I wanted to clarify one point that may happen depending on the design of the interchange and that is that Courthouse Road, I believe it is the desire of the County for that to remain a through road through the interchange regardless of how the interchange is constructed. But there may be opportunities to construct slip ramps to the new interchange. I do not want to rule that out and I do not want everyone to leave here thinking that everyone to the north would have to pass Courthouse Road and go to the south. But that is a design issue that I believe is still up in the air.

Mr. Fields: Part of the problem with working with this Courthouse interchange is how up in the air it really is. It is such a huge project with such an uncertain future at this point. Though I know what you are saying, the authority to get Exit 136 contained in the reconstruction of the Courthouse it seems mandated and it seems inevitable, but it also seems farther off in many ways. Are there any other questions on this or the Transportation? If not, do we have any other questions in general for the applicant at this time about the proffers or the project as a whole? Thank you, that was again very well done. Thank you.

Ms. Kirkman: Could we get a copy of that PowerPoint please?

Mr. Patrick: You officially have the copy now. Mr. Chairman, thank you for listening to our complicated and detailed presentation. I just want to make a couple of closing comments and then seek your direction as to where we should go from here in terms of finalizing the package for your consideration. With respect to the Transportation presentation that you just heard, we have discussed a lot of issues tonight that have to do with the County's overall plan for that area that is south of Courthouse Road. And a lot of those improvements, I just want to point out, are not mandated or are not required by the development that is proposed before you as a part of this rezoning application. We have done a TIA that provides for a level of service A, I am sorry, a level of service C at all of the key intersections surrounding the property and for the lanes that will serve the property. All of the right-of-way is available to access the property by South Campus Boulevard that we need. With respect to Old Potomac Church Road we just do not know the answer about what right-of-way might be necessary there when we go to re-engineer that road. That road has a sufficient width at this point in time, or appears to have a sufficient width at this point in time, to be upgraded to a commercial cross-section but we need to do surveying, we need to some very detailed engineering, we need to work with County staff and with VDOT regarding the alignments of that road. So, we do not know where that road is finally going to be. But we do know that we can develop incrementally portions of this property and provide an office campus that will support the hospital's needs and be complimentary of the hospital's services to the community and we can phase it in a way so that if we do not have the right-of-way yet that we need to provide a certain transportation improvement, the development does not get any bigger so the impact does not become any larger either. So, we think that through this seemingly complicated phasing program, we have really given you a very simple solution to a problem that you face so often in rezoning applications in that there is not sufficient transportation infrastructure to support the proposal. Well, in this case, there will be because we have promised that we are not going to go beyond certain limits until we have whatever additional right-of-way, whatever additional road construction is necessary, to maintain level of service C. Some of these other roads that we have talked about and that people are concerned about and want to know their potential for solving other issues are roads that are part of the redevelopment plan and were requested of us as we went through the rezoning process. The applicant in this case is dedicating over 10 acres of land for right-of-way for South Campus Boulevard. The transportation generation from this site is not going to require that type of dedication, so just the dedication of land is a substantial contribution toward a public need that

already exists. There were a couple of questions that came up early that I wanted to cover real quickly before asking you for additional direction. You all asked about 15 questions at the last Planning Commission Public Hearing and I attempted to capture them all, I attempted to capture them all, but I missed Ms. Kirkman's question about lighting and we will do that, we will provide in a proffer condition that says that the parking lot lighting will be shielded and downward directed so that it does not glare onto adjoining properties. That would be an amendment to proffer 3g that we have not given to you yet. With respect to the retaining wall setback that Mrs. Carlone brought up as being needing greater clarification, I looked at that in between my last speaking with you and I realize that she is absolutely correct and we need to add some additional words to proffer condition 5c to show that that is a setback from the RPA. With respect to Mr. Di Peppe's comments that we need to make sure that the history is correct in our cultural resources analysis, we agree absolutely and we are going to submit those additional, or those replacement pages, to the staff so that we have the Phase I up-to-date and then we will provide additional information in a Phase II Cultural Resource Survey. Ms. Kirkman asked about the financial analysis of that in support of a statement that I made at the first hearing that the CDA would fiscally be able to support itself. That was getting a little bit ahead of ourselves when I made that statement. The fiscal impact analysis that will have to be done, as a part of the creation of a CDA, will be very, very complex. It will take into consideration all sorts of items that we do not know as of yet, some of them engineering related. But that is a part of that CDA process. If, in fact, the Board of Supervisors would be accepting of a petition to go forward with a Community Development Authority, then we would provide all of those statistics. It would be like a pro forma for a business. We would have to show that it is economically sustainable to increase a levy that would be paid by these property owners in order to help pay for road improvements. But that is, again, getting ahead of ourselves.

Ms. Kirkman: Actually, maybe I was not clear enough. My question regarding the CDA and the revenues for that really had to do with one of the reasons why we support commercial development is that it improves the tax base, the overall tax base, of the County and that the tax revenues generated from the project go into the General Fund. The problem with the CDA is that the tax revenues no longer go into the General Fund, they go into the CDA.

Mr. Patrick: I do not believe that is correct; I believe that is incorrect.

Ms. Kirkman: And that is why I wanted to see that economic analysis just to see that once funds went into the CDA there would still be funds to support the General Fund of the County, not just the CDA for this project.

Mr. Patrick: That is correct. But that is why, when I said it just a moment ago, when we were getting ahead of ourselves, we included the language in the proffers about being cooperative in terms of being a participant in the CDA because it was brought up at an early meeting about how can we come up with an alternative method of funding transportation improvements, realizing that the State of Virginia has its limited capacities as well as the County. And so, we understood that we were being asked to say that we would cooperate with a CDA if one was created. And that is what our proffer says. So, all we want to do at this point in time is to say that we will cooperate with a CDA if that is the way that the County steers us. That is not an obligation that we are seeking from the County through our proffered conditions at this time. It is an obligation that we are offering to you if you all think that that is a benefit. It is assuring you that Old Potomac Partnership will actually participate in some sort of alternative funding mechanism if the County sets that up. But it is not our intention to set that up at this point in time. In terms of economic benefit to the County, we have done a very simple calculation because it is easy to do and we have not been aggressive about it and we have not tried to figure out how much we would get from sales tax revenues or any of those things that people sometimes debate

in terms of a fiscal impact analysis. The simple analysis that we have done is it costs about $300,000 a square foot to build a finished an office building. And at $300,000 per square foot times the half million plus square feet that is proposed in this application, the tax revenue from that would be $1.3 million per year based on Stafford County's current tax rate. So I think that is the plain and simple economic benefit. I think the true economic benefit is going to be much higher than that, because you are able to put in your BPOL tax and all of those other things. But we are not even going to try to do that because it just becomes complicated and we want to keep it simple at this point. So, we think that it is very conservative to say that there would be a benefit of $1.3 million per year in terms of plain and simple real estate tax revenue. And I think it is also very evident that this type of development creates jobs for people in Stafford County and I think that is one of your goals and one of the goals of our client as well. So, that is not exactly answering your question but I think that the economic benefit is clear.

Ms. Kirkman: And is that the extent of the economic impact analysis that you have done?

Mr. Patrick: Yes, it is. We think that is the plain and simple fact, the bottom line, and this CDA would require a more detailed type of economic impact analysis and I think that is why we have confused things. Through trying to indicate an attitude of cooperativeness, we have introduced another facet that we did not intend to introduce. We will participate in alternative funding if the County wants to do that but right now we are not prepared to prepare an application for a CDA and the fiscal impact analysis that goes with that. Mrs. Carlone asked about metal panels in the architecture and I took a moment to take a look at that and make sure we had not overstated it in some way and left the impression that we are talking about building butler buildings or all steel buildings. What we were thinking of is the steel panels that you see in Stafford Hospital. It would be one of the elements of the construction of the building and, if you remember what Stafford Hospital has, it is mostly brick. But then under the windows and around certain rooftop features they have steel panels. And that is simply the kind of architecture that we are talking about.

Mrs. Carlone: Okay.

Mr. Fields: I had a question; this is not only for the applicant but for staff as well. I am trying to remember, it has been so long since I have seen a large reclassification like this. The section on condemnation; is that fairly standard? That codifies in this that the County will participate in condemnation for right-of-ways?

Mr. Harvey: We have had it in a number of other cases

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

Ms. Kirkman: I actually have one related to the condemnation question. So, basically what this says, if I am understanding it correctly, is right-of-way has to be required by the applicant and the applicant cannot reach agreement with the landowners about acquiring that right-of-way, then the applicant will prepare certain materials and once the County receives those materials, the County will make a decision about whether they will use their power of eminent domain to seize the right-of-way. And then it concludes with if the County or VDOT does not use eminent domain to take the right-of-way, then an alternative road design that does not require right-of-way condemnation shall be permitted under this proffer. What other alternative road design would that be?

Mr. Patrick: The example that we have tried to use for that in the past is that there may be an instance where we need to get a right or a left turn lane and the right or left turn lane might normally be

required to be 12 feet in width. And, because we are not able to get additional right-of-way, we would ask VDOT if they believe that it can be safely designed as 11 feet in width. VDOT, very frequently when they are doing their own road construction, allows for those types of modifications. They make a conclusion, they make a decision that the design is safe, and that is always the first threshold that has to be met. So, VDOT would have to conclude that whatever modification that we ask for, like a reduction in lane width, would be safe in that particular instance if right-of-way could not be purchased or was not available in some other way.

Ms. Kirkman: And then why is your client not proffering to build all of the boulevard through their entire property up to their property line?

Mr. Patrick: South Campus Boulevard is not needed to maintain Level of Service C for the development that is being proposed. And the additional dedication that goes beyond the entrance to the developable area of parcel 71A is being offered as a benefit to the citizens of Stafford County. It is additional acreage that would be dedicated and that the road construction just is not necessary to support this project. It is more purely a regional road. What it does is it allows drivers to spread their traffic over different intersections and have different alternatives in the event one intersection fails or another or if there is an accident in an intersection. It creates alternatives that people can use and, while those may not be always necessary when you do the modeling, the traffic in this instance would be purely pass-through. It would be coming from somewhere to the east of the South Campus project and it would be going somewhere to the west, most likely the interchange to the west. And if you only have one opportunity for that sort of movement and there is an accident or there is something that happens that slows traffic or delays traffic, we all see everyday what happens, like with I-95. When I-95 is flowing well it does very well. If there is an accident on the road then the traffic has no alternative and it starts backing up all over.

Ms. Kirkman: So, part of that 10 acres that the applicant is proposing to proffer for right-of-way is an area that is unbuildable and that is why the applicant is not building there, is that correct?

Mr. Patrick: Some of it is not buildable. Some of it is buildable. He had to pay for all of it and so it is being dedicated to the County for public right-of-way for that through movement that we are being told by the County that they would like to have as alternative and to handle existing traffic.

Ms. Kirkman: Thank you.

Mr. Fields: Are there any other questions? Alright, where do we want to go with this? Do we want to take all this in for… we do not want to stall this unnecessarily but we are not under a crushing deadline. Do we want to take a little more time and make sure that everybody understands this and is comfortable with it?

Mr. Mitchell: At some point I would rather move this on. To me, it is a good commercial development, it does not affect our schools, it will help our roads. We can beat this thing for the next six months but I think we are wasting our time. To me, if there is any finality that we can bring to it tonight, what information do we need to extract from them. I think they will gladly bring it but I think we need to push this ahead at some point. We have spent an inordinate amount of time on this project and I realize it was needed because it is a good project. But, if the Board has an issue that is a problem, let us bring it up tonight and have them bring the information to us. I would like to act on it in the next thirty days.

Mrs. Carlone: Excuse me. Didn't we say that Mr. Johnson and Sara Woolfenden were going to answer some questions or make a presentation? Did I hear that?

Mr. Fields: Well, those are ideas that we floated out.

Ms. Kirkman: And also the applicant is going to be preparing some additional proffer language regarding lighting.

Mr. Fields: Okay. Well, we can accomplish that… our next work session is the SPCA which I think is going to take up all the time.

Ms. Kirkman: We can meet your thirty days by bringing it up at our second meeting in June and maybe we can work with you and the applicant on any… as we get a chance to, like I want to work with you on the PowerPoint slides. That is a lot to take in.

Mr. Mitchell: I know, it is, but I do not want to see… we are talking $1.3 million in tax revenue, we can delay this one year and we can delay $1.3 million.

Mr. Fields: I think we are all with you Mr. Mitchell. I think I would like to move this. I do not want to delay it. There are a couple questions. Since we will probably have one more crack at this, there are a couple things I want to ask and I hope you just take them in the spirit that I am negotiating them on behalf of the County and I think this is a great project and I am excited about it. A couple of things I want to ask; they are a little bit unusual, but I just want to raise them with the applicant so we can think about them over the next couple of days, in terms of proffers. I think you have done a great job with this, I appreciate all the things that you are doing. But in the final analysis, and I mean this with all due respect, all of your transportation proffers are what is adequate to serve your development and the other property that you own, and I understand that you are doing a little above and beyond to make sure that they work with the network and I appreciate that. I would still like you to consider, and I am not looking for an answer tonight, I am just going to put this on the table that you still consider the possibility of in some way working on that extension out the eastern end of the property. I say this for a couple of reasons; you already control, and it could be partly just right-of-way but at your property line, I understand that is the end of your property line and you cannot proffer, but you have a couple of other things that you are putting in proffers that go across property that you currently do not control, so you anticipate that you are going to have to negotiate some right-of-way acquisition. I think, as we talked about in the Transportation meeting, and again I am not putting you on the spot or looking for an answer tonight, I want you to consider this, I think, and like I said I do not mean this in a confrontational way, but since your other property that you controlled was zoned from industrial to commercial by the Board of Supervisors, none of these discussions that we are having now will ever have a chance to have on that property. There will not be any proffers; there will be transportation impact, whatever is required by the Code and 527 and I know you guys are high integrity, high quality people so you are going to do everything that is required of you. But the opportunity, this is exactly one of the reasons why I was not particularly happy with that is it takes away the ability for the public and the Planning Commission and the Board then to shape the final outcome of that property. And I would submit that since you basically got a rezoning, I know this one is costing you a lot of money, I see all these people here and they are not doing this because they are volunteers, I know that, that you are paying for all this and that is great and I respect that, but you do not have to do that on that other property. And I would submit that the ability to acquire additional right-of-way out of the eastern edge of your property, that Spartan Drive, that is School Board property or County property really, the parcel that it crosses we established this in the meeting. That one parcel between the edge of your property and the Spartan Drive which is the County's property, is Stafford's Recreational Soccer

League property, I can guarantee you that they would love for somebody to make them an offer on part of their property. That property has even been talked about as having… obviously we have had numerous discussions so there is a public interest component to the destiny of that property and I think to simply say that that is completely beyond the scope of this, you are well within your rights to do this and, like I said, I really respect where you are coming from. But I would like to put on the table, in the interest of trying to get the very, very best possible deal, because like we said we all think this is a great deal. It brings jobs, it brings tax revenue, we are all excited about it; nobody thinks badly about this project. But with all due respect to our position, the County and the citizens of the County, on rezonings like these we get one shot for the rest of all time in getting everything, all the pieces of the puzzle in place and I know you recognize that too. So, that is one thing I would like to recognize. Another thing, and this is a completely new concept, I have not even talked about it with anybody, but it is something I have been thinking about and again, I am just offering you something to think about, I do not even know how you would articulate. We talked a lot about the issue of affordable housing in this County but I would like to bring out something that we have not talked about is equally is important is affordable office space. And I think I have a sensitivity to it as both myself and my wife are self-employed independent entrepreneurs and I know many people who are. The acquisition of affordable office space in this area is extremely difficult. I mean the cost of commercial real estate is very … this is of course going to be primarily medical offices and a lot of people or a lot of shopping centers that are franchises, I mean that is great if you are a powerhouse like Mr. Howard's company and can afford to pay whatever the market will bear but when you are independent…and at five hundred and some, a quarter of a million, office space that is a lot to do. As another sort of proffer or dedication for the community, and particularly for the economic development of the community, the idea that you might dedicate and think of a way of maybe dedicating or setting aside some space that you might literally be kind of a little bit below the market value but in the spirit of, and it does not have to be right up front, but at the end of a half a million square feet and I know that is not net area but let's say even four hundred thousand net leasable square feet in this I think it would be nice to come up with an idea that some of that might be accessible to people that may be on a smaller scale but still very much engaged in entrepreneurial activities that yield benefits and revenue to the County. So that is sort of a way out of the box idea that is just something I would like to throw in there. We have not been asking but I think it is really, in some ways it is as much of an issue as the affordable housing issue is in that I think we want a County that ultimately everybody is welcome in. And certainly anybody that is willing to risk themselves and their economic well-being on being an entrepreneur and being in business for themselves deserves some kind of consideration. So, that is just something for your consideration as we move towards a conclusion. Two things again, not looking for a response tonight; just think if those are things you can think of a way to make part of your plan. Yes Mr. Di Peppe?

Mr. Di Peppe: One other thing. It has been three years working on the Comprehensive Plan and I would like to put one other thing on the table. I do not know if you can do it but it would be important. The center of our County runs directly over aquifer and we have a problem with getting ground water back into the aquifer and I was wondering if you would take a quick look and let us know if it is possible to do pervious parking lots.

Mr. Fields: For lower use levels.

Mr. Di Peppe: Yes, for lower use levels. Anything along that line would get more of our ground water back on our aquifer and that would be a great benefit, so if you could look at that and see if it is possible if the cost is not too great. I know we have had other rezonings come forth and offer to do it and I would like you to look at that.

Mr. Fields: I think actually some of our new LID requirements almost require that you come up… I believe the new LID requirement is technically, even on five hundred and some thousand square feet of office, that you re-infiltrate every drop of rain that falls on land.

Mr. Di Peppe: And a good way to do it is pervious parking lots.

Mr. Fields: I agree. And there is a lot of considerations there.

Ms. Kirkman: I have one thing, actually it is not a question. I did want to point out to the applicant that under our submission requirements for rezoning, you are required to do a bit more extensive economic impact analysis than the back of the envelope we got tonight that looks at both tax revenues as well as public expenditures. So, technically speaking, we probably should not have gotten this application without that and I hope you all will prepare that for the next meeting.

Mr. Fields: Alright, so Mr. Mitchell, would you like to… we are not trying to tell you what to do but I guess we are kindly respectfully requesting that we defer this to the second meeting in June?

Mr. Mitchell: Mr. Chairman, here is my issue tonight. I want to see this brought to fruition. If someone has a concern, if any person on this Board has a concern, please place it tonight. I do not want them to come back in two weeks or three weeks or four weeks and say oh by the way, we have these other six concerns.

Mr. Fields: Absolutely.

Mr. Mitchell: If we have to have them, let us talk about them tonight. If they are not there, let us give them a final shopping list to bring back to us.

Mr. Fields: That is correct.

Mr. Mitchell: With that said, Mr. Chairman, I would like to defer this to the second meeting in June.

Mr. Howard: What is the date of the second meeting?

Mr. Harvey: It is June 17th.

Mr. Howard: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Motion carries. Thank you very much folks for your time and, again, please understand I think everybody wants this to succeed, we are just making this work for everybody. Thank you.

4. 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) (Deferred at May 6, 2009 Work Session to May 20, 2009 Work Session)**

Mr. Fields: Next, Conditional Use Permit, Virginia Paving Amendment. It was brought forward onto this evening from the afternoon work session as amended to include the language regarding the five year review. So, with that in mind, it is in the Rock Hill District so, I know Mr. Howard does not really support that but he has the privilege of making the motion here.

Mr. Howard: No thanks.

Mr. Fields: No thanks? Okay. Would somebody like to make a motion for the amended Conditional Use Permit?

Ms. Kirkman: I move to recommend approval of the CUP application as amended.

Mr. Fields: Is there a second?

Mr. Di Peppe: Second.

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

Mr. Mitchell: Just for the record, I feel in the bottom of my heart we are setting a dangerous precedent with this type of come back in five years or come back in seven years or whatever it is. I think if the signs on the north end and the south end of the county say business community, if they say that and mean it, I think this is a bad precedent. If we do not mean it, let's call VDOT and have them take the signs down. To me, we are setting a tone for all business men and women who watch this meeting tonight will be concerned that, wait a minute, does Stafford really want to do business with us. So I will be voting against it tonight because of the five-year proviso, not because I have any issue against the company.

Mr. Fields: Understood. Mr. Rhodes?

Mr. Rhodes: I am concerned that we may not know what we are really getting into. We are setting up a situation where somebody continues to do business, invest in their capability and capacity, and leaves them open-ended in five years. I have seen too often on Military installations and other locations where people moved in, there were airports, there were airplanes, there were noises, there were things going on, but they chose to move there. And then later on they decide to complain even though those were all existing conditions. There is nothing to say that people will not start to move in and do other things or now decide to complain and they have invested their capacity. People will invest in their

business and grow there business based on the conditions they have and I think we are going down a path that may not be well enough thought out. If we want to set up a process whereby our CUPs always have a review and a renew, we have got to change our complete process versus just throwing this one out here. We ought to go back and look at the fundamentals of our system and base our changes on an open and deliberate review of the fundamentals of our processes versus pulling this one out here. Thank you Mr. Chairman.

Mr. Fields: Certainly. Mr. Howard.

Mr. Howard: Along the lines of Mr. Rhodes and Mr. Mitchell, I also want to point out, as I indicated in the work session, that we have rules and regulations in place that allow us to revoke CUPs, which the County has a history of doing, when the CUP is violated, when the conditions are not met or kept up. We also have Zoning Ordinances which allow us to enforce rules and regulations. You can argue if the decibel zoning noise ordinance is not effective then we should change that. We should find a better way to measure the noise so that it meets the needs of our entire community, both business and residents alike. It is for that reason that I am going to make what is called a subsidiary motion which is not a substitute motion. This is a subsidiary motion which the purpose of this is to change the effect of how this motion is being handled or voted on. I make the following subsidiary motion, using Ms. Kirkman's draft that she presented at the work session all the way up through the following sentence, so everything prior to that should be included. "Should any one of the above holidays fall on a Sunday, the following Monday shall be considered a legal holiday." And then the following change, "commencing from the approval of this CUP, the owner of the subject parcel may operate an asphalt plant during nighttime hours Sunday, beginning at 7:00 p.m., through Saturday, ending at 1:00 p.m., up to 120 calendar days per year. In all instances, the property owner will operate within Stafford County ordinances as well as all applicable State and County codes and zoning regulations. Additionally, the property owner will submit a quarterly report to the Zoning Administrator providing information that shows the calendar days the asphalt plant operated during the extended hours."

Ms. Kirkman: Mr. Chair? I would like clarification from our Parliamentarian about what rule that is and how it operates…

Mr. Howard: You need a second to continue.

Mr. Fields: Is there a second?

Mr. Rhodes: Second.

Mr. Fields: Okay. Yes, question for clarification?

Ms. Kirkman: And what the difference is between a subsidiary motion…

Mr. Howard: They are virtually the same.

Ms. Kirkman: …a motion to amend and a substitute motion.

Mr. Howard: It was to get someone irritated.

Mrs. Roberts: This is the first time I have experienced this motion.

Ms. Kirkman: Okay.

Mr. Howard: I can pass down the regulations to counsel if Ms. Kirkman would like.

Mr. Fields: You can always count on Mr. Howard and Ms. Kirkman to enlighten us on parliamentary procedures.

Mr. Howard: It was designed by me intentionally to rally the troops. It is really the same as a substitute motion.

Ms. Kirkman: What does it mean "it affects how a main motion is handled"? What do you mean by that?

Mr. Howard: It means we have to dispose of this motion before we go back to the original motion.

Mr. Fields: Which is kind of like a substitute motion.

Mr. Howard: It is pretty much identical, I just liked that word better.

Ms. Kirkman: Well, no, it has to have some technical difference.

Mr. Howard: It may or may not, I do not know.

Ms. Kirkman: Should we allow our counsel to work on that? We have the net buildable. Jamie went and got the language.

Mr. Fields: Well, we have got this on the floor. Let's go ahead and do it. Does anybody have any burning parliamentary questions before they vote on this subsidiary motion?

Ms. Kirkman: Well, yes. I want to know what a subsidiary motion is and how it differs from a substitute motion, because obviously there are technical differences.

Mrs. Roberts: Here it says the concept of a secondary motion serves as starting points for the division of the motions into the different classes.

Mr. Howard: In this case, I am making a subsidiary motion to change the actual meaning of the original motion.

Ms. Kirkman: But that is a motion to amend.

Mr. Howard: Which is the same, it is a different word that is allowable under Roberts Rules of Order.

Ms. Kirkman: So you are making a motion to amend.

Mr. Howard: I made a subsidiary motion, Ms. Kirkman, and from this point forward I will address the chairman.

Ms. Kirkman: Well, Mr. Chairman, I am going to need to know, from our Parliamentarian, what the difference is between a motion to amend and a subsidiary motion because obviously there is some distinction there that is important.

Mr. Fields: Okay.

Mr. Rhodes: And that can hold up the process?

Mr. Howard: Well, my understanding is we cannot do anything until the discussion is finished and this is voted on.

Mr. Fields: Okay, let's take a five minute break until we do that.

BREAK: 10:00 p.m. to 10:07 p.m.

Mr. Fields: Back in session. Mrs. Roberts?

Mrs. Roberts: Whatever Mr. Howard was calling it I do believe it is the same thing as a motion to amend and it takes precedence over the original vote.

Mr. Howard: Right, and that is the intent, to amend the motion, to bring clarity.

Mrs. Roberts: And I learned a new word today.

Mr. Fields: We all did.

Ms. Kirkman: Also, as a point of order, we clarified that subsidiary motions are a class of motions, not a specific motion. Is that correct?

Mrs. Roberts: Yes, the class of motion which goes ahead of the primary motion.

Ms. Kirkman: So, essentially, what we are dealing with here now is a motion to amend the primary motion.

Mrs. Roberts: We are dealing with parliamentary procedure after 10 o'clock at night. That is not too wise.

Mr. Fields: Okay, so the subsidiary motion to amend the primary motion is on the floor.

Mr. Howard: It was seconded already. So we are up to discussion since I made that motion.

Mr. Fields: We are up to discussion and you have the privilege of being first.

Mr. Howard: Thank you. Just to reiterate some of the points, I think that we are underestimating the impact to this particular business. I am not sure why the applicant did not get up and articulate. I do not know what level the applicant is in the organization that was here this evening but typically when you are going to expand your business you are going to require some financing or additional financing or refinancing. And if they do get some of the contracts that are on the table, they are large contracts, they are going to require human capital which are people and business capital which are actually assets that you will either purchase or upgrade or do what you have to do. Very few banks will entertain a five year deal. In fact, most businesses have to write off assets over a ten year period of time. So to think that a business in Stafford County can expand their hours of operation to meet the needs of their new projected business plan, and only work in a five year window, I do not believe is realistic. It is going to add hardship to that business. I do not understand why we want to do that when we have

other regulations and rules in place that allow us to revoke that CUP. So, I do not think it is reasonable for the request. I certainly understand where it comes from, why it is on the table, and the intent or the spirit. But the fact that the County has a history of revoking CUPs, we have a history for enforcing zoning ordinances and I agree with Mr. Rhodes, this is not the right avenue to pursue. If we want to change other CUP processes handled in Stafford that is what we should work towards. But to do it to this one applicant and require an arbitrary number of five years, which means nothing to anyone here in the Planning Commission, in the business community, or the residents of Stafford County, it is an arbitrary number that I believe we will be challenged with in many different ways to come. So I would ask you consider my amended motion.

Mrs. Carlone: Adding those riders to being more specific about the reporting certainly has helped because that is a major concern of ours because, I hate to say it, lack of enforcement sometimes on these ordinances. All of us are concerned and maybe this is not the way to go, I do not know, but because of the additions that you added I will be in favor of it.

Mr. Fields: Anybody else? Ms. Kirkman.

Ms. Kirkman: Mr. Chair, I actually would like to add that the five year period is very thoughtfully chosen. It is based on the fact that we revise our Comprehensive Plan every five years. I made the motion in the work session and support the primary motion without the motion to amend because I think what we have worked very hard to do here is to balance the needs of business with the needs of the community residents. So that is why I am going to oppose the motion to amend.

Mr. Fields: All right, any further discussion? Mr. Mitchell.

Mr. Mitchell: I will say one final thing and then I will be quiet on the subject. I believe if I were the business personally I would challenge it in court. That is just me speaking personally. I believe we are singling out one business and setting a precedent that we will live to regret if this motion passes with the proviso of the five year recheck. And, in essence, it could be a business ender for a company for some unknown reason if, at the end of five years, whatever technicality happened, it could shut down a business. So I think we are doing a disservice to Stafford County.

Mr. Fields: All right. I think this has been an interesting and well done… first I would like to congratulate all the Planning Commission. I think we have done a very thorough job on this issue, brought every perspective to the table and looked at everything in detail and I think that is good when we do that kind of work, no matter what the outcome is I think the process is well-served. My feeling, I think, of sticking to my original opinion of the five years as reasonable is based on the fact that both arguments, and this is the quality of the debate we are having here, both arguments, both sides of this argument are extremely rational and there is nothing irrational about them. They are all very valid points, both sides of the argument. What I think is important in my mind to understand is that both sides of the argument, a pro or con that I have heard articulated tonight, are based to a certain degree on both sides on assumptions about what could or could not happen in the future. So, the business could or could not be hampered by this. It is a rational possibility, we do not know for certainty. It could send a bad message to business, it could not. That is a rational possibility, we do not know the outcome. The business could change, could operate, as it does now with excellent ownership and leadership and not be a problem or it could change hands, but we do not know that for a fact. From my perspective that is also just like the downside of being punitive business, the downside of a very well run business, a lot of what is good about this business is sheerly the good will and result of the ownership, not part of any regulatory framework that we currently have or could even impose legally. And so, I am also making a speculative vision to the future, it is just as rational as the other side. We

are all attempting to imagine certain scenarios that could or could not play out in the future and that is really the best we can do. Nobody can know for certainty what the outcome of any of these are, we can all have our opinions. And the final analysis, what sways me is that the fear that a very well-managed responsible member of the community could, for whatever reason, change hands and then a person without the same level of integrity and commitment to Stafford could operate and, without any periodic review, it could go from a very well benefit to the community to a detriment, so that is still where my opinion stands on that.

Mr. Rhodes: Mr. Chairman? While I will vote for the modifications that Mr. Howard articulated, I just wanted to highlight the point that I thought… I think the staff did a tremendous job in trying to work alternatives to address the issues that were raised the last time we discussed this. And I would also like to thank Ms. Kirkman for her efforts to try and make sure that we had together all components of those elements that were discussed the last time we met. I think it was a tremendous effort in the professionalism of all to try and develop those types of compromises to get to a certain state. Thank you.

Mr. Fields: I agree, Mr. Rhodes. Well said.

Mrs. Carlone: Just real quick, I know it is late. Just for staff, if we could look at some manner for everybody in a CUP to have a review period after so many years.

Mr. Fields: All right. I think we can move on. The vote now is on the subsidiary motion to amend the primary motion as articulated by Mr. Howard. That is what we are voting on. All those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: All those opposed?

Mr. Di Peppe: No.

Ms. Kirkman: No.

Mr. Fields: No. The motion carries 4 to 3.

Ms. Kirkman: No, wait. The motion failed 4 to 3.

Mr. Fields: Oh, did it? I am sorry. Did Mrs. Carlone vote no?

Mr. Rhodes: She voted yes.

Mrs. Carlone: I voted yes.

Mr. Fields: She voted yes.

Ms. Kirkman: You are voting in favor of removing the amendment that you said you wanted…

Mr. Rhodes: She is voting in favor of the modified amendment stated by Mr. Howard.

Ms. Kirkman: So, which removes the review period.

Mrs. Carlone: The reason I am doing this is because they changed the wording and secondly we are not doing it across the board.

Ms. Kirkman: Well, then I think we need legal to provide the clarification you started to about why we cannot do it across the board.

Mr. Fields: Well, we are voting the subsidiary motion.

Mr. Howard: She can still ask legal the question but the vote is done.

Mr. Fields: The vote is done, so the motion as…

Ms. Kirkman: No, I would like to hear the legal explanation about why we cannot impose a time limit on every CUP that comes in front of us.

Mrs. Roberts: Because then you are dealing with a use. Here you are dealing with just the hour of businesses and you were not putting them out of use. Once you grant a Conditional Use Permit, unless one of the conditions are violated, you cannot decide in five or eight years that you want to stop that use.

Mr. Fields: There you go.

Ms. Kirkman: So, the effect of voting in favor of Mr. Howard's motion to amend is that we remove the review period.

Mr. Fields: That is correct.

Mrs. Roberts: I did not hear all the text of his amendment.

Mr. Di Peppe: He substituted some other language but he did, as far as I understand, he did remove the review period.

Ms. Kirkman: Yes, he removed the review

Mr. Fields: Yes, he did. He removed the review period entirely.

Mr. Di Peppe: I think we are clear on what happened.

Ms. Kirkman: I just want to make sure everyone who voted in favor it is clear that that is what they voted.

Mr. Fields: They are all clear on that.

Mr. Howard: But we kept the number of days, the 120 days, and all the other stipulations pertaining to the CUP.

Mr. Fields: Plus he added language.

Mr. Howard: Plus I added language about zoning and also laws that we could revoke the CUP.

Mr. Fields: Correct. All right, moving on.

Ms. Kirkman: No, we have to vote on the main motion now.

Mr. Fields: I thought last time we said that once we vote on the subsidiary motion you have disposed of the whole motion.

Mr. Howard: Or the amended motion.

Ms. Kirkman: No, you do not. All you did was you moved to amend, which now the amendment has been made, now the vote is made…

Mr. Howard: No, it was a substitute motion.

Ms. Kirkman: It was not a substitute motion, it was a motion to amend.

Mrs. Roberts: It was my understanding that they accepted Mr. Howard's amendment so therefore it was accepted…

Ms. Kirkman: We have to vote on the primary motion now.

Mrs. Roberts: No, there is no…

Ms. Kirkman: He made a motion to amend the primary motion…

Mrs. Roberts: Which passed.

Ms. Kirkman: We have never voted on the primary motion.

Mr. Fields: We did not vote on both things before.

Ms. Kirkman: And that should not have been done that way. Look at Roberts Rules, that is why it is called a subsidiary motion is you vote on the subsidiary motion first to amend the primary motion.

Mr. Fields: Let's just do it, it is 10:20.

Ms. Kirkman: It is important because I cannot vote in favor of the main motion if it does not include a review period.

Mr. Fields: We voted no. I do not see how the outcome is going to be different, but if that is absolutely required under Roberts Rules we do not want to be in any way inappropriate.

Mrs. Roberts: I thought Mr. Howard's motion amended the original motion and then it took care of it by voting in favor of it.

Ms. Kirkman: I would like the Parliamentarian to look at this point of order. When you make a motion to amend it then changes the primary motion. Then you vote on the primary motion.

Mrs. Roberts: Which was the motion to amend which passed.

Ms. Kirkman: No, the primary motion was the motion to recommend approval to the Board of Supervisors.

Mrs. Roberts: I am sorry. I thought he was approving it with the language.

Mr. Howard: I was making the same motion but I changed the language which did change some of the context of the motion.

Ms. Kirkman: You made a motion to amend the primary motion. The motion to amend the primary motion passed 4 to 3. Now we need to vote on the primary motion.

Mr. Howard: We did. The substitute motion was the primary motion. If that failed then we would go back to the main motion.

Mr. Fields: Right. I do not see the distinction that would be different from a substitute motion where the substitute motion passes and that disposes of the first motion.

Mr. Howard: If that motion did not pass then we would definitely go back to the main motion and we would have voted on that.

Ms. Kirkman: All you have to do is look at Roberts Rules.

Mr. Fields: There is a symantic discrepancy between conceptually between understanding did we vote on the CUP in its entirety as amended or did we make a vote to amend the motion.

Mr. Howard: It was the entire CUP with the change in language that I articulated verbally.

Mr. Fields: Right. That is what Mr. Howard says we were voting on and he articulated.

Mrs. Roberts: That is what I thought but if there was a misunderstanding of what the voting, I do not see how it would hurt if you did vote on Ms. Kirkman's motion.

Mr. Fields: If you still want to vote on the primary motion as amended, we can certainly do so. If you guys want to do that and we might as well settle it once and for all and move on. So, do I have a motion for the CUP…

Ms. Kirkman: It is already on the table.

Mr. Fields: It is already on the table, as amended, as we voted.

Ms. Kirkman: Yes.

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

Mr. Howard: What are we voting on?

Ms. Kirkman: The motion on the table is the primary motion that I made as amended by the motion to amend.

Mr. Fields: This motion is the primary motion which is to… well, the primary motion is to recommend approval and now with the hours of operation issue as amended by the previous vote. So, we have it moved and seconded? And it is on the floor. All those in favor of recommending…

Mr. Di Peppe: You ought to make sure. Cecelia moved and who seconded?

Ms. Kirkman: So, I moved, I think you seconded Mr. Di Peppe, then Mr. Howard made a motion to amend. That motion to amend was approved and now we need to vote on the primary motion.

Mr. Fields: Right. The primary motion as amended by the previous vote.

Mr. Howard: As amended by Mr. Howard's amendment because Ms. Kirkman amended it as well.

Mr. Fields: That is correct. So, all those in favor of recommending the Conditional Use Permit as amended by Mr. Howard signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Howard: Aye.

Mr. Mitchell: Aye.

Mr. Fields: Opposed?

Mr. Di Peppe: No.

Ms. Kirkman: No.

Mr. Fields: No. Alright. Interestingly, the outcome was exactly the same.

5. <u>SUB2800444; Fair Havens, Preliminary Subdivision Plan</u> - 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) (Deferred at May 6, 2009 Work Session to May 20, 2009 Regular Meeting)**

Mr. Fields: Alright, Fair Havens Preliminary Subdivision Plan. Mrs. Carlone? We deferred basically Fair Havens and Reservoir due to your absence last time out of respect for the integrity of the Hartwood District Commissioner.

Mrs. Carlone: Thank you very much.

Mr. Fields: You are very welcome. And I assume you are feeling better now.

Mrs. Carlone: We did have a meeting and the Fair Haven people did eliminate the major troubling aspect of this was the placement of a driveway going across someone else's property. And then plus there were some questions about the septic field. They did go ahead and agree to eliminate the property line between 18 and 19 and also the septic fields they made the one that bordered two of them on different properties as reserve. They did also respond to Ms. Kirkman's questions about the length of the road. I think that was resolved.

Ms. Kirkman: The questions was not about the length of the road. The question was about the block length and it is important to distinguish between the two because there is often confusion.

Mr. Fields: About the block length.

Ms. Kirkman: Yes.

Mrs. Carlone: Alright, I make a motion to recommend approval to send this forward to the Board of Supervisors.

Mr. Rhodes: Second.

Ms. Kirkman: Excuse me, point of order. This is a preliminary subdivision plan, it does not get sent to the Board of Supervisors.

Mr. Fields: Moved by Mrs. Carlone. Seconded by Mr. Rhodes.

Mrs. Carlone: Okay, excuse me. I make a motion to approve SUB2800444, Fair Havens Preliminary Subdivision Plan.

Mr. Rhodes: Second.

Mr. Fields: Moved and seconded by Mr. Rhodes. Any further discussion? I appreciate you, Mrs. Carlone, taking the time to work this out.

Mrs. Carlone: Thank you.

Mr. Fields: If you are happy with it, I am sure I will be happy.

Mrs. Carlone: Well, not…

Mr. Fields: I think it chokes all of us to have to approve three acre lot subdivisions. It is hardly my view of a sustainable future, but we are kind of where we are with that. All those in favor signify by saying aye.

Mr. Di Peppe: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Ms. Carlone: Aye.

Ms. Kirkman: Aye

Mr. Fields: Aye. Opposed? Okay, the motion passes 7 to 0. Alright, we have to carryovers as I recall from the work session. The electronic sign ordinance and the reservoir protection ordinance.

Ms. Kirkman: And the net buildable.

Mr. Fields: And the ag...

Ms. Kirkman: I mean the agricultural lot yield.

Mr. Fields: Lot yield we were still looking for information on. Do we have that now?

Mr. Stepowany: Mr. Chairman, I apologize for the misunderstanding. Mrs. Roberts did send me the email but it was after the memo was already prepared and already to be submitted, so in the memo we said that we would discuss this further and then bring it back at the next meeting. But she was somewhat prepared for tonight. She had a concern about the definition of parent parcel and in the proposed Ordinance which was very similar to what was modeled after Spotsylvania which was an area of land specifically identifying the dimensions and/or boundaries as shown in the records of the Office of the Commissioner of Revenue as of a specific date. She recommends parcel or tract of land which existed on and then we put the actual date and which could be divided into more than one lot pursuant to the County's Zoning and Subdivision Ordinance. So that is her recommendation. And staff would be more than willing to make the change to the definition to make it more consistent with what Mrs. Roberts recommends.

Mr. Fields: Any questions of staff?

Ms. Kirkman: When you say put in the specific date, you just mean the date that the Ordinance is passed?

Mrs. Roberts: The date where it cuts from the parent parcels.

Mr. Harvey: In the other regulations, you look back in time to say okay, we are going to start from say 1974, the parcels that existed in 1974, you look at the cuts from that time forward.

Mr. Fields: So just saying specific date, is that to be determined at a future time?

Mrs. Roberts: That will be filled in.

Mr. Stepowany: Her recommendation is not to say specific date but to have an actual date.

Mr. Fields: To have an actual date.

Mr. Stepowany: To have an actual date.

Mr. Fields: So, do we have a thought for the actual date?

Mr. Stepowany: No.

Mrs. Roberts: It would be (inaudible) unless you want to make it sometimes you do it the date of the Ordinance or sometimes you do thirty days from…

Mr. Fields: Well, they have also done these things retroactively.

Mr. Stepowany: Just for your information, Fauquier County in the sliding scale went back like ten years or whatever. So the flexibility is there.

Ms. Kirkman: So, instead of specific date it would just have a line that would be filled in.

Mr. Stepowany: An actual date filled in, yes.

Ms. Kirkman: Yes, okay.

Mr. Fields: Alright. So, then are we ready to request… I am still confused under our new process. Normally we would want to move this to a public hearing but now we move to request that the Board of Supervisors initiate…

Mr. Harvey: Make a motion to refer this to the Board.

Mr. Fields: We want to initiate… what was the language again?

Mr. Harvey: A motion to refer this to the Board of Supervisors.

Mr. Fields: To initiate a change to the Zoning Ordinance.

Mr. Harvey: Yes.

Ms. Kirkman: So moved.

Mr. Fields: Moved by Ms. Kirkman.

Mrs. Carlone: Second.

Mr. Fields: Second by Mrs. Carlone. Any discussion? Alright, all those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mr. Fields: Alright, was that 6 to 1 I believe?

Mr. Rhodes: Yep.

Mr. Fields: Okay. Electronic signs.

Mr. Stepowany: I believe, Mr. Chairman, that the request to the Planning Commission is to make the same motion with the additional provision to allow modifications to the Ordinance to include that the measuring of the light, to determine if the measuring of the light should be conducted at night. The measuring of the illumination of the light should be conducted at night.

Mr. Fields: Actually, I hope I am not stepping on any toes here, what I thought was that whether it is necessary to give us flexibility in crafting the final language in how the light is measured. Because I think what we are asking is not night or day, but exactly what is the technically correct way to specify how the most accurate way to measure light is. By saying night we are doing this thing where we are sort of assuming we know what we are talking about which everybody is trying to do and is fine, but I mean deductively that sounds right, that you want to measure it at night. But I do not know. My concern is that we get the standard and practical measurement language in there so that there is not a loophole where somebody can do something they should not. But I do not want to say night and have that impractical as well because I do not know the technology behind this. Is that okay with everybody? I thought that is what we were getting at, right? We are getting at the most technologically responsible and enforceable…

Mr. Howard: I do not know personally what the right time of day is.

Mr. Fields: It seems logical at night but I do not know how you would measure it in bright sunlight either. But, I do not know.

Ms. Kirkman: Are we authorizing staff to add that language between now and when it gets to the Board?

Mr. Fields: We are authorizing staff to… we are on parallel tracks here. We are asking the Board of Supervisors to initiate an amendment to the Zoning Ordinance for the electronic signs so we can go to public hearing with it. On a parallel track, we are informing the Board of Supervisors that we want to make sure there is leeway in their initiation so there is no confusion that we still have to determine what is the best language for the measurement of the foot candles, but that we are still researching that and we will add that language as we take the final package that is moved by us to public hearing. Is that clear?

Ms. Kirkman: Yes. Would it be a little less confusing, rather than getting into all that detail, if we said we are requesting that the Board initiate this resolution and give the Planning Commission the ability to make technical changes as needed based on additional information that will be gathered from experts.

Mr. Fields: I am concerned about making it to broad so that they will wonder what we are up to.

Ms. Kirkman: I just… okay. I think the way it is going up is very confusing.

Mr. Di Peppe: Can we just send it up asking for the authorization and in the meantime have… because it might be perfectly fine…

Mr. Fields: We are concerned that if they send it back exactly as we send it up we will not have the authority then to make the amendments necessary.

Ms. Kirkman: Can you… Jeff, what is the right way to do… what is the language we need in the… they have done this before where they have sent us resolutions and given us the ability to change it.

Mr. Harvey: Yes. In fact, that is how their last referral came to you. It gave you the ability to change it but from my discussions with Mr. Nugent he felt the changes were significant enough that we needed a new initiating resolution. So, I would say that you would have to ask them to allow you to make minor modifications strictly for the purpose of defining how you measure light intensity.

Mr. Fields: Okay.

Ms. Kirkman: And folks really do not think it is worth waiting two weeks just to…

Mr. Di Peppe: See, I think it is. I mean, nobody wants this ordinance as badly as I do but… I was at the beginning of this whole thing and was pushing for this thing and it has gone on forever. But I would rather send it up correctly.

Mr. Fields: Okay.

Mr. Di Peppe: Can we just defer this to the next meeting?

Ms. Kirkman: Yes.

Mr. Fields: I thought there was an overwhelming desire to move it forward tonight? That is the only reason I was pushing for that.

Mr. Di Peppe: I would like to make a motion to hold this in committee until the next meeting and we will give staff a chance to answer that question.

Mr. Fields: Motion by Mr. Di Peppe.

Mrs. Carlone: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? Alright. Reservoir Protection Overlay. Mrs. Carlone, you are on.

Mrs. Carlone: Okay, I make a motion to approve the ordinance for the Reservoir Protection Overlay and to send it to the Board of Supervisors

Mr. Rhodes: Second.

Mr. Fields: Second by Mr. Rhodes. Motion to request the Board of Supervisors to initiate an amendment to the Reservoir Protection Overlay. Any discussion? All those in favor signify by saying aye.

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Ms. Kirkman: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed?

Mr. Mitchell: No.

Mr. Fields: Motion passes 6 to 1. Planning Director's report?

NEW BUSINESS

None

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. There are two things to report from yesterday's Board of Supervisor's meeting. The Board referred an ordinance to you all regarding the height of fences on corner lots. It is an issue that has come up to the Board of Zoning Appeals. Where you have a corner residential lot you have a front yard and a street facing side yard and, the way it is interpreted, the street facing side yard you can have an 8 foot tall fence in that side yard and the BZA had concerns about how that looks and feels in a neighborhood setting. Then also the Board did vote to refer the Comprehensive Plan for joint public hearing with the Planning Commission for July 7, so staff would ask if the Commission wants to have work session to go over the changes that the Board has made or how would you like us to proceed? We anticipate having the final document to you for your next agenda meeting, the next Planning Commission meeting, so we will give you the full document, but do

you want to have a work session to go over the changes since the Commission made its recommendation?

Mr. Fields: We have the SPCA at our next work session and then the evening meeting… any public hearings for June 3?

Mr. Harvey: Yes, we have a public hearing for the proffer amendment on the retirement community on Berea Church Road.

Mr. Fields: Is that all?

Mr. Harvey: That is the only public hearing.

Mr. Fields: Anything else? Let's see, we have done Fair Havens, we are moving South Campus to the second June, Virginia Paving is done, we did Micah and disposed of that; do we have anything else coming through the system that is going to need to be on that evening meeting?

Mr. Harvey: I am not aware of any preliminary plans at this point in time.

Mr. Fields: So we have the disposition of the SPCA and if we choose to put it on the evening meeting from the work session and that is it. I would say if we are going to get the materials on it we try to fit it in sometime on June 3 to at least go over it and see what we have got. I am sure it has been a while since we have taken a look at it and I know there has been a few changes.

Mr. Rhodes: What time is that set for on the 7th?

Mr. Harvey: It will be a public hearing so it will be 7:00 p.m.

Mr. Rhodes: Thank you.

Mr. Harvey: And then finally we did not get to it in the work session but just a reminder, we need to vote on work session minutes.

Mr. Fields: Okay, thank you.

Ms. Kirkman: Mr. Harvey, I had a question. At our last meeting we sent up to the Board the request regarding time limits but it did not appear on their agenda. What is the status of them reviewing that?

Mr. Harvey: We will be placing that on the next agenda.

Ms. Kirkman: Okay.

Mr. Fields: Alright, is that all?

Mr. Harvey: Yes Sir. Thank you.

Mr. Fields: Thank you.

COUNTY ATTORNEY'S REPORT

Mr. Fields: Madam County Attorney?

Mrs. Roberts: No, I just have to get home to read Roberts Rules.

SECRETARY'S REPORT

Mr. Fields: Mr. Secretary.

Mr. Mitchell: Mr. Chairman, my report as the Secretary is I have no report.

Mr. Fields: Thank you Sir.

COMMITTEE REPORTS

Mr. Fields: Are there any committee reports? The Transportation Committee is going to take a field trip next Wednesday.

Mr. Rhodes: Starting at 3:00.

Mr. Fields: Starting at 3:00. We are going to start taking a tour of up in the northwestern part of the County looking at some of the corridors we are looking at in our corridor study process.

Mr. Howard: Starting at 3:00 and ending at sunset.

Mr. Fields: And ending at sunset. Well, at that point… and then that will transition to where we start measuring the foot candles of electronic signs, once it is dark and it is safe to do so.

CHAIRMAN'S REPORT

Mr. Fields: Chairman's report. Once again, thank you guys for being thoughtful, courteous, intelligent and valuable to the County in your deliberation of things. It is a delight to serve with all of you, a real privilege.

OTHER BUSINESS

Mr. Fields: Any other business that I have missed?

Mr. Mitchell: Approval of minutes.

APPROVAL OF MINUTES

November 19, 2008 Work Session

December 3, 2008 Work Session

December 17, 2008 Work Session

Mr. Fields: Approval of minutes, right. We have the work session minutes?

Ms. Kirkman: Mr. Chair, I am going to abstain from all the votes on minutes because of the length of time that has lapsed.

Mr. Fields: Alright. So we have, since you are going to abstain from them all, can I have a motion to approve November 19, December 3 and December 17?

Mr. Di Peppe: So moved.

Mr. Rhodes: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? With one abstention.

November 19, 2008 Regular Meeting

December 3, 2008 Regular Meeting

December 17, 2008 Regular Meeting

Mr. Fields: Alright, regular meeting minutes. Same Ms. Kirkman?

Ms. Kirkman: Yep.

Mr. Rhodes: I make a motion for approval.

Mr. Mitchell: Second.

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

Mrs. Carlone: Aye.

Mr. Rhodes: Aye.

Mr. Di Peppe: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye.

Mr. Fields: Aye. Opposed? One abstention. Alright, does that cover it all? Very good. Thank you all very much.

ADJOURNMENT

With no further business the meeting was adjourned at 10:42 p.m.

_____
Peter Fields, Chairman
Planning Commission